

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twentieth Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

May 18, 2001 – June 22, 2001

**Second Regular Session**

January 2, 2002 – March 6, 2002

Pages 890-1770

ETNIER of Harpswell  
JONES of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-351)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

NASS of Acton

WINSOR of Norway

BELANGER of Caribou

ROSEN of Bucksport

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-350) AS AMENDED BY SENATE AMENDMENT "A" (S-373)** thereto.

**READ.**

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

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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

**ENACTORS**

**Emergency Measure**

An Act Providing Funding for the Office of the State Fire Marshal and to Increase Certain Fire Inspection Fees

(H.P. 1368) (L.D. 1825)

(C. "A" H-743)

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. 103 voted in favor of the same and 20 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Fund the Collective Bargaining Agreements and Benefits of Employees Covered by Collective Bargaining and for Certain Employees Excluded from Collective Bargaining

(H.P. 1381) (L.D. 1829)

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. 103 voted in favor of the same and 7 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$17,000,000 to Construct and Upgrade Water Pollution Control Facilities, to Limit Water Pollution Discharges from Maine Farms and Construct Agricultural Storage Facilities, to Remediate Municipal Solid Waste Landfill, to Clean up Tire Stockpiles and to Make Water System Improvements

(H.P. 1222) (L.D. 1663)

(H. "A" H-745 to C. "A" H-727)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 107 voted in favor of the same and 15 against, and accordingly the Bond Issue was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**SENATE PAPERS**

**Non-Concurrent Matter**

JOINT STUDY ORDER - Relative to Establishing the Joint Study Committee to Study Growth Management

(H.P. 1330)

**PASSED** in the House May 10, 2001.

Came from the Senate **PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-371)** in **NON-CONCURRENCE**.

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

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

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**UNFINISHED BUSINESS**

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

An Act to Increase Access to Health Care

(H.P. 979) (L.D. 1303)

(C. "A" H-639)

**TABLED** - June 4, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

**PENDING - PASSAGE TO BE ENACTED.**

On motion of Representative GREEN of Monmouth, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-639)** was **ADOPTED**.

The same Representative presented **House Amendment "C" (H-748)** to **Committee Amendment "A" (H-639)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative **GREEN**: Mr. Speaker, Ladies and Gentlemen of the House. Somewhere in that pile of papers on your desk you have a sheet that says fact sheet NOL, net operating loss. Some people think that tax is very complex and very difficult to understand. It is not, you just have to go slow. The net operating loss carry back is exactly what the words

indicate that it is. If you are operating and you have a net operating loss, because of the wonderful little things that we have in Taxation, you can carry back, or in some places you can carry back, that net operating loss and get a check from the state. Yes, ladies and gentlemen, we pay out. We pay out quite a bit. Interestingly enough, nobody else in New England, except Vermont, and they are talking about it, pays out like the State of Maine. You may not be aware of this, but the State of Maine is quite generous. In fact, if you will look at the fact sheet on net operating loss carry back, you will see little check marks.

Check mark number one says that the net operating loss carry back, as wonderfully generous as it is, contributes significantly to the volatility of the revenue stream that comes into this state. I would like to quote the current Chief of the Bureau of Taxation who says that with all the taxing that we have done and non-taxing that we have done, the Legislature has done nothing to reduce volatility. Volatility has the same root as other things that explode and that is exactly what happens to the revenue stream when other things happen in the economy. It explodes. It goes up. It goes down. You don't know from one year to the next where it is going to go and that makes planning very difficult. The kind of planning that is necessary to make long-term plans, to do the kinds of things that we all talk about that we would like to do. When you don't know from one year to the next whether or not you are going to have revenue, it is pretty difficult to plan anything.

Check mark number two, a net operating loss carry back, unlike what some would like you to believe, does not mean that a business is struggling. It simply means that a company has more allowable expenses than income in a particular year. It is extremely possible to be profitable and still show after taking deductions that you have a net operating loss, however, you have been quite profitable. I would like to point to the chart at the bottom of this same page to show you, does Connecticut with all its money, have a net operating loss carry back? No. Does Massachusetts have a net operating loss carry back? No. Does New Hampshire, we all know about New Hampshire, there are no taxes in New Hampshire, but you know what, New Hampshire does not have net operating loss carry back. In fact, they only let you carry it forward for five years. Does Rhode Island have a net operating loss carry back? No.

Elimination of the carry back, again to quote the Director of the Bureau, "provision is not the elimination of a deduction". It defers the deduction to the 20 years, we are still paying for the 1980s, to the very generous 20 year carry forward period. Are we bucking a trend? Are we trying to lead when we shouldn't be leading? I don't think so. In fact, I think we are at the back of the pack in this one. Twenty-five states have no carry back at all. That is 50 percent, folks. Six have a limited carry back and only 13 have the generous Maine carry back and carry forward. That is what net operating loss carry back is all about. If you want to know about the other states, I have that too.

Let's talk about what we get for the net operating loss carry back. Let's talk about this amendment. This amendment does two things. It ends the carry back. It does not end the carry forward, the generous 20 year carry forward. It adds 6 cents to a package of cigarettes. I have to tell you, ladies and gentlemen, I am about as frugal as they get. This is true, there is a story, my mother tells this story, that when I came out I squeaked. I am frugal. I don't spend money. I don't like to spend my money. I don't like to spend anybody else's money either. Anyone who brought tax exemptions or other tax bills to the committee knows that I wasn't happy to spend anybody's money. When I think about taxing or spending money, you had better show me that there is value or you are not going to get anything out of me.

What do I get for my 6 cents on a pack of cigarettes and the net operating loss carry back revenue? Number one, I hope that I get fewer children smoking. As many of you know, before I come here in the mornings, except for this week, I go to school every day. I drive down the main street of my town and then I turn up to where the schools are. I pass quite a few kids, I don't pass them in the cars because we only have one lane, even though I am a bit speedy at times, but we won't talk about that, I see them in their cars and I see them walking along the road. When I see them with cigarettes, I become disheartened. Many of you also know that not that long ago I also was a smoker. Ladies and gentlemen, it probably was one of the hardest things I ever did to stop doing that. I didn't want to stop. I liked it. It is a killer. When I see kids smoking, I know what kind of horror they face. If raising the price just a little bit beyond some of their pocketbooks will stop them from starting or convince them that they don't want to continue, then it is worth it. Not only that, but the number two reason for me is we continue programs that because we are dealing with bulk, we get a far better value for. We know the value of rural health centers. I have one in my town or one will be built in my town. We know the value of certain drugs to treat cancer. We know the value of dental health. We know that good dental health is indicative and helps to good physical overall health. We know the value of providing a lower cost health insurance to the self-employed and we have a lot of them, ladies and gentlemen, who are struggling. We buy rural health centers. We buy increased access to drugs for the elderly. We buy lower cost health insurance for a lot of Maine citizens. This is the frugal Yankee talking. That is a good buy.

I urge you to support this amendment. Thank you.

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Representative COLWELL of Gardiner assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. This is the third time I have stepped off the rostrum this year to speak. This is the second time on this legislation. We will hope that the third time is the charm. I want to start out by thanking the Representative from Monmouth, Representative Green, for working on this legislation to find a way or a balance in an appropriate way to move forward to make sure it was funded. I appreciate her strong words and her explanation of the net operating loss carry back, which I have heard described other places as the stand up, fall backwards. I have heard lots of people trying to understand it. I thought your explanation was excellent. It was not depriving any business of the State of Maine of using a loss against their taxes, but rather restricting that to a 20-year period where they would carry that loss forward. I appreciated her mentioning and talking a little bit about the revenue source and the alternative benefits of increasing taxes on smoking to immediately help increase cessation among Maine's youth. I want to thank her for those great words. I also want to thank the members of this body who have given me a great courtesy in allowing this matter to come before them today. You have shown great patience as we have come through what I think might be seven, eight, nine or maybe 10 different iterations of this legislation.

