

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Tuesday
June 5, 2001

Senate called to order by President Michael H. Michaud of Penobscot County.

Prayer by Senator Norman K. Ferguson, Jr. of Oxford County.

SENATOR FERGUSON: Thank you. All mighty and eternal Father, creator of the universe, Your humble servants gather one more time on this 62nd legislative day to pursue Your will and provide for the safety and welfare of our citizens. Make us worthy of that high responsibility and bless us with divine insight. We thank You for providing us with leaders that exercise fairness and compassion. May we conclude our work in the spirit that has prevailed thus far. Please grant us the wisdom and guidance to bring this session to a successful end. Amen.

Reading of the Journal of Monday, June 4, 2001.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Strengthen the Authority of the Bureau of Insurance"

S.P. 172 L.D. 590

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-271)** (8 members)

Minority - **Ought Not to Pass** (5 members)

In Senate, May 31, 2001, on motion by Senator **LAFOUNTAIN** of York, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, 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-271) AS AMENDED BY HOUSE AMENDMENT "A" (H-678)** thereto, in **NON-CONCURRENCE**.

Senator **LAFOUNTAIN** of York moved the Senate **ADHERE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ADHERE**.

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish a Single-payor Health Care System"

H.P. 964 L.D. 1277

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-514)** (7 members)

Minority - **Ought Not to Pass** (5 members)

In House, May 22, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514)**.

In Senate, May 30, 2001, on motion by Senator **LAFOUNTAIN** of York, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514) AS AMENDED BY HOUSE AMENDMENT "C" (H-680)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **LAFOUNTAIN** of York, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-Concurrent Matter

An Act to Classify Employer-provided Medical Treatment as a Payment under the Maine Workers' Compensation Act of 1992
H.P. 644 L.D. 844
(C "A" H-244)

In House, May 29, 2001, **PASSED TO BE ENACTED**.

In Senate, June 4, 2001, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

On motion by Senator **EDMONDS** of Cumberland, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

COMMUNICATIONS

The Following Communication: S.P. 646

STATE OF MAINE

120TH LEGISLATURE

May 29, 2001

Hon. Betty Lou Mitchell, Senate Chair
Hon. Shirley K. Richard, House Chair
Joint Standing Committee on Education
and Cultural Affairs
120th Legislature
Augusta, ME 04333

Dear Senator Mitchell and Representative Richard:

Please be advised that Governor Angus S. King, Jr. has nominated Susan Blethen of Falmouth for reappointment and Howard C. Reiche of Falmouth for appointment as members of the School Board of the Governor Baxter School for the Deaf.

Pursuant to Title 20-A, M.R.S.A. §7406, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Michael H. Michaud
President of the Senate

S/Michael V. Saxl
Speaker of the House

READ and REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Sent down for concurrence.

The Following Communication: H.C. 290

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE**

June 4, 2001

Honorable Joy J. O'Brien
Secretary of the Senate
120th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committees of Conference on the disagreeing action of the two branches of the Legislature on the following matters:

Bill "An Act to Require the State to Pay for Veterans' Obituaries and State Flags" (H.P. 416) (L.D. 537)
Representative BOUFFARD of Lewiston
Representative DUNLAP of Old Town
Representative MENDROS of Lewiston

Bill "An Act to Make Refusing a Blood-alcohol Test a Crime" (S.P. 392) (L.D. 1288)
Representative MITCHELL of Vassalboro

Representative POVICH of Ellsworth
Representative PEAVEY of Woolwich

Bill "An Act to Require Certain Employers to Provide Certification for Employees Who Dispense Medications" (H.P. 603) (L.D. 758)

Representative HUTTON of Bowdoinham
Representative RICHARDSON of Brunswick
Representative CLOUGH of Scarborough

Bill "An Act Creating a Pilot Project to Provide Video Camera Surveillance at Intersections in Ellsworth" (H.P. 728) (L.D. 948)

Representative FISHER of Brewer
Representative BUNKER of Kossuth Township
Representative COLLINS of Wells

Bill "An Act to Expand the Maine Mathematics, Science and Engineering Talent Search Venture" (S.P. 280) (L.D. 991)

Representative SKOGLUND of St. George
Representative BAKER of Bangor
Representative WESTON of Montville

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

**Ought to Pass
Pursuant to Joint Order**

The Committee on **TAXATION** on Bill "An Act to Amend the Business Equipment Tax Reimbursement Program" H.P. 1365 L.D. 1822

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1354).

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ and ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE and PASSED TO BE ENGROSSED**, in concurrence.

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Implement the Recommendations of the Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for All Maine Citizens"

H.P. 315 L.D. 392

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-670)**.

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin

Representatives:

DUDLEY of Portland
MICHAEL of Auburn
SMITH of Van Buren
YOUNG of Limestone
MAYO of Bath
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHE of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

ABROMSON of Cumberland

Representative:

GLYNN of South Portland

Comes from the House 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" (H-670)**.

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/30/01) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Repeal the Presidential Preference Primary Elections"

H.P. 960 L.D. 1273

Majority - **Ought to Pass** (11 Members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-556)** (2 Members)

Tabled - May 30, 2001, by Senator **DAGGETT** of Kennebec

Pending - motion by Senator **BROMLEY** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, May 29, 2001, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 30, 2001, Reports **READ**.)

On motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (6/4/01) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Amend the Laws Governing a Conflict of Interest for a School Board Member"

S.P. 188 L.D. 660

Majority - **Ought Not to Pass** (9 Members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-310)** (4 Members)

Tabled - June 4, 2001, by Senator **MITCHELL** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, June 4, 2001, Reports **READ**.)

Senator **ROTUNDO** of Androscoggin requested a Division.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#109)

YEAS: Senators: KILKELLY, MARTIN, MITCHELL, NUTTING, TURNER

NAYS: Senators: BENNETT, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, O'GARA, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

ABSENT: Senators: ABROMSON, BROMLEY, LONGLEY, MILLS, PENDLETON, RAND

5 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 6 Senators being absent, the motion by Senator **MITCHELL** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report.

The Chair laid before the Senate the following Tabled and Later (5/29/01) Assigned matter:

Bill "An Act to Refine the Subdivision and Redistricting Authority of the Maine Land Use Regulation Commission"
S.P. 360 L.D. 1198

Tabled - May 29, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-253)**

(In Senate, May 29, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (S-253) **READ** and **ADOPTED**. Subsequently, on motion by President Pro Tem **BENNETT** of Oxford, **RECONSIDERED ADOPTION** of Committee Amendment "A" (S-253).)

On motion by Senator **YOUNGBLOOD** of Penobscot, Senate Amendment "A" (S-319) to Committee Amendment "A" (S-253) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** Thank you, Mr. President, ladies and gentlemen of the Senate. There are some needed changes in the way that LURC reviews the whole process of subdivisions in the very rural wooded parts of our state. A good many years ago, a 40 acre subdivision was put in because there is a point in which the government ought not to be actively involved in who we sell our land to, how we sell our land. It ought to be involved in areas that are pristine, in areas that are around lakes and wetlands. Those are issues that we ought to very definitely have some state input and control over. But the wooded area of Maine, from one who likes to spend a great deal of time in that back country, I ought to be able to buy a piece of land that I could keep in my family forever and ever. The direction that this bill is taking it would make that very, very difficult. This amendment to Committee Amendment "A" merely allows for the ability, in land that is set aside, to have a seasonal camp. The amendment lays out that a seasonal camp is defined as a dwelling that is designed to accommodate no more than 8 people, not designed for year round use, does not improve more than 1 acre of the land in that particular parcel. One acre is all that would be allowed to be developed and must be non-commercial in use. This is something that we, the people in the State of Maine, deserve to have and I would urge your support of this amendment. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I pose a question through the chair because I'm a little bit confused. This a little bit different than what I'd seen yesterday as a possible solution to what was perceived to be a problem. One of the concerns that I have in the subdivision is when you're trying to divide up land that is under protection for forest protection, that is for forest growth and production of fiber, was that basically the question? What happened to that land, whatever you did, whenever you did it, whether it was 40 acres or 10 acres? The way that this appears to be structured is that the seasonal camp could be in the middle of the 40 acres, thereby preventing the use of that forest land to be used for forest production, at the same time continuing to get the tax break under Tree Growth. So I'm really concerned in the way that this is drafted. I guess the question I would pose is what happened from yesterday to today?

THE PRESIDENT: The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** I do not believe there are any changes in this from the last couple of days from the way that it was originally perceived. In the State of Maine, one can put, I believe, 10 acres into Tree Growth. As someone correctly said here in this chamber back a week or two ago, you can't stop trees from growing in Maine. Just because you have a 41 or 45 or 50 acre piece of land next to two or three others that have 40 or 50 acres of land doesn't mean that that will not be cut. In fact, there is example after example of land that has already been subdivided into these 40 plus acre lots and Tree Growth production is happening on them. Harvesting is happening on them. You do not have to have a 1,000 or 5,000 acre of land in order to harvest trees in the State of Maine.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President. I have concerns primarily because one of the major proponents of this question of subdivision has created real problems in northern Maine. As I look at the figures and the way in which it's been done, basically what this lady has done as a trustee of whatever it's called, is basically gone in and stripped the land so there won't be any trees growing for 40 years, probably. She then sold these lots that people can't even get a LURC permit for. That's the real danger. I've got, for example, these have occurred in northern Washington County, in Prentiss, in Webster, in Carroll, in Aroostook, in Cary, in Morrill, and others. This land is out of production. Yet, the tax break continues. The purpose of Tree Growth is to provide a tax break for people who maintain forest land for the purposes of growing fiber. I think I know a little about Tree Growth, I sponsored the original Tree Growth legislation. I'm concerned that we are circumventing that. So if you allow a camp to be built in the middle of 40 acres, which this amendment does not prevent, you are taking 40 acres out of production. If what you do, on the other side of that coin, is to create a situation where you put a camp in a designated area so that it does not impede the production, then that's a different question. That was what I thought the amendment was going to be. So I think we're really creating a problem by the way that this is presently structured. If people agree with me, I'd suggest we table and see if we can work something out, but this basically provides for that camp to be located anywhere in the 40 acres and creates a situation where you're going to allow the tax break and towns, if it is an organized town, will lose the taxes from the reimbursement.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. I hope you will join me in defeating this amendment. I do believe that LURC needs to review the subdivision process that they are going through. It's my understanding that that is going to be happening. I'm perfectly comfortable with us directing that in legislation. I believe that there is an amendment that will provide us with that opportunity. One of the things that, again, I want to remind you of, is that the

reason that this bill is before us is that we do, in fact, have situations where 40 acre lots are created, they are sold to people under the guise of being these wonderful camp lots and places where you can have opportunity to recreate and whatever. Maybe you can only build on one tiny corner. The folks who are creating these lots have, in some cases, even gone to their attorneys to make sure that they are not having to disclose to the people purchasing those lots that maybe you can only build on one tiny corner of this 40 acre parcel that you're purchasing. There are a number of problems around this issue. Now, again, earlier when we debated this bill, I handed information from SWLOAM. SWLOAM is a group that is very conservative in nature, very concerned about landowner rights, very concerned about a productive forest. When I talked with them further about what are some of the trends that you're seeing or the concerns that you have that lead you to support this? One of the things that was brought to my attention was a 1994 analysis done for LURC that took a look at who, in fact, is involved in Tree Growth. Now remember, to be involved in Tree Growth you have to have a plan for harvesting. So if you choose not to be involved in Tree Growth it probably means you don't have a plan for harvesting, you don't intend to harvest, and you aren't going to maintain a working area. 90% of the lots that are over 500 acres are involved in Tree Growth. That drops to 45% when you start looking at 40 acre lots. It drops down to 28% when you start putting dwellings on those lots. So if you take a look at the fact that we are not only cutting up the forest into these interesting 40 acre lots, we're also taking that land out of production. Do I think we ought to have a review of subdivision ordinances by LURC? Yes. Am I comfortable that we should, in fact, direct that to happen? Yes. Do I think that this legislature, sitting today, ought to be doing a subdivision plan for LURC? No. That's not our job. My concern about this amendment is that this amendment truly does micromanage that process and saying these are what the conditions are going to be for you, in terms of what kind of dwelling and how that dwelling is going to be there. We ought to leave that to LURC. So I would urge you to vote against this amendment and provide us with an opportunity to present an amendment that, in fact, does require LURC to go through this review of subdivisions and would allow some primitive camping opportunities on this land as long as the land is still left in agriculture or forestry activity. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you very much, Mr. President. Just very briefly. I'd like to point out that the amendment that is at issue has nothing in it about Tree Growth. I would also like to have the yeas and nays please.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#110)