There is a commercial that was on TV, I haven't seen TV in quite some time as I am sure some of you have missed a few editions of your favorite program, and it was, is it soup yet? Every time this one character came on they said, is it soup yet? They put this in and that in and the other thing in and they would

leave it on the stove to boil. It is soup yet? This is what I feel that this bill has become. It has become the masterpiece of making soup. We have taken this from over here and this over here and this from over here and we have come up with a batch of what is the most healthful soup, what is the best sustenance for the people of the State Maine.

I want to talk to you a little bit about what it is. I talked to you a little earlier this year about health care in Maine and about what your heard as you went door-to-door this year. From the strong vote we had in this body, I have a good indication that each of you heard what I heard as they walked door-to-door in their districts. What is the number one issue in your districts? Health care. What is the number one issue to Maine physicians and their concerns? Access to health care. What is the number one issue to Maine hospitals, small business owners? What is the number one issue to families? What is the number one issue to all Maine people this year? I bet my bottom dollar that more than 70 percent of Maine people would say that it is health care.

LD 1303 is a compilation of a lot of different people's excellent efforts at bringing common sense to the health care debate. It does several things very simply and this soup, this final iteration of this bill. Let me tell you what it does very simply. Number one, it provides access the health insurance to people under 125 percent of poverty who don't have children. What does that mean? That means if you are 55 or 60 years old and you are under 125 percent of the poverty level, which is \$10,738, if you are widowed or divorced or if you are married it is \$14,513 annual income that you would have access to health insurance. That means somebody working at Wal-Mart 35 hours a week has access to health insurance. That means somebody in the non-traditional arena and in seasonal employment might have access to health insurance. That is very important. That impacts over 20,000 Maine working people. Why do I say working people? Ninety percent of the uninsured people in our state are employed, working people.

What else does this bill do? This bill continues our effort to expand access to health care to Maine's most vulnerable, our children. It expands from 200 to 250 percent of poverty access to health insurance to Maine children. It recognizes that these children come from families with higher incomes, those families will have to pay premiums and co-pays on that health insurance. It is not free. It is not without responsibility, but it allows them to get a lower cost health care product so at the very least if they remain uninsured, at least their children will have access to health insurance.

The third thing it does is it provides access to cancer drugs for people who qualify for the Drugs for the Elderly Program. Cancer drugs, tomoxifin, that means somebody who makes \$15,892 or less and qualifies for the Drugs for the Elderly Program may not die of breast cancer this year. They may not die of prostate cancer this year. It means that those people who are most vulnerable in our society, Maine seniors and Maine disabled people who have no access to cancer drugs will have access to them for the first time.

The next thing it does is perhaps the most attractive to many of us in this chamber, it begins to look at the plight of small businesses, those sole proprietors, those self-employed individuals who cannot afford health insurance in the commercial market. It doesn't say it is available for all of them. It says up to 300 percent of poverty that they can buy into our Medicaid Program. How many state dollars does this cost? Zero. Still because we use our Medicaid Program instead of private insurance, those insurance policies will cost between a third and a half of what the commercial market would cost. It costs about \$2,500 a year for a family of three. That is a cheap health insurance product for a comprehensive health insurance product

in our state. Three hundred percent of poverty, I think is very generous. It goes up to \$43,890. I bet that includes a lot of people that work in the woods. I bet that includes a lot of people who do seasonable work down east. I bet that includes a lot of people who work at home designing web pages. I bet that would help somebody who does independent consulting with municipalities. I bet that would apply to a lot of people in this chamber, a lot of your constituents as well. It would give them a chance to get not a \$5,000 deductible policy, but an affordable comprehensive health insurance policy.

Why do we do this through Medicaid and not private insurance? The most obvious reason is because Medicaid is the most efficiently, best run health insurance program in our state. The administrative costs for the Medicaid Program varies between 3 and 6 percent of each premium dollar. The administrative costs in the private insurance market go between 9 and 18 percent. I bet for those of you who are self-employed if you took 18 cents home on every dollar you took in in profit. You would think you would be doing very well. This is the most efficient way to deliver health insurance to small business people, the sole proprietors, to self-employed individuals. It is the right thing to do.

The last thing this legislation does is it opens up the doors of Maine's rural health care centers and federally qualified health care centers. Whether you live in Patten, Maine or Harrington or whether you live in Rumford or whether you live somewhere else in northern Maine, maybe Ashland or many other places in our state, rural health centers are the lowest barrier place for people to get health care. Are they free to people who go in? Nope, people have to pay. What kind of care do they provide? They provide the type of care you need for good preventive health care policies. Maine is, I believe, the only state in the entire nation that does not subsidize these health care centers through general fund dollars. This would allow the waiting list in Patten or the waiting list in Harrington or the waiting list in Portland or Bangor to be minimized so that people have direct access to preventive health care. That is what this bill does.

Let me tell you why it is important. The easy thing is to say it is important because your constituents want it to happen. Republicans in the State of Maine, 70 percent, say that they would support a 50 cent increase on tobacco to help kids keep from smoking and to increase access to health care. Even when compared to the question of higher taxes, Maine is too highly taxed already, nearly 60 percent of Republicans in the State of Maine support increasing this tax in order to provide access to health care. That is the easiest thing to say. It is because your constituents want you to do it. What is the real reason beyond just good politics? There is great policy here. The State of Maine today we spend \$163 million on something called uncompensated care. What is that? That is when you go to the emergency room with a broken leg or with an ear infection or with a cough from a cold and you say that you need help. What happens? Do you get turned back? Nope, you get health care. That is because all of our hospitals in this great state are what you will call eleemosynary institutions. They are required by law to provide access to care. You know what happens when somebody doesn't pay that bill or can't afford to pay that bill. That cost gets spread to every premium payer in the State of Maine at the cost of \$200 a year in premiums. That is \$200 a year for a private insured person to pay for uncompensated care.

This legislation takes a huge bite out of that. It helps hospitals run more efficiently. It helps doctors provide care at direct cost and it will decrease costs in the private insurance market. You know what is going to happen as a result of that? More people in our state will be able to afford private health insurance and that is our goal. Somewhere between 160,000

and 180,000 Maine people go without health insurance every year in our state. That number is far, far too high. I think it is soup now. I think it time to take the sustenance. I know when I was a kid, and I was kid, I came from a strong heritage of chicken soup cooking Moms, most of you would probably believe that knowing my mother, and I think she would probably say this is soup. It is time to take this healthy sustenance for the State of Maine. It will make us stronger as a state. It will provide access to health insurance for private and public channels and it will make a world of difference to your constituents.

I know it is not 100 percent. I know that some people would like to go a lot further, but I believe this is a reasonable first step. I believe this is what we can afford to do this year. I want to go home telling my constituents, those people I met going door-to-door, that it is time that we did something about health care in our state. I hope that you will work with me to see this not only pass today, but finally enacted and signed by the Chief Executive. I feel that if we can do just this small thing, that this session will have been a success. Thank you so much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. It is unfortunate this afternoon that we have needed to change the discussion from a discussion about health care and about providing the services necessary to the people of Maine to a discussion about tax policy. Unfortunately, that is the posture we are in so, let us get on with it.