YEAS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, NUTTING, O'GARA, RAND, ROTUNDO, TREAT

ABSENT: Senators: ABROMSON, BROMLEY, LONGLEY, PENDLETON

15 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **YOUNGBLOOD** of Penobscot to **ADOPT** Senate Amendment "A" (S-319) to Committee Amendment "A" (S-253), **FAILED**.

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "B" (S-321) to Committee Amendment "A" (S-253) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Mr. President, ladies and gentlemen of the Senate. This bill effecting LURC and the 40 acre subdivisions has had much discussion in committee and much debate here. I've really wrestled with my vote on this bill. Originally I voted one way in committee and wasn't aware that the amendment had changed, and supported a different version of it here. Still I've been uncomfortable, a little bit, with this bill. Certain aspects of it. First off, the Agriculture, Conservation and Forestry Committee did send a letter to LURC requesting them, through rule making, to put on the deed for these 40 acre lots what different restrictions for building might be in place. A mountain or a set back from a lake or river or whatever. Frankly, LURC could have done this years ago and hasn't. But I'm sure this summer they are going to go forward with that rule making to assure that when you buy something, a 40 acre lot, you're going to know a little bit more, in fact much more, about what you're buying. So I think we've, in the Committee, addressed that. I think our job as legislators is to weigh the merits of a bill and I've come down that I just can't quite go along with everything the administration has originally asked for here. I just can't, kind of, rubber stamp it. This, to me, is a really tough issue. You're weighing the property rights of Mrs. Smith's family, who may have owned 500 acres for 20 years and thought they were going to do something with it. Now the rules are going to change. I can live with that if this amendment is adopted. What this amendment does is simply three things. It takes the bill, we're going to pass it, but it says that the LURC Board, this summer, is going to take a good hard look at streamlining and making simpler their subdivision review process, because if this bill passes, you're going to have to go through a subdivision review to do a development in LURC, even on 40 acre lots. This amendment calls that the Committee of jurisdiction next session, could report out a bill streamlining the subdivision

process. This makes me more comfortable with changing the rules on people because some of these subdivision reviews have taken years. That's one thing for a developer, but to the fictional Mrs. Smith, who owns 500 acres, that's quite a burden. In balance, I can support this bill if this amendment is on it, to just make sure that the subdivision review process is looked at and streamlined and that we'll report out legislation next session assuring that that is going to happen. So I would urge your support of the motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would urge your support of this amendment. The sprawl has come to the woods of Maine. If state government has its way in unorganized territories, they will control exactly where all the development takes place. This is wonderful if you happen to be the owner of a piece of land in the part of the township that they have decided ought to be developed because they have automatically increased the value of your land. If you are unfortunate enough to own land in the rest of the township that someone has deemed ought not to be developed, than you are the loser. What this does is, hopefully, increase the predictability before one starts the process of trying to get a lot subdivided. They will have some better guidelines that say I'm not wasting my money doing all of this knowing that when it gets done it's not going to get authorized anyway. So if this study does what the amendment is asking for it to do, I favor it strongly. It will reduce the processing and increase predictability of whether you can or cannot be successful before you start the very arduous process of subdivision before LURC.

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "B" (S-321) to Committee Amendment "A" (S-253) **ADOPTED**.

Committee Amendment "A" (S-253) as Amended by Senate Amendment "B" (S-321) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by President Pro Tem **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#111)

YEAS: Senators: BENNETT, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: None

ABSENT: Senators: ABROMSON, BROMLEY, LONGLEY

32 Senators having voted in the affirmative and no Senator having voted in the negative, with 3 Senators being absent, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253) AS AMENDED BY SENATE AMENDMENT "B" (S-321)** thereto.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act to Amend Certain Laws Pertaining to the Maine Land Use Regulation Commission

S.P. 365 L.D. 1203
(S "A" S-301 to C "A" S-181)

An Act to Streamline the Administration and Enforcement of the Work Permit Provisions of Child Labor Laws and to Enhance the Use of the Occupational Safety Loan Fund

S.P. 550 L.D. 1708
(C "A" S-295)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act to Encourage Savings for Higher Education

S.P. 579 L.D. 1757
(S "A" S-298)

At the request of President Pro Tem **BENNETT** of Oxford a Division was had. 15 Senators having voted in the affirmative and 13 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Ensure Retailer Compliance with the Tax on Tobacco Products

H.P. 1361 L.D. 1818

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/4/01) Assigned matter:

Emergency Measure

An Act to Create the Maine Health Data Processing Center
H.P. 980 L.D. 1304
(C "A" H-620)

Tabled - June 4, 2001, by Senator **LONGLEY** of Waldo

Pending - **ENACTMENT**, in **NON-CONCURRENCE**

(In Senate, May 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620)**, in concurrence.)

(In House, June 4, 2001, **FAILED ENACTMENT.**)

(In Senate, June 4, 2001, Senator **LONGLEY** of Waldo moved to **SUSPEND THE RULES**. Subsequently, withdrawn.)

Senator **LONGLEY** of Waldo was granted unanimous consent to address the Senate off the Record.

Senate at Ease.

Senate called to order by the President.

Senator **LONGLEY** of Waldo moved the Senate **SUSPEND THE RULES**.