The net operating loss carry back is a provision that the Taxation Committee has wrestled with since the very earliest days of this session. The topic that has been our desks, downstairs on the first floor, since the very day that the Chief Executive submitted his budget to this Legislature. Some of you may wonder as you are sitting here this afternoon, I imagine, why it is that at 3:00 just nine hours before adjournment, it is the first time you have heard a word about it. In fact, since this debate has been going on, I have gotten no less than three notes asking me what is net operating loss carry back. The reason why you haven't heard about it before now is that the Tax Committee has wrestled and wrestled and wrestled with it. We understand it going forward. We understand it going backward. We understand it two years back. We understand it 20 years forward. We know how much money it costs, but the reason you have not heard about it before now is that there has not been agreement that this was an appropriate policy decision in reforming Maine's tax code. It wasn't included in Part I budget proposals because there wasn't agreement. It wasn't included in Part II budget proposals because there wasn't agreement. It wasn't considered as a source of revenue for running the Appropriations Table and the mysterious way we did that this session because there wasn't agreement that it was an appropriate funding mechanism.

A few days ago there was another piece of legislation that was in jeopardy for about 90 minutes, net operating loss carry back was considered as a means of funding that piece of legislation. Support for that quickly eroded because the very strong lobby of 40 or 50 more in the hallway figured out quickly that this thing doesn't have any legs underneath it. Net operating loss carry back isn't something that is sustainable over the long haul and so that critical piece of legislation found funding, hopefully, in a Part II budget from something other than that operating loss carry back.

The Chair of the Committee on Taxation spoke quite eloquently about our tax system's volatility. It is absolutely no secret to the people on this side of the aisle or the people on that side of the aisle that Maine has an extraordinarily volatile tax structure. We need desperately to do something about it and

since the very first day of this session, the Tax Committee, both Democrats and Republicans, have been talking about doing that. What have you seen as a result? What you have seen as a result is incremental changes to Maine's tax code by raising a little bit more revenue through a cigarette tax, tossing a little bit more money towards revenue sharing. We have talked about homestead, but those bills don't seem to be going very far very quickly. We are talking about incremental changes to a tax system that is extraordinarily volatile and one that is so complex that it is not providing the tax relief that Maine citizens need.

What are we poised to do? We are poised to tinker once again. We are poised to make just one more incremental change so that we can hopefully leave here in nine hours or less with a bill, LD 1303, that proposes to do something about providing health care to Mainers. It probably won't do it for very long because everybody knows who has looked at net operating loss carry backs that it is not a sustainable source of revenue to fund important programs to the people of Maine.

If LD 1303 is important, I believe it is as do a strong number of people on this side of the aisle, then let us work to include it in a Part II budget proposal. This is a program that belongs in a budget, people. It is something that should be funded in a budget. We don't need to go monkeying with these little pieces of the tax code to try and create an unsustainable revenue source to fund a bill as important as LD 1303.

Let me conclude with this. On average in Maine every single year, there are almost 1,600 Maine businesses. It is those same very small businesses that are struggling to provide health care to their employees today who claim net operating loss carry backs who receive the benefit of this piece of the tax code that you are posed to repeal, that is 1,500 plus businesses. Representative Carr in another debate the other day distributed a whole volume of businesses that have had to cut jobs. What do you think is going to happen if 1,500 businesses in Maine can't benefit from just one more small piece of the minimal benefits they get from being in Maine in the first place. They are going to cut jobs. You have heard that the carry forward provision is just as good as the carry back, it is not. Carry back provides money to a business that is struggling to survive. It gives you a return. Carry forward doesn't give you a return. It doesn't infuse any capital into your bottom line or into your balance sheet. All carry forward does is it allows you to carry that loss from year to year to year, maybe 20 years if you need to. It doesn't infuse any cash into your struggling business to help you pay for health insurance benefits for your employees.

We believe LD 1303 is important. We need to find a way to fund it. We need to find a way to fund the other critically important programs that still remain in an unpassed Part II Budget. Tinkering with the peculiarities of Maine's already complex and broken tax code isn't the way to do it. I would just ask you to think critically about the impact that this decision is going to have on the nearly 1,500 Maine businesses and their employees before you go on to pass something that is just misguided. Please vote against the pending motion.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Don't I wish I could vote for this bill. It would make me feel awfully good. It would make me feel like I am providing health care to more Mainers and it probably does. I appreciate the Speaker's passion in bringing this forward. I really do. I understand his concern. One of the things we need to look at is affordability. If you look at the second year in this bill, it is a \$25 million price tag to me. We argued last night over \$80 million and this is \$25 million more. Right now in this country and in the State of Maine people have the highest debt ratio ever in the

history of this country. Fourteen percent of their income is going to pay off credit cards, home equity loans. That cannot be sustained. We have the highest rate of bankruptcy in the nation, right now. We are going to try to fund this program from net operating loss carry backs, which only go back to two years back. Even if that money is real, which it is not, it is not revenue, it is an avoidance. It is a push. In two years that money goes away because you only allow it to go back for two years. It goes away. Now you have a structural gap.

We heard a lot about structural gaps last night. All of a sudden it doesn't matter, I guess. If it makes you feel good, it doesn't matter. We came into this session with a \$300 million structural gap and what was the driving force? Prescription drugs, health care, Medicaid, that was the major factor in the structural gap, yet, we want to bring some more people onto Medicaid. We want to bring on what is known as non-categorical, which have seen a 73 percent increase, by the way, in the last six months, 73 percent higher. Those non-categorical are the ones that are driving the Medicaid shortfall. That is what we are doing in this bill.

We hear the number 160,000, 140,000, 180,000, pick the number of the day because it changes all the time depending on what you want or how severe you want to make the problem. The fact of the matter is Maine is 15th in the nation as far as percentage of insured people. Number one in the nation for children who are insured. Over 95 percent of the children in Maine are insured. We did that through the program known as Cub Care. We are going to expand this, but I don't see anywhere in here where we are giving increases to the providers, no, we just expect them to continue going at 40 percent usual and customary. We expect them to stay on to do that. While we expand health care, we are not looking at the provider and saying there are many more providers out there who are not excepting Medicaid because it doesn't pay enough. What is the structural gap when you say you are absolutely right, you need to pay those providers more. What is the structural gap at that point?

This is just unaffordable. We talk about access to cancer drugs under Section A1. It doesn't say what a cancer drug is. Tomoxifen is not a chemo-therapeutic agent no matter what some of you in this room may think. It is an anti-estrogen, so is that a cancer drug? The same thing with Lupron that treats prostate cancer. That is not a cancer drug. It says cancer drug, but it is never defined. We want more taxes. Last night we had a big budget debate in this House about taxes and how much we need to raise them, yet we want to raise them some more. Structural gap, under the Drugs for the Elderly Program right now you have a \$1,000 catastrophic cap that really gives people a lot of relief for their cancer drugs. I am not exactly sure what Section A1 in this bill really does. All I know is when I go to the revenue side of this bill and see \$25 million in the second year and in two years you lose the net operating loss benefits, if you want to repeal it, with no source of what the continuing revenue is. I can't vote for this bill even though it would make me feel really good.

We had a debate on this a while ago. I heard 7 to 1 savings. I heard it again. Why do we keep having the structural gap through the Medicaid if we have a 7 to 1 savings because we have more people on. One hundred and ninety thousand Mainers use Medicaid right now. How many more of them will come on with this program? A lot of this money is going to the qualified health centers, almost in the form of a grant. I am trying to provide more access to health care, but it provides a lot more money to the health centers. We want to help people afford health care. We really do. I kind of feel like I have been doing it my whole life in my profession. This bill just costs way too much. I am sorry to say that I can't vote for it.

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

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. LD 1303 is a product of a great deal of time and energy on the part of the Health and Human Services Committee. It has been the centerpiece of the our health care legislation this session. It passed out of committee with a very strong majority Ought to Pass vote. As the Speaker indicated, the realities that all of us know, it is not anything new, is that our constituents are for it. The need for affordable health care is crucial and the cost of health care insurance is killing our businesses. My good friend from Raymond indicates that the Medicare budget is out of control. If you look at the facts, Medicaid is growing at a far slower rate than the private health care market, approximately 10 percent a year, compared to 20 or 30 percent a year in the private sector. He says we can't afford to pass the bill. We can't afford not to pass this bill.

Men and women of the House, we are already paying the bill. We are paying the bill in a far more expensive way. An editorial in the *Bangor Daily News* in April put it very well. Without insurance, preventive care is skipped, small problems become large emergencies and costs are unfairly carried by people who have insurance. We all pay the bill. It doesn't show up quite as explicitly as it does here. We should be aware that the primary cost for our expanded Medicaid expenses is not our increased access to health care, nor increased access to prescription drugs, it is the fact that our mental health and human services system are so built on Medicaid and the funding for the private non-medical institutions, the Mental Health Residential Programs, consume a significant part of Medicaid. Yet, Medicaid expansion is at an annual rate of 10 percent compared to the private sector.

For the first time we have in LD 1303 a comprehensive bill that provides multiple access to health care for our low-income working adults. How often have we talked about doing something for our low-income working people? They have always been at the end of the line as we have looked at making health care accessible. We have done a very good job on kids. We have done a great job for the handicapped and the disabled. For the first time, we are able to provide some positive reinforcement and reward to help the working people keep working rather than get sick and have to fall off their jobs. We are helping the small employers, the self-employed. How often have we talked about doing something for the little guy?

Men and women of the House, this is for the little guy? It is a great opportunity to do something for the little guy at no cost to the state. It doesn't cost us anything to do it. It is a great opportunity, men and women of the House, for us to do what the voters sent us here to do. Speaker Saxl commented and you have read the handouts on the polling data. The people are clear in their judgment as to what they want us to do. They want us to build on what we have put in place thus far. They want us to maximize federal funds. They want us to reduce the level of cost shifting in insurance premiums and to respond to their needs, especially those in rural areas.

The question gets raised about the federally qualified and other rural health centers. Men and women, this is the backbone of our health care system for the low income and for rural areas and some urban areas as well. They have been in existence for 25 or 30 years. They are private non-profit groups run by local community citizens who provide services regardless of ability to pay and have been doing this without any state support for many, many years. In the testimony we heard in our committee, we had these centers come before us and tell us very honestly that without help they were going to go bankrupt. The health center in northern York County was very open in how critical their

financial situation was. I suspect the same is true in your rural health center. There is no clearer way that we can respond to our people back home, the local needs of those in greatest need and who are making the greatest effort on their own than to pass LD 1303. We may not all be happy about having to find the funding mechanisms that we are having to do, but in another comment in the *Bangor Daily News* editorial they pointed out that the Speaker's bill may, in fact, be too expensive and it was shaved back. What you have before you is not the first iteration that was brought out. It has been shaved back considerably. In the editorial they pointed out that Speaker Saxl was going to have to make some significant changes, not only in levels of service, the categories of service, but also in the funding mechanisms. Rather than being discouraged, it says supporters of LD 1303 might use this time to sharpen their arguments and look for other funding sources.

Men and women of the House, that is exactly what Speaker Saxl and the supporters of LD 1303 have done. I strongly urge your support for a bipartisan vote for LD 1303. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. It is not often that I rise against my good Chair of Taxation. We are friends. We were friends before this debate and we are friends after this debate. However, I do disagree with the good Representative from Monmouth on this. The net operating loss carry back in Maine is an income tax deduction that is used when a person has no actual income in the year of loss. Apparently an income deduction that it cannot use because it has no taxable income in the year of loss can be used to on taxable income in the two previous years and get a refund for those years or it can carry it forward for 20 years and that is good. Actually the big difference between net operating loss carry back and the carry forward 20 years was designed perfectly for small businesses. The 20 years forward is designed for the large businesses who can carry forward, but the small businesses in this state cannot carry forward. They would have to go backwards. The ones I am talking about is the restaurants, the farmers, saw mills, merchants, skiing, tourism, boat builders, textiles, fishing, agriculture and the small businesses. These are the little people that we have heard so much about. These are the small people. I know because I was one of those little people in business. I know how when the economy has a downturn, your business turns down. Some of those years you hang on, but I happen to be in a state where there was no income tax so I didn't have to worry about paying it. In this state, we do tax our businesses much heavier than many other states. These little people cannot hang on to carry that forward. That makes a difference whether they stay in business or whether they go bankrupt. That was the reason that the carry back was designed. It was for the small people, the little people, the little business people, the little merchants, the mom-and-pop stores, the restaurants and what have you. Even a bad season in the summer can hurt a restaurant that is only open 12 weeks or even 5 months, but is not open year round. One rainy summer at the beach really hurts those businesses. Right now we are in a downturn in the economy. We do not know how far down we are going to go. This would be the year or next year that they really need this carry back. These people have not had the need to use the loss carry back in the last few years because the economy has been great. They only use it when the economy has a downturn.

Ladies and gentlemen of the House, taking the net operating loss carry back away from these people is like taking their livelihood away from them. You may even force them into

bankruptcy. You will have people laid off. You will have the mothers who will work part time in the little businesses, such as convenience stores. To me, we are not debating LD 1303 here now. We are debating the net operating loss carry back. Is LD 1303 a good bill? It certainly is. We all want to do what we can. We should not finance it on the backs of our small businessmen in this state. We all know that a large percent of our businesses are small people. They are not the great big Pratt Whitney and the paper mills of the state. They are the little people who really and truthfully support this state for taxes. Remember, tourism is the largest industry in this state. I know some will debate that, but that is for another time. I would love to debate them on that one. These are the people that we should be protecting today. We cannot, in my opinion, take that carry back away from them. If you do, you will be putting them out of business and you will see how many less taxes that the state has. I would hope that you would vote to defeat this amendment. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. First, I want to thank Speaker Saxl for his continued heroic efforts to put this piece of legislation forward. It has been a long process. He has worked well with our committee. We have had a lot of input. I truly believe this is not a political move. I really believe there is a lot of passion behind it and I really appreciate that. I realize it is probably not a politically smart move for me to stand here and say that I am wishy washy. If I thought the lobbyists were on me before, they will really be at me now. I want to tell you that I really want to vote for this piece of legislation. There are some really good things in here. We talked about it at length in our committee. You have heard it. I am not going to go through the litany just to say some of the things. It captures most of all of our uninsured children in the State of Maine. That is very important to me. It takes care of the uninsured adults, not free, but it gives them some relief. We have talked about the self-employed. It gives them a vehicle for self-employed and sole proprietorships to buy into a program, whereas before they hadn't had the opportunity to do so at a cost that made it possible. It puts cancer drugs in the list that is available, which was appalling to me to find that cancer drugs are not included. Lastly, it helps to fund our rural health centers. It provides so much preventative care, dental health, I know that is a priority for many of us in this room. This is a bill of prevention. To me, prevention, I have said this from the day I started here, prevention is the morally right thing to do and it is the economically sound smart thing to do. I really want to vote for this bill.

In the dialogue in the Health and Human Services Committee, those lobbyists and members of the public and members of the Legislature know at ad nauseam, I kept saying that we have to go back to the funding source. I can't deal with the concept and approve the concept without knowing how we are going to fund it. I didn't want the money coming from the general fund. I finally came to the conclusion that a cigarette tax would work. It seemed like a logical leap. I will have to say, and I said it before, that I do not believe that increasing the cigarette tax, although I have been inundated with people saying they have the studies, I don't believe that an increase in the tax is going to prevent any teenager from smoking or stops them from smoking. I don't believe that. I did make that leap to say that I will support this with the increase in the cigarette tax.