President Pro Tem **BENNETT** of Oxford requested a Division.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#112)

YEAS: Senators: CATHCART, DAGGETT, DOUGLASS, EDMONDS, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, TURNER, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, KNEELAND, LEMONT, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: ABROMSON, BROMLEY, GAGNON

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **LONGLEY** of Waldo to **SUSPEND THE RULES, FAILED**.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** May I pose a question through the chair?

THE PRESIDENT: The Senator may pose her question.

Senator **LONGLEY:** Procedurally, do we still have the Emergency on it?

THE PRESIDENT: The Chair would answer in the affirmative.

This being an Emergency Measure and having received the affirmative vote of 21 Members of the Senate, with 12 Senators having voted in the negative, and 21 being less than two-thirds of the entire elected Membership of the Senate, **FAILED ENACTMENT**, in concurrence.

Senator **MARTIN** of Aroostook moved the Senate **RECONSIDER** whereby the Bill **FAILED ENACTMENT**, in concurrence.

At the request of same Senator a Division was had. 21 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **RECONSIDER** whereby the Bill **FAILED ENACTMENT**, in concurrence, **PREVAILED**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in **NON-CONCURRENCE**.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Senator **DAGGETT** of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

President Pro Tem **BENNETT** of Oxford was granted unanimous consent to address the Senate off the Record.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Joint Order

The Committee on **TAXATION** on Bill "An Act Related to the Suspension of Property Tax Abatement Appeals When the Taxpayer is Delinquent in Paying Taxes"

H.P. 1367 L.D. 1824

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1357).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Require Teaching of Maine Native American History and Culture in Maine's Schools

H.P. 255 L.D. 291
(C "A" H-666)

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Create Uniform Underwriting Standards for Determining Eligibility for Certain Group Policies

S.P. 379 L.D. 1217
(C "A" S-270)

On motion by Senator **DAGGETT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/31/01) Assigned matter:

JOINT ORDER - relative the Joint Standing Committee on Education and Cultural Affairs reporting out or returning to the Senate, Bill, "An Act to Repeal the Requirement that School Employees be Fingerprinted" by June 5, 2001
S.P. 644

Tabled - May 31, 2001 by Senator **DAGGETT** of Kennebec

Pending - motion by Senator **MARTIN** of Aroostook to **PASS**

(In Senate, May 31, 2001, on motion by Senator **MARTIN** of Aroostook, **READ**.)

Senator **MARTIN** of Aroostook requested and received leave of the Senate to withdraw the Joint Order.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Amend the Laws Governing a Conflict of Interest for a School Board Member"
S.P. 188 L.D. 660

Majority - **Ought Not to Pass** (9 Members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-310)** (4 Members)

Tabled - June 5, 2001, by Senator **NUTTING** of Androscoggin

Pending - **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report

(In Senate, June 5, 2001, motion by Senator **MITCHELL** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.)

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. I want to thank the body for tabling my bill until I could be here and debate it. I've put this bill in this session because of many situations in my State Senate District. Up until three years ago, if you were on the school board, your spouse couldn't even volunteer in the local school district. That was, somehow, evil. We have lost so many people in my Senate District. So many couples are not being involved in local school

system any more. An the editorial in the Lewiston paper cites a couple of examples where one member of a couple was on the school board and the spouse was either a one-day-a-week substitute teacher or wanted to be the soccer coach or a drama coach with the senior play. Our state, one of the few states, doesn't allow this. This is called a conflict of interest. I'm urging you to vote against the pending motion so we can go on then to accept the Minority Ought to Pass Report. The Minority Report is very specific. It's outlined in S-310. It is incorrectly drafted. It never did have an emergency preamble on it and I do have an amendment to take the emergency off. Let me back up here. Finally, three years ago, we did get the Department of Education to allow your spouse to volunteer in a local school district without you being forced to resign from the school board. It took a lot of work. Now I'm trying to take it one tiny step further to say that if you're on the school board and your spouse wants to work part-time, on an occasional basis, for the school district, as long as three criteria are met, that could go forward. The first criteria is that everyone on the school board would have to be aware of the fact that your spouse was going to be the girl's soccer coach or something like that. The second criteria is that the local school board or school union would have to develop policies describing the terms and conditions under which the school board or union committee may hire a spouse of a school board member to serve as a part-time, seasonal, temporary, or substitute employee. The third criteria, number C, is that you, the member of the school board, would have to recuse yourself from any vote concerning anything to do with your spouse that's going to be a part-time employee.