All of a sudden things have changed and they changed very quickly. There is no doubt, we have heard it said before, that the citizens of Maine want this. The citizens of Maine do want this piece of legislation. We have had many, many flyers on our desks that ask us to support it. If you look closely at those

pieces of legislation, it is with funding from the cigarette tax. It does not mention the net operating loss carry back. I even have to look at a piece of paper because I never can get the words right. I have had a crash course within the last few hours about the net operating loss carry back. To me, that is a problem. I understand, or at least I think I understand, it is not a sustainable source of revenue. It puts a burden on the 1,500 small businesses in the State of Maine. I am really torn today.

This bill, LD 1303, in my mind is almost there. It is almost there. I believe a strong majority of this body wants this piece of legislation to pass. I would ask that we sit back, take a breath in these waning hours and sit and put our collective heads together to find a way to fund this that does not put the burden on the small businesses of our state. They, indeed, as we all know, are the backbone of our Maine economy. I want to thank those involved in putting this piece together and I really want to vote for it, but I really don't think I can. Thank you.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I would like to begin my remarks by addressing a couple of points made earlier in the debate. First, a point made by the Representative from Raymond, Representative Bruno. He suggested that non-categorical are responsible, partially, for the giant increases in the Medicaid budget. Let me try to clear up a little policy speak here. Non-categorical is another way of saying the people who don't qualify for Medicaid. There is no Medicaid category for these people. These are people who are aren't elderly, aren't disabled, aren't children, people who aren't the parents of children who are Medicaid qualified. These are just plain individual poor people. They are not on Medicaid. They don't receive Medicaid, therefore they cannot be responsible for increases in the Medicaid budget.

Addressing a point made by the Representative from China, Representative Bumps, saying that this doesn't help the real issue of business and the cost of doing business in the state. In fact, it does. Let me explain what may appear rather circumspect way. This is our opportunity right now to do something about the cost of health care in the State of Maine. We have had other proposals that purported to this, notably you have heard the Representative from South Portland, Representative Glynn, speak about some of these ideas, which entail rolling back health insurance mandates. We seek to save costs by moving an opportunity for people to gain access to health insurance or health care for certain conditions or for certain providers. This is another way of going at it, but not by denying care, but by expanding care and expanding payment for the care to people who are accessing the care right now, but who aren't paying for it. Right now there is \$163 million spent every year on uncompensated care. That is an individual without insurance, without Medicare or Medicaid who goes to the hospital, gets treatment and doesn't have any money. The hospital, what do they do with those costs? They don't eat it. They pass it off to all of us, those of us who have health insurance. We pay for it or, rather, our employer pays for it in many cases. By relieving the burden on hospitals of this uncompensated care, we are, in fact, passing on a savings to those people who are purchasing health insurance, Maine's small businesses, large businesses. It is interesting to note that if we were to do away with all of the mandates that we have, in some cases we would save 7.5 percent in large group policies and in individual policies, we would save a little bit more than 3 percent, but none of that would be as much of a savings if we were to completely address the problem of uncompensated care, that \$163 million. If we address that completely, we save more money than we getting rid of all the mandates. This bill is an

approach, a beginning step toward addressing uncompensated care. Not only that, but it is providing health care, access to health care, to people who are sick, people who need it, or even better, to prevent people from getting sick. Thereby it saves us a ton more money.

This is a great idea. It does require a significant investment on the part of the state. Another great point to this bill is it brings home some federal dollars too. We are matched one for one. I think it is actually a little bit better than one for one with federal money. This is a great opportunity to really get at the number one issue for the people of the State of Maine and to the businesses of the State of Maine, the burden of the lack of access to health care and the backbreaking costs of health insurance. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I, too, like the Representative from Augusta have respect for the Representative from Portland, I think he knows that, if he doesn't, I am saying so now. However, I don't think the good Representative would promote policy by polls, as he mentioned the polls a little bit earlier. I remember seeing a lot of polls in the past. One particularly sticks in my mind because I was fond of it, where 85 or 90 percent of the Maine people want to see a drastic reduction in the income tax. I am sure my colleagues on the other side of the aisle would be more than happy to join me in supporting that poll.

The Representative from Monmouth talked about how generous we were and it is interesting because we are so generous that we tax everything that moves or doesn't move, for that matter. She also mentioned the State of New Hampshire, which I might remind here, does not have the dubious distinction, like Maine, of being one of the highest taxed per capita in the country. We heard several people mention about the funding mechanism with this proposed legislation. As far as I can tell, both of the funding mechanisms are going to dry up. It is interesting and I have said before on the floor in previous debates on other issues that the funding expands the program on the backs of minorities. It is a small wonder that a large group of people support taxing cigarettes, because it is only a minority that smokes. We are going to tax them some more. Heaven knows how much more because we know what is good for them. Here we go again. We are funding a program with funds and revenues that we hope, we pray, someday will dry up. That would be a tobacco free Maine. I said before and I think it was a couple of days ago, there goes that person again climbing out on that limb and proceeding to saw it off. It is bizarre, very bizarre.

One final comment, the good Representative from Saco mentioned that we were already paying. It reminds me of a quote, one of my favorite ones. Peter O'Rourke said that if you think of health care as expensive now, wait until government gives it to you for nothing.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I just rise to bring the debate back full circle. I am not here to debate net operating loss carry back or God forbid non-categorical. I just want to debate the issue at hand, those without health insurance. I applaud the Speaker in the corner. He has done a great job on this bill and the Chair of the committee, Representative Kane, and others, for their fight on this issue.

Over the weekend I happened to bump into a constituent of mine from Winslow who falls into this category. He happens to have a very serious heart condition. His medications are

extremely expensive. He is not going to have Medicare available for another six to seven months. His wife happens to work part time. They have teens, one of them is in my son's class with him. They have a young family. There aren't many older folks with young families today. He came up to me and said that I do not have health insurance. I have tried to purchase health insurance and I was told that the premium was going to be \$1,000 and the deductible was going to cost me, because of my medical condition, \$50,000 out of pocket. What can you do to help me? My wife works and she is looking for work right now because of our young family and because of my medical condition and I said to my constituent, I am going to support Speaker Saxl's bill and we are going to find a way to pay for the bill.

Rather than talking about non-categorical and net operating loss carry back, let's talk about faith and good works. Faith is providing health insurance and basic health care for everyone in this country. The good works is to find a way to do it. Those are the two axioms that I will take away today and I will fight for. Speaker Saxl's bill that provides health insurance for those that need it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brooklin, Representative Volenik.

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

The SPEAKER PRO TEM: The Representative may pose his question.

Representative **VOLENIK**: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who may choose to answer, could a self-employed business person with a net operating loss, no longer eligible for carry back, be eligible for health care under the provisions of LD 1303 as amended and thus again directly benefit from his own loss?

The SPEAKER PRO TEM: The Representative from Brooklin, Representative Volenik has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. The answer is yes.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to talk about five different points on this amendment and then a question. First of all, I see that a special mention is made in this amendment of cancer drugs. I recall a bill we had earlier this year for cancer drugs for the elderly, low-income elderly. The cost for the biennium is \$5 million. That was based on the fact that of the 45,000 eligible only 8 percent were going to take advantage of it. Those 8 percent were going to pay 50 percent of the costs. I think this could be a real problem in financing.

Number two, we have had before us earlier a bill that provided a 70 percent UCR reimbursement for all the providers. We have had numerous testimonies in front of the Health and Human Committee that providers are not being paid enough by Medicaid and they are leaving the state. They are limiting their practices to the number they can take and they can't hire people to come and help them because they can't pay enough as opposed to competing agencies elsewhere. That was almost \$40 million if we reimbursed all the providers at 70 percent of their usual and customary fee. We deemed not to do that this session. That is another real cost that ought to be figured in.

Number three, I see that this amendment continues the increased exemptions of assets for eligibility, including the second car, the life insurance policy and the college fund.

Number four, it appears that the financial figure on this bill is about \$32 million for the biennium. That was compared to in the previous version of this bill about \$45 million of the general fund, not counting the matching federal funds.

Number five, there are those who endorse LD 1303 enthusiastically in its original form and are now having serious doubts with the method of funding that is not in this amendment.

Mr. Speaker, I would like to pose a question. In this bill there is something that was supposed to be cost neutral, which was an affordable health care fund for self-employed people and they would be charged a premium and so forth based on what they could afford and what the cost of that program was. As I recall, that required a federal waiver. My question is, that is not going to be automatic, does that still require a waiver from the federal government before that program could be instituted?

The SPEAKER PRO TEM: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. The Representative from Auburn is correct. It does require a federal waiver in order to provide the buy in program. We are hopeful that we will get it. Congressman Allen has just brought forward legislation federally to mandate that will be an automatic waiver for every state who applies for it. I appreciate the Representative's support for it in the committee. As I recall, he did include that in his Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative **STANLEY**: Mr. Speaker, Ladies and Gentlemen of the House. A little while ago we heard some debate on the tax issue. I have to say that I would kind of agree with the tax issue and the net operating carry over loss and also on the cigarette tax because my personal feeling is, I really don't think we ought to be playing with these taxes. One of them is not really that great. The other thing that I am really concerned about is that these taxes are a source of revenue and to me the source of revenue is needed for the issue that is at our hand right now. The reason why I say that and the reason why I am standing up saying what I am saying is because of the 470 people unemployed in Calais, for the 920 people unemployed in the Dexter/Pittsfield area, for the 1,070 people unemployed in the Farmington area, for the 320 people unemployed in the Fort Kent area, for the 110 people unemployed in the Greenville area, for the 400 people unemployed in the Jonesport/Milbridge area, for the 480 people unemployed in the Lincoln/Howland area, for the 420 in the Machias/Eastport area, for the 320 people unemployed in the Millinocket/East Millinocket area, for the 140 unemployed in the Patten/Island Falls area, for the 660 unemployed in the Rumford area, for the 1,130 people unemployed in the Skowhegan area and for the 100 people unemployed in the Van Buren area. I didn't total them all up, but these are 11 of the 35 districts that we do the labor market statistics on and the people that have been with me before on my committee have heard me say this more than once. I look at this every month. I study this. I have been a legislator for five years. I have been getting these same things every year from the Department of Labor. These are the same areas that need the help and have to have the help.

Last night we stood here and we voted on a bond issue to provide access facility for business expansion that was going to help these areas. We did not pass that. We have it tabled. It is coming back. I think it is a real good thing. The reason why I am supporting of this health set up is because look what is going on? People out there, the people that I represent, the rural areas of the State of Maine, are getting inadequate care. It is really

needed. We talk about the funding. I hate to say it, but I said it a little while ago, that all my people are moving from the north to the south. I hate to say it, but the people from the south are going to have to pay for the people of the north. I really hate to say that. I am a firm believer that we have to do something to help these people because the situation is not getting better. You look at the economy of the state and the country and the recession is in place and all these people are going just add to the numbers that we have to have help on. Where the unemployment keeps going up and up and people keep losing jobs, losing benefits, somebody is going to have to pay for it. Like I said, I am really not in agreement of the way we are going to tax this, but we have to do something. The numbers are increasing and we have to help the people of the State of Maine, whether they are from the north or the south or wherever. I will tell you, Maine is one state. We have to look at us as one state. What is good for one part of state is good for the other part of the state. I will tell you that anything we can do to help the people that need the help and there are numerous different things. We talk about the cigarette tax and probably the guy that is going to work that does have a job in parts of my area that I represent probably might smoke and will have to pay more, but he probably has a son or a daughter or a grandson that is out there that needs this type of help. I believe that by increasing the taxes that we have to increase, we are going to help the people that need the help. Like I say, I am not really in favor of any of these taxes, but I do know one thing. We have got to do something. I will tell you where I come from it is a different world. People don't realize it, but I will tell you that I live in an area and I come down here and live six months out of the year. I live here six months of the year. I can see the difference. I will tell you what. We have got to do something. We have to start looking at it as one state, not as a state of what we have here and what we have there, but one state overall. I will tell you that in order to have one good state, you have to provide the jobs that are needed for the people of this state.

I will be honest with you, I am not in favor of any more taxes, but we have to do something. I will be honest with you again, the health care is an area that is very expensive. If you don't take care of the problem to prevent it, then it is costing you more money down the road. These issues here are all addressed in this legislation. That is why I will be supporting this piece of legislation. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Cote.

Representative **COTE**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, agree with my fellow colleague from Medway. We have to draw the line somewhere. I, too, will support Representative Saxl's increase in health care. We have to draw the line where it has to be done. My people in my district have a problem with medical insurance as well. I was just at the hospital in the emergency room just the other day when my family came in from Illinois to visit. I had to take my son's mother to the emergency room. Unfortunately, she has no insurance to cover her medical bills. Through this program she will be able to take care of her medical bills and get the help she needs. She is not just the only one, even though she is not in my district, but I do have some in my district that do rely on affordable medical care. I have senior citizens and I do also have members who work at BIW. Some of them just got laid off. They were one of the 150 employees from Bath Iron Works that just got laid off. Where are they going to find affordable health care? They can't. A lot of them have families and children that need medical attention. Through this health care program, they will get it. I don't like to raise any more taxes myself. I am against raising any more taxes in this state. I have been asked that every day

since we have been dealing with this budget. I kept telling my constituents I don't like what is inside of it, but we have to draw the line somewhere in order to get you the affordable health care you need, we have to raise more taxes. This is the only alternative to be able to give them that affordable health care. I urge my fellow colleagues to join me in supporting Representative Saxl's amendment and let's get this underway and let's get this done. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norway, Representative Winsor.

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

The SPEAKER PRO TEM: The Representative may pose his question.

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. There seems to be in listening to this conversation here that one of the major reasons we should support this bill is because of its allowance to allow self-employed people to purchase Medicaid. The question I have evolves around the eligibility requirements. As I understand reading the amendment, there is an income threshold and there is also an asset threshold. I am wondering if the proponents of this bill or the sponsor would address a little bit of that. I am a little confused as to we talk about second vehicles, certain retirement plans, savings and so one. I am really talking about, for example, is a skidder exempted or is that considered an asset or a farm tractor or exactly how is operating capital in your store or such? The second question I have has to do with the cost of this program in the next biennium. I was wondering if the sponsor of this bill has an idea what the projected cost of this program is expected to be in the next biennium? Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Representative from Norway, Representative Winsor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I am very pleased that the Representative from Norway, Representative Winsor, brought forward the issue of the asset test, because it is a matter around which there has been some matter of confusion. The concept around changing an asset test, an asset test is basically how do you qualify and how do you determine what your income is and what your assets are so that you can qualify at 125 percent of poverty as a childless adult for the program. Currently the asset test is in law, by rule. This bill proposes to revisit the issue of asset tests. What it requires is for the Department of Human Services to consider issues such as the ownership of a vehicle and the type of a vehicle an individual can own in order to qualify for Medicaid. What will happen is that the Department of Human Services, through a public rulemaking process, will come up with a suggestion. That suggestion will be a major substantive rule. Before it goes into effect, it will come back in January 1, 2002 to the Health and Human Services Committee so that they can look at it.

The bottom line concept about changing the asset test is this, under the current asset test you can't own but one car. Most uninsured people in the State of Maine, 90 percent of uninsured people in the State of Maine are working people who need to get to work. Most people in the State of Maine live in rural Maine and need to drive to work because our public transportation infrastructure doesn't meet those concerns. This change in asset test, if the Legislature approves it in the next Legislature, would hopefully allow for a family to go from a one junker family to a two junker family so that working people can get health care and remain employed.