What we're finding in my Senate District is we're now down to some school board positions being filled with write in votes. You know, if a family is very active and interested in the schools, chances are both members of that family may want to be involved in the school. One may be on the school board, the other is going to want to do something part-time in the school. The original bill said that it was going to be full-time. I can assure you that is not contained in this amendment. This is just part-time. I've had a school board member in Lisbon that had to resign from the school board because his wife was substitute teaching one day a week. There are other examples in the editorial where a school board member in Livermore Falls had to resign from the school board because her husband was going to be the girl's varsity basketball coach for a short period of time. Sometimes these coaching positions are very hard to fill. I'm just trying to frankly, move this state to where a lot of other states already are, to set criteria for when a part-time employed spouse can help a school district, work at the library one day a week. Something like that. I'm trying to move us to a state where we can look upon this with conditions so that it's not looked at as being evil, I guess that's the best word that comes to my head. These same arguments we used to argue four and five years ago when this Department of Education wouldn't even let someone volunteer in a school. If you were on the school board and your husband or wife wanted to volunteer, that was going to tear the school board apart. These same arguments are being used now, that if you want to substitute teach one day a week and your spouse is on the school board, that's an impossible situation. Automatically. I don't agree with that. I urge your vote against the pending motion so we can go on and accept a very narrowly crafted Minority Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Arrostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. Some of you may not know that one of the worst political jobs that I have chosen to hold is being a member of the school board where I presently serve, SAD 27. We've gone through some of the things that has been described by the Senator from Androscoggin, Senator Nutting. Five years ago I would not have supported this. But let me tell you why I will now support it. In case you haven't read the statistics, only 28% of Americans now live in a true "family" situation. The present law basically allows two people living together, formerly married to one another and back together, two people living together, never married to one another, to both be employed, one by the school board and the other a member of the school board. The present law does not prevent people who live together from being in that situation. Yet it prevents situations where people are married from being able to do it. I know because it has happened in my district. We went through the whole question as to whether or not someone living together could actually be a coach. But the law doesn't prevent that. But if they were to become married, they wouldn't be able to do it. I'm not saying what is right and what is wrong. I'm just saying that we've moved a ways in our society and we are now in a mess, if you want to call it that. So our laws, that we intended to do one thing, no longer work. That assumption as to why the law was first put into place was to prevent the undue influence of someone to whom you are married. My assumption and the facts will illustrate that you need not to be married for the influence to occur. So I just think it makes common sense that the present law doesn't work any more. Like I said, I wouldn't have been voting a number of years ago for this bill. So I will vote against the motion that is presently pending, and if we ever get to that stage, I will vote for the Ought to Pass.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. I, too, encourage you to vote against the present motion so that we could possibly vote to pass this bill for very simple reasons that you have heard testimony on before. This is a common sense bill that's going to permit school boards and school administrators to use professional judgment about the potential for conflict of interest situations, to recuse themselves from some situations involving their spouse. It's going to eliminate the discrimination that currently could exist. But most importantly we, as policy makers, are going to make a slight tweak and change the existing law to allow local control. It's going to broaden the field of opportunity for the administrators and staff to hire the substitutes that are needed, the temporary help for school bus drivers and coaches that the field is very limited to, and in some areas, is almost nil. It is going to provide that situation. It will help remove some of the obstacles that we currently have in the hiring processes in our small districts as well as some of the larger districts. It is not a bill that is going to put into law or into policy anything that is harmful or is a mandate. It is strictly opening the door to allow these administrators, if they elect to, to hire spouses of board members and to make this a more equal field. It's going to enable them to look across a broader spectrum and we need to support that. This is merely saying we're no longer going to keep the door closed. It's opening

the door to what other states have had in existence for opportunities for many years. So I ask you to please, let's not prohibit our districts from having an opportunity to make a local decision and make the guidelines that they need to protect their board members who do have spouses and to give them back the local control that they need to efficiently maintain the staff levels necessary. So please join me in voting against the Majority Ought Not to Pass Report.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Mr. President, men and women of the Senate. I rise to speak in favor of the Majority Ought Not to Pass Report. This bill would put local administrators in a very difficult position in terms of having to discipline, as employees, potentially the spouses of the very people who are their bosses. Superintendents work at the pleasure, and are hired by the school committee. This, again, would put them in a position where they would have to discipline, perhaps, the spouses of those people who are their bosses and are hiring them. Often the thorniest discipline issues occur around part-time employees. I hope that you will join me in accepting the Majority Ought Not to Pass Report.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. I'll be very brief. I just wanted to point out that if this is the current view of the Department of Education as a bad conflict of interest, can you imagine how that would effect those of us who are serving in this body right now? If we took the same stance that's held with school board members and spouses to us, frankly I don't know if there were many issues we could even vote on. Some of us work for various businesses, own various businesses. That's, I guess, not a conflict of interest. But if you're on a school board, well that is. We're voting on issues all the time that effect industries that we are all associated with. I support that. But I also think that if we, as a body, can vote on business regulations, or regulations effecting attorneys, or whatever with attorneys sitting in this body or business owners sitting in this body, that's fine. But if you're on a school board, that's too much of a conflict of interest. The other thing is, I'm amazed that the Superintendent of Schools, and rightly so, are not paid a very small salary. They earn, as they should, some of the highest salaries paid in this state. I don't believe that it's too much of a burden and I don't believe they are not talented enough to sit everyone involved down before a spouse is potentially hired to substitute teach one day a week and tell them this is a very sensitive situation they're entering into for the two months they are the girl's soccer coach, and to outline to everyone involved what's to be expected. In the meantime, you're allowing these small rural school districts to help run their school, to help the extracurricular activities that these students need and receive in other larger districts.

Senator **NUTTING** of Androscoggin requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Mr. President, ladies and gentlemen of the Senate. I've heard many comments here this afternoon with which I agree. I wholeheartedly agree with the comments of the good Senator from Aroostook, Senator Martin. We are in a mess. I cannot imagine a greater mess, however, than being the head basketball coach of a school, an area in which I have some responsible background, and having a spouse being the chairman of the school board. We aren't really discussing the conflict of interest this afternoon. We're really discussing the appearance of the conflict of interest. To be placed in a position which I feel has absolutely no possibility of being removed from that position would, as the good Senator from Androscoggin, Senator Rotundo, mentioned, be a very heavy burden for many of the administrators of this state. I won't address superintendent's salaries, that's too sacred a point this afternoon, but having had experience in the coaching arena for almost 20 years of my life, I can assure you that the perception of how you perform your job is far more important than your actual performance. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **GAGNON:** If this bill were to become law, would it automatically prevent school boards from having such a policy?

THE PRESIDENT: The Senator from Kennebec, Senator Gagnon poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. I want to thank the good Senator from Kennebec, Senator Gagnon, for asking this question. The answer is, this doesn't force anything down anyone's throat. If a local school district doesn't want to comply with Section B, in other words, develop a local policy on how they are going to handle a situation, then they can't proceed with this. So if a local school district doesn't want to comply and doesn't want, as the Committee Amendment says, develop and approve a policy in this area, then the hiring of a spouse for a part-time position would not proceed. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you very much, Mr. President. With all respect to my good friend, the Senator from Androscoggin, Senator Nutting, I must disagree. I do however appreciate the good Senator from Aroostook, Senator Martin's, position on marriage and wanted to strengthen that. Mr. President, I was chairman of the school board in Piscataquis County in SAD 4 for five years. During that time I, on numerous occasions, was asked to participate with the Superintendent in personnel issues. While you could say that if this law was in effect one could be exempted from such an issue, I do remember one time being involved with the entire contingent of bus drivers in our district. They had a petition up and they were screaming about the head bus driver

and there were all kinds of things going on. I cannot imagine my spouse being one of the bus drivers. I think that would definitely have been a horrible show. I would respectfully ask you to think about it and vote for this motion. Thank you very much.

On motion by Senator **NUTTING** of Androscoggin, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#113)

YEAS: Senators: BENNETT, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, WOODCOCK, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BROMLEY, GAGNON, KILKELLY, LONGLEY, MARTIN, MITCHELL, NUTTING, O'GARA, TURNER, YOUNGBLOOD

ABSENT: Senators: ABROMSON, RAND

23 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 2 Senators being absent, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act to Create Uniform Underwriting Standards for Determining Eligibility for Certain Group Policies

S.P. 379 L.D. 1217
(C "A" S-270)

Tabled - June 5, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, May 29, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270).**)

(In House, June 5, 2001, **PASSED TO BE ENACTED.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#114)

YEAS: Senators: BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: None

ABSENT: Senators: ABROMSON, RAND

33 Senators having voted in the affirmative and no Senator having voted in the negative, with 2 Senators being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

RECESSED until 4:00 in the afternoon.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** and the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Improve Child Development Services"

H.P. 611 L.D. 766

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-662).**

Signed:

Senators:
LONGLEY of Waldo

MARTIN of Aroostook
TURNER of Cumberland

Representatives:
WATSON of Farmingdale
CUMMINGS of Portland
WESTON of Montville
FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
KANE of Saco
O'BRIEN of Augusta
SHIELDS of Auburn
NUTTING of Oakland
DUGAY of Cherryfield

The Minority of the same Committees on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-663)**.

Signed:

Senators:
MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:
RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
ESTES of Kittery
STEDMAN of Hartland
ANDREWS of York
LEDWIN of Holden

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)**.

Reports **READ**.

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)** Report, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

S.P. 231 L.D. 796
(C "A" S-167)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-167)** (8 members)

Minority - **Ought Not to Pass** (5 members)

In Senate, May 23, 2001, 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-167)**.

Comes from the House, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Senator **DAGGETT** of Kennebec moved the Senate **INSIST**.

Senator **RAND** of Cumberland moved the Senate **RECEDE and CONCUR**.

The Chair ordered a Division. 12 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **RAND** of Cumberland to **RECEDE and CONCUR, FAILED**.

On motion by Senator **DAGGETT** of Kennebec, the Senate **INSISTED**.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **LABOR** Bill "An Act Regarding Dismissal of Municipal Employees for Cause" S.P. 557 L.D. 1719

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-199)** (7 members)

Minority - **Ought Not to Pass** (6 members)

In Senate, May 15, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, 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-199)**, in **NON-CONCURRENCE**.

Senator **EDMONDS** of Cumberland moved the Senate **RECEDE and CONCUR**.

On motion by Senator **SMALL** of Sagadahoc, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#115)

YEAS: Senators: BROMLEY, DAGGETT, DOUGLASS, EDMONDS, LAFOUNTAIN, LONGLEY, MARTIN, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, CATHCART, DAVIS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: ABROMSON

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **EDMONDS** of Cumberland to **RECEDE and CONCUR, FAILED**.

On motion by President Pro Tem **BENNETT** of Oxford, the Senate **ADHERED**.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

7 members of the Committee on **LABOR** on Bill "An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce"

H.P. 944 L.D. 1258

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-650)**.

Signed:

Senator:
EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township
MATTHEWS of Winslow
HUTTON of Bowdoinham
NORTON of Bangor
SMITH of Van Buren
TARAZEWICH of Waterboro

5 members of the same Committee on the same subject reported in Report "**B**" that the same **Ought Not to Pass**.

Signed:

Senators:

TURNER of Cumberland
SAWYER of Penobscot

Representatives:

TREADWELL of Carmel
DAVIS of Falmouth
MacDOUGALL of North Berwick

1 member of the same Committee on the same subject reported in Report "**C**" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-651)**.

Signed:

Representatives:

CRESSEY of Baldwin

Comes from the House with Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650) READ AND ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650)**, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, men and women the Senate. I'm excited today to bring this piece of legislation to you. This bill is a bill that we worked long and hard to craft in such a way that it would be very specific and deal with a population of workers, part-time workers, who presently cannot collect unemployment insurance if they are let go from their jobs. This population of workers is, for the most part, women and that's one of the reasons I'm excited to bring this piece of legislation forward. It sort of brings together two pieces of policy that are important to me, both labor issues and women's issues. Presently an employer pays into the unemployment insurance compensation fund for both full-time and part-time workers. As an employer pays into that fund as they do, if a full-time worker gets let go, they can go and receive unemployment benefits. If a part-time worker loses their job and goes to get benefits, they are asked the question, 'do you intend to seek full-time work?' Most honest folks would say 'no' if in fact they don't, in which case they

don't get any benefits. More and more of our nation's population is, in fact, becoming part-time workers. We do a lot of talking in public policy about how we want to make sure that people are working, they're not getting public assistance, all those things, and yet here we have a set of people who are, in fact, working and want to work. You know, when you get laid off and you have to go to the unemployment insurance office you have to answer the question, 'are you willing and able to work?' You have to say 'yes.' If you say you're not willing, they're certainly not going to give you your unemployment. But if you say 'yes' and you're a part-time worker for whatever reason, at this point in time you can't collect a benefit. That doesn't seem hardly fair to me.

This bill does a few things that I think I want to point out to you, among all my papers here. The first thing is that we've narrowed this to provide benefits for two groups of part-time workers. One, the workers with enough part-time earnings, that means they've met a wage equivalent, that allows them to qualify for benefits and who continue to be available for compatible part-time work. That's one group. The second group is any worker who is working full-time, but because of various reasons in their life, and I'll explain what those are, must reduce their hours because of an illness or a disability either of themselves or of an immediate family member. So you have a woman who finds out that her child is actually quite ill. She is able to get part-time work and she really needs to quit her full-time job so that she can take care of her child during the day and work part-time in the evening. Fine, she does that, then she gets laid off from her part-time job and presently she's unable to collect unemployment benefits because somebody is saying that she's not qualified.

Presently, 4 out of 10 workers and only 1 in 10 low income women get unemployment benefits when they are unemployed. Our unemployment system has been in effect for many, many years. It actually was geared towards a set of people and a set of workers that has changed over time. As many of you remember, probably far better than I, since some of you were here at the time, there was a great deal of work done to get the unemployment insurance trust fund back to solvency. That was an important piece of work. I commend all of those who participated. What happened was a schedule was set forward that required employers to pay in at a higher rate than they had been used to paying in to get the fund back to solvency. Good news, that's happened. That's happened sooner than any of us expected and we can thank a good economy for that and it's a good thing. Because of that, by October scheduled reductions in employer contributions will happen, regardless of what goes on with this bill. Those reductions will take place. Presently, they will take place at the tune of about \$13 million a schedule. At this point, we think there will be at least 3 scheduled reductions. There could be as many as 5. When the solvency fund was being assisted, those negotiations took place. Everybody had to bear the brunt of fixing that. Employers had to pay an increased rate and benefits were cut. The understanding was that when those rates began to come down, when we had reached solvency, then the issue of benefits would be looked at again. So here we are at that time. Albeit sooner than we expected. I've heard folks concerned about whether or not we did an appropriate study of this issue, so I've dug around and looked in the statute, and what the statute says is that, in Section 1190, 'the review and evaluation must include, at a minimum and to the extent information is available, the following...' It goes on to list issues around total change in cost of the trust fund, further impact sorted by size and industry, etc., etc. Well, the unemployment insurance

compensation fund was very helpful to us and they gave us everything they could. We got as much information as was available. I feel very much like we did our homework. We asked these questions and the information was not available.

Some people are concerned about the fact that employers had a sense that this money was coming back to them. It is coming back to them. October 1 is the first scheduled reduction. The other issue is, from my point of view, that we also have to keep faith with the working people who, in those negotiations, made concessions. They said okay, we'll take these concessions to get the system solvent again. I guess mostly I'll just reiterate that this is a place where the United States is going. As a society, there are more and more part-time workers, more and more jobs that are offered to people that are only going to be part-time. I think we, as government, have to be ready to take on that challenge. It was said to us from folks in the department that this is not a question of if this is going to happen, this is a question of when this is going to happen. I would say to you that when is now. I would urge you to join me in accepting the Majority Ought to Pass as Amended Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President. Before I speak to the merits or lack thereof of the proposal in front of us, I too have a copy of Title 26, Section 1190. It is true that the information that was made available, while incomplete, was made available to the committee. That notwithstanding, the law requires that whenever a legislative measure containing an unemployment compensation benefit change is proposed, the bureau shall complete a review and evaluate pursuant to Subsection 2, in advance of the public hearing on the proposed measure. That was not done in this case. A review that the bureau does is not something that they do overnight and in a few hours. It's comprehensive, it's extensive, and takes a period of time. The fact is that this bill, as it is coming before us, is not in conformance with Title 26, Section 1190. I posed this issue to my leadership and said, frankly, our rules, as a Senate, are not guided by that matter, but at some point in time, if we choose to pass this, we have to reconcile it with the fact that an appropriate study on the impact of this was not properly conducted. I think that is an error. So the law, to me, is quite clear in this matter.

Now let's get to the issues at hand. There is no question that we had a significant rate increase in 1999. The current size of the fund for unemployment is sitting at close to a record high, somewhere between \$337 million and \$350 million, and probably will go higher before we get into the 4th quarter. That fund increase was agreed to. It wasn't a contentious matter. Our employers in this state agreed to the necessity of building that fund up. Let's build the fund in a period of low unemployment, because at some point in time we're going to need to draw down on that as unemployment increases. I don't need to remind you, but you did get a hand out under Senator Bennett's signature, talking about the various headlines. EnvisioNet laying off 700. A small business in my home town of Eastport laying off 50. Everyday we see something in the paper with regard to pressure on our unemployment. It is going up. This mechanism that we used to build this was intended to deal with that purpose. We're now being asked to dip into this fund to the tune of approximately, and this is my estimate, but there are 3 different ones, there's a low, a medium, and a high. If you use a medium unemployment

scenario, over a future period of time, this fund would be depleted to the tune of about \$60 million. I don't think that's what we intended when we put the extra tax burden on our employers in 1999 to build the fund up. There is a rate reduction coming about, reducing the unemployment rates on our employers from record high levels. Yes, they will go down and that will be done and prescribed according to the mechanisms that are currently in place with our law.

You need to understand a variety of things with regard to the bill as it is presented. First of all, of 50 states, 37 do not provide benefits for part-time employment. The good Senator from Cumberland, Senator Edmonds, is indeed correct. If you're seeking employment, you have to be seeking full-time employment. So a part-time person who does not seek full-time employment, in fact, would not be eligible for unemployment compensation if they lost that. The reality of our economy and the economy of many, many states is that many people have full-time jobs, many other people have equivalent full-time jobs by cobbling one or more part-time jobs together to give them full-time employment. That individual who has two part-time jobs and creates either a 35 or 40 hour position from it would, in fact, be covered under our existing law. So not all part-timers, so called, are left exposed. With respect to the Americans for Disabilities Act, if you are covered by that act and cannot work full-time, you are currently covered under our existing law. So I think our law has been fair and generous. For those who want to work full-time, the mechanisms are in place to help them.

You probably, if you have small businesses in your district, have gotten calls about this particular bill. I think this would be particularly difficult for our small businesses. If anybody understands this, it is a state of very small businesses, anywhere from 2 to 4 to 5 or 6 employees make up the majority of employers in this state. This will be hurtful to them and I think it would be detrimental to our economy. I would ask that you not vote in favor of the motion and I ask that you defeat it. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask the members who are deciding this issue to try to look forward using the crystal balls that they're best able to as to the economic activity facing us in the State of Maine. I believe part of your decision should include, is Maine heading into a period of increased economic activity, in which case the withdrawals will stay low from the fund? However, is Maine headed into a period of decreased economic activity? Then the trust fund will be depleted at a faster rate than it has been during this current time. I'd like to reiterate that taxes were increased \$33 million in 2001. If they were increased again \$29 million in 2002, I believe we would not be well served by increasing taxes yet another \$6 million a year. I propose to you that the golden goose is being sorely stressed. Signs of distress, at least of the unemployment fund and the employers who pay into it, are growing. I would ask that you not vote in favor of yet another tax increase. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN**: Thank you very much, Mr. President, members of the Senate. I'd like to pose a question through the chair to anyone who happens to know why we're doing this the way we're doing it? As a small employer, and I hear so often some people of various political parties talking about being for the small employer, many of the small employers have part-time employees. 20 hours. We pay the rate, whatever that rate is, \$12,000, and they can't collect. So what we do, it appears to me, is help those people on the print out that was given to you earlier, the big corporations. I'd like someone to explain to me why small employers in this state should pay on their part-time employees when they can't collect because we pay and part-time employees cannot collect?

THE PRESIDENT: The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: I think the reason, Senator Martin, is that when you collect unemployment from a part-time individual, you do not know their full work circumstance. They may be working for you, they may be working for employer #2 or employer #3 and the part-time employee, if they cobble together 2 jobs or 3 jobs, can be eligible for unemployment. I suspect that's the reason why it's done the way it is. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY**: Thank you, Mr. President, men and women of the Senate. Last week we had some debates and during those debates there was a great deal of concern expressed for businesses in the State of Maine, the viability of the businesses in the State of Maine, and the viability of small businesses. Being a small business owner myself, I would agree with the good Senator from Aroostook, Senator Martin, that perhaps maybe we shouldn't be paying unemployment insurance on part-time workers. I'd love to see an amendment to that offered, if you would care to do so. But getting back to the point, I do not believe this is good for business. The way unemployment insurance works is if you lay someone off, your unemployment rate goes up, you pay more to offset the cost of being paid out. So if you have a small business and you, unfortunately, have a down turn and you have to lay off some part-time workers, as soon as that goes into effect, you are paying a higher unemployment insurance rate. What you're going to be doing, because you had part-time workers and have a down turn, then you get the double whammy of being increased in what you have to pay because the person you had to let go for a period of time is collecting unemployment insurance, and you get the double whammy. So what happens is, not only did you have a down turn in your business, but the state is asking you to pay more in taxes. Now is that fair? I don't think so. So I would encourage you to support small businesses and support business and vote against this. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Mr. President, ladies and gentlemen of the Senate. There is another aspect of this bill that you need to be aware of. It does expand benefit eligibility for

workers who feel compelled to take time off for family or a personal reason. I think the good Senator from Cumberland, Senator Edmonds, did mention that in her comments to you. We discussed this at length in committee, and while I think the desire is laudable, there is a mechanism that we deal with under the purview of the Health and Human Services Committee to deal with matters of this type. I don't believe that this is the appropriate and proper thing to have unemployment compensation to be dealing with this. Secondly, I think you then put the employer in a very difficult position, trying to determine, under the law, is this an appropriate mechanism, should I allow my employee to do this, or should I not. I think we're headed down a very difficult path here if we accept the motion that is on the floor. Again, I would urge you to vote against it.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Mr. President, men and women of the Senate. I think one of the things that we're missing here is the purchase-for-price or the purchase-for-value. It seems as though small businesses are already paying a price for unemployment compensation, yet most of them are working with part-time employees. They rarely receive the value of what they're getting. In purchasing, that's a poor purchase. While the suggestion is that maybe they shouldn't be paying unemployment compensation for part-time people, the reality is that they are. It seems to me, and I think what the good Senator from Aroostook, Senator Martin, was saying earlier, is that it's small businesses that are subsidizing the larger corporations in this state, corporations that appear on that sheet that came around. It's interesting to know that small businesses will benefit from this bill by allowing their employees to take advantage of it. Their part-time employees to take advantage of a program for which they are paying into, thus getting greater value for their purchasing dollar. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY**: Thank you, Mr. President, men and women of the Senate. Perhaps I wasn't clear. Unemployment insurance is based on the fact that you haven't laid anybody off yet. That is the rate you're paying. Once a person is let go for a period of time, that rate goes up. So, yes, you are paying in but you're paying in at a rate of not having let anybody go as of yet. So when someone is let go, unfortunately, your rate will go up. That is why it is an adverse effect for businesses.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS**: Thank you, Mr. President. I just have to make one point perfectly clear. Everybody who is a part-time worker is working. They are already working. They are holding down a job. They are not asking for a hand out. They are not looking for a break. They are working. If they're not working, they don't qualify for unemployment insurance. This is for working people. To imply that somehow people are trying to get something for nothing, I don't think is accurate. These folks have worked in the past and they are looking for comparable work.

They need to be treated like all the other workers who are out there working and looking for work. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. It is possible that I was not clear. My point is that if a small business does not lay anybody off and they are paying into the program, I suspect what they are doing is subsidizing the people who get laid off from the large corporations. Since, when it comes time for them to possibly make lay offs, since they are part-time people who they are laying off, then their people do not benefit from the program. So they are subsidizing for the larger corporations while they rarely get benefits for their people, people who work for their company. Thank you.

The Chair ordered a Division.

On motion by Senator **SHOREY** of Washington, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#116)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LONGLEY, MARTIN, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: ABROMSON

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650)**, in concurrence, **FAILED**.

Senator **MILLS** of Somerset moved the Bill and accompanying papers be **COMMITTED** to the Committee on **LABOR**, in **NON-CONCURRENCE**.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **MILLS** of Somerset to **COMMIT** the Bill and accompanying papers to the Committee on **LABOR**, in **NON-CONCURRENCE**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Strengthen the Authority of the Bureau of Insurance"

S.P. 172 L.D. 590

Tabled - June 5, 2001, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ADHERE**

(In Senate, May 31, 2001, on motion by Senator **LAFOUNTAIN** of York, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In House, June 4, 2001, 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-271) AS AMENDED BY