The second question around the asset test was around savings for other assets. The Department of Human Services

will look at other assets. It has long been the goal of this Legislature though our actions around education accounts to help people save for their children's education. It is the goal of this legislation to continue to support people saving so that their children can go to college. We will have a chance to debate the importance of higher education later on, but those are the only issues in the asset test that have been addressed. They will come back to the Legislature before there is further action on them.

As far as ongoing revenue or the cost of this program, I think that the Representative brings forward an interesting area, one where I didn't negotiate very hard with the Department of Human Services. This fiscal note, in my opinion, and ongoing revenue costs is actually extraordinarily high. You will see that the highest area in it of all the costs is in an area called the non-categorical area, which insures uninsured people below 125 percent of poverty. I know this is going to get a little technical for you, but the Department of Human Services has slated the participation rate for non-categorical at 55 percent of the eligible population. There are 12 or 13 other states that have gotten about 10 years plus experience in this and not one of those states is within 20 percent of that in actual practice. Several of them budget, but none of them budget at a higher rate than that amount, but none of them budget at 55 percent participation rate. None of them experience that. In fact, the fiscal note on this, while it is considerable, it is paid for by the net operating loss carry back and through the cigarette tax, should actually in our actual experience, be much lower. However, we didn't want to allow for any misconception around that. We wanted to make sure it was the full fiscal note so that the revenue would fully cover this amount.

I appreciate the questions from the Representative from Norway, Representative Winsor.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House. I appreciate the comments of the good Representative from Portland, but I think I wasn't perfectly clear about my question. I have been looking through this amendment and it is not clear to me what the cost of this program will be in the next biennium. I see approximately \$7.5 million in the first year and about \$24 or \$25 million in the second year of the program. I don't see a cost in the next biennium. The second part that I talked about was self-employed individuals. I am a little confused as to how we deal with the business assets of a self-employed individual. I speak from somebody who has been self-employed since I was 26, that was more than 30 years ago. I can tell you that my income went up and went down, at least my taxable income, but I never could have met any of the asset requirements simply because you have to keep a certain amount of operating cash around or you have accounts receivable or so on. It is very difficult. I am wondering how you would get to that under the rather rigid rules that seem to evolve from these programs? Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. Small businesses and sole proprietors up to 300 percent of poverty would be eligible under the rules for buying in. The income for an individual at 300 percent of poverty is \$25,770. For a couple it is \$34,830. For a family of three it is \$43,890. For a family of four it is \$52,950. That would sweep in a lot of the self-employed in the State of Maine. I understand that the Representative from Norway, Representative Winsor's question, is a broader question about the amount of assets they would be able to retain. Under Section 1 of this bill, the asset test is going

to be going back to the Department of Human Services for rulemaking so that we can try to appropriately address those non-tangible assets that are ordinary and customary in the usage of doing business so that we could include sole proprietors and self-employed people, which I believe might include the Representative from Norway. If it doesn't, it certainly includes a lot of other Maine people. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Annis.

Representative ANNIS: Mr. Speaker, Ladies and Gentlemen of the House. What a wonderful bill. I would be delighted to take this back to my constituents, but I have a problem. We talked a lot about uncompensated care. Medicaid is uncompensated care. Doctors and dentists provide the care and Medicaid uncompensates them. Would you provide a dollar's worth of work with the expectation of a return of 20 cents. Our care providers receive this kind of uncompensation. Take Medicaid out of the equation and you have a program greatly accepted by those in need and the caregivers as long as Medicaid is the administrator of this really fine bill, I am afraid I can't support it. I want my doctor and my dentist to stay in town. Medicaid will drive them away. Thank you.

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

Representative BUNKER: Mr. Speaker, Men and Women of the House. It has been a long afternoon for sure, but this is an important subject and an important bill. The good Representative from Medway, Representative Stanley, I think hit the nail on the head as far as this bill will impact the rural folks. As many of you know, I do sell catastrophic health insurance for the self-employed folks so I do have a little bit of first hand experience talking and sitting down with many of these businesses across the state, hundreds of them. I spend a little bit of time talking to them about their needs and what have you. One of the big questions, I say look I don't want to get personal, but do you pay a big chunk of change at the end of the year to the IRS? There is a thing within our association that can show you how to write that off against your business. I want you to know that when I am out there dealing with these folks, the majority of the people that I deal with are probably the ones that are going to fall into this situation that the good Speaker's bill is addressing. This is probably going to negatively impact me dramatically as far as that group of people we deal with, but it is the most important group of people that we have dealt with politically when we are out there doing door to door. It is the most important group of folks that Representative Stanley had indicated, the rural folks. He listed off a bunch of numbers there about the unemployed, but if anybody knows what is going on in the employment markets, you will realize you might want to double those numbers because unreported and unemployed are two different things. There is a great number of folks that this can be of great help to.

We heard some comments about Medicare and Medicaid and what have you and how small that pays. I understand there is a national problem there and I don't think we want to fight that battle here. I do know that many of those folks that are receiving treatment that they wouldn't have unless they had that benefit. I think that is what we are here doing today. We are trying to provide a benefit to the people that are most in need, the business folks that are most in need, the people that I deal with on a daily basis. As far as the tax deductibility, going back two years and what have you, I asked a lot of business questions of the group of people that were five employees or less. They are very small groups. They are the people that are very marginal and getting ready to close. I can be quite honest, if I asked all of the couple hundred people I spoke to personally if they even

knew about that clause. Two or three people might have had some first-hand knowledge of that. I think about my district, there is 8,000 people, approximately, in my rural district. I am sitting here thinking while we were having the discussion and I bet you out of the whole district that I have, there is probably only three businesses that are probably aware of this and may have had the assets or the ability to utilize it and still be in business. The people that we loose up home are not people that made any money last year or the year before or the year before that. These are the people that are carrying forward losses well into the future. I can't even see that any of my business folks will be impacted by this bill.

I appreciate your support and I think this is something that we can be proud of and take home to our folks.

Representative KANE of Saco **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-748)** to **Committee Amendment "A" (H-639)**.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. Yesterday afternoon, as some of you know, I was not here in the chamber, nor was I here last night. In the afternoon I was fortunate or unfortunate, depending on how you look at it, to attend a funeral of a distant relative whose time had long since passed. Later yesterday I put on a lobster bake for the family and friends. I cooked 55 lobsters, corn and clams. Believe me, I would like to be doing that again at this point and avoiding having to make a decision on this particular piece of legislation for a number of reasons. I was a cosponsor of the original legislation as it came forward. We have heard many times in this body, this year, from the good Representative from South Portland who sits behind me about the fact that we are doing very little to move forward with increasing the availability of health insurance for those in need. The fact is we have heard a lot this year about the fact that we may have gone in the other direction and made health insurance more costly for those in need.

I listened to the words of the good Representative from Augusta and I share her concerns, believe me. I would have been much happier this afternoon had all of the expense for this particular piece of legislation be taken in a tax against cigarettes, but I understand the reason why that is not possible, given the fact that a cigarette tax appears in another piece of legislation that we shall be debating or at least will come before us before this day is over.

The net operating loss carry over I do understand. I did take advantage of it one year as a small businessman. I am aware of it. I was not aware of it personally. The person who did my income tax was and I think that that may be a problem with that particular tax that a lot of people that could take advantage of it do their own taxes and are not aware of it. CPAs are in a different category.

Where am I headed on this? I will be supporting the amendment (H-748), but with the hope that when we return here in January of next year, that we take a long hard look at the funding. I think it is inadequately funded. I think there are some real holes in this particular piece of legislation, but the concept outweighs by a few percentage points the problems, but I think it would be the responsible thing for the people in this body and the Taxation Committee, under the good Chair to my right, to take a look at this along with the Health and Human Services Committee to take a look at this particular issue of funding this program, which is vital to the people of the State of Maine.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Quite some time ago I started taking notes on various things that were said and points that were made and frankly so much has been said and so many points were made that I ran out of paper so maybe that is a good thing for all of you because I won't have to address all the things I heard.

I do want to make a correction to a statement that the Representative from Winslow, Representative Matthews made. He talked about the fact that he wanted to get back to the issue of health care. The amendment is not about the issue of health care. We already had the debate on LD 1303 and, in fact, there was very little debate because the majority of the people here supported it. The amendment is about funding for LD 1303. That is the debate today, funding. I am not going to speak against the bill. Not many people did before did speak against the bill. I will make one comment and that is the good Representative from Portland, Representative Saxl, talked about the process of creating the bill. He said it was like soup, pulling together a lot of different ingredients. I am going to suggest to you that the funding for this bill is a lot like soup. There is no meat to it. It is thin and watery. It doesn't provide sustenance.

If we truly believe in LD 1303, then step up to the plate. Fund it from the cigarette tax. This isn't gong to fund it. This is a house of cards, this funding mechanism. I look at the impact of the revenue in the amendment and one of the things I see is the repeal of the provisions allowing the carry back of net operating losses. We are going to start calling it NOL from now on to shorten the debate. Allowing the carry back of NOL will increase corporate income tax collections by \$1.6 million in fiscal year 2001 and 2002 and \$6.3 million in fiscal year 2002 and 2003. We talked about this considerably in the Taxation Committee under the leadership of our good chair. We never heard a figure like \$6.3 million. Where did this figure come from? How do you get from \$1.6 million to \$6.3 million? I am sitting here asking myself, how can that be? I started thinking that maybe that could be. We are in recession. We are in a down economy. We have been punishing business all year. Maybe that can be because we have reeked so much havoc . . .

The **SPEAKER PRO TEM**: The Chair would interrupt debate. I have given great latitude and leeway in the debate. The Chair would remind the members to contain their remarks to the issue at hand, which is the adoption of House Amendment "C" to Committee Amendment "A." The Representative may proceed.

Representative **BOWLES**: I thank the chair for that correction, but may I inquire as to whether or not the amendment is dealing with the funding? I am discussing the funding Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair felt that the Representative was engaged in a very lengthy monologue about the nature of the economy and not necessarily the matter at hand. I will give much leeway, but not that much.

Representative **BOWLES**: Mr. Speaker, Men and Women of the House. I will try to be more succinct in my remarks. Six point three million is the figure we have in front of us. The only way we are going to get to \$6.3 million is if we have a whole bunch of business casualties in the next couple of years. Any other way you don't approach a figure like that.

The Speaker said he thought the fiscal note was high. I would suggest to you that the revenue note is certainly high.

The Representative from Kossuth Township, Representative Bunker, told us a few minutes ago that he deals mostly with small businesses and most of the small businesses he deals with don't make any money. This is a surprise. They don't make any money. He said they haven't made any money and they are not

going to make any money, therefore, they are not concerned about the loss of NOL carry back. That is a great statement on the economy and the state of small business in Maine. Representative Stanley, the Representative from Medway, and I have had any number of discussions in the course of my time on Taxation together and I can tell you that I have more respect for him than many, many other people that I have encountered over the years for his caring for his people, his constituents. Representative Stanley is sincere when he talks about wanting to do something about employment and he and I have discussed ways to do that. One of the ways that we don't accomplish that is by punishing small business, again, and by causing more businesses to go out of business, particularly small businesses that make up the bulk of the Maine economy. This is not going to help those unemployment figures. It is going to drive them higher.

I would like to address some of the points made by the good Chair of Taxation, Representative Green, who always brings a smile to my face. She is a fine legislator, but she would have been a much better actress, she would have been much better on stage. That is her natural calling. Because she speaks so eloquently and passionately, she was able even to make something interesting and passionate out of NOL carry back, which is something I will admit that I probably can't do.

On the white sheet that she talks about earlier, frankly, I think carries a significant misnomer because it is labeled fact sheet. There was a great deal of misstatement and misfact. She addressed three points and I am going to confine my remarks to those points. Is our current NOL carry back good tax policy? No and here is why. She went on to talk about point number one, volatility. Let me just read to you one sentence here. After the headline, NOL contributes significantly to the volatility of business taxes and the unpredictability of tax revenue it says, "For example, in a recession, just when we need revenue the most." What does recession imply? It is bad for business, but we need revenues. The we here is government, specifically in this case, state government. Wish that we were so concerned about business as we are revenues to state government. I suggest to you that in a recession or in a down time, small business needs predictable revenues.

Number two, NOLs do not necessarily mean that a business has lost money. It goes on to say that it simply means that a company has more allowable expenses than income in a particular year. Some of you may understand the term cash flow. Cash flow is the money that a business uses to continue its operations. When your expenses exceed your revenues, you have a cash flow problem. You may have a loss and it is true that you may operate in business for some time with a loss. An accumulation of losses is a loss of cash flow and you cannot sustain a business with a loss of cash flow. One of the things that NOL carry back does is it injects some cash, much needed cash, into a small business that has sustained a series of losses. A carry forward is real nice, but if you don't have any cash to keep your business going, all the carry forward in the world doesn't do you any good. I am one of those small businesses that benefited from NOL carry back a number of years ago. After several years of paying my taxes and after several years of expanding business, we hit the recession of 1989. I had to close the door. We had a loss of revenue. I suffered from a cash flow problem because I am a small business person. I don't have access to equity. The money that is in my business comes out of my pocket, for the most part. I needed those few dollars that the NOL carry back gave back to my business. They helped me survive. For the last 10 or 12 years I have been able to provide some amount of employment. I have been able to provide taxes to keep the insatiable machine that we call state government

running. I am not Microsoft. I am not Bill Gates. I am a small business owner. I have five employees. Where does that put me in the spectrum of top 500 corporations?

Finally, the third point, elimination of the carry back provision does not mean elimination of the deduction. It goes on to say that a generous 20 year carry forward provision for these losses. I pretty much addressed that already and I am not going to repeat it.

I am simply going to tell you that this is a poor funding mechanism. It is harmful to small business, your constituents, your convenience store owners, your small shops, your small machine shops, your small wood turning operations, the guy who is running the machine shop out of his garage, that is who gets hurt with this. It was suggested at one point that this bill is a good thing because it is going to help those people who have just gone out of business. Isn't that dandy. We are going to put them out of business and then we are going to help them. Why don't we just leave them in business, encourage them in business and they won't need our help. That is what we really should be trying to do. Repealing NOL carry back is not going to do it. Let's fund this properly. It is a good bill. We agree it is a good bill. Let's fund it properly. Let's not fund it on gimmicks.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "C" (H-748) to Committee Amendment "A" (H-639). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 430

YEA - Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michaud, Mitchell, Morrison, Muse C, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Gagne, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Ledwin, MacDougall, Madore, McKenney, Mendros, Michael, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Buck, Labrecque, Lovett, O'Neil, Peavey, Smith, Watson.

Yes, 87; No, 57; Absent, 7; Excused, 0.

87 having voted in the affirmative and 57 voted in the negative, with 7 being absent, and accordingly **House Amendment "C" (H-748) to Committee Amendment "A" (H-639) was ADOPTED.**

**Committee Amendment "A" (H-639) as Amended by House Amendment "C" (H-748) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-639) as Amended by House Amendment "C" (H-748) thereto in NON-CONCURRENCE** and sent for concurrence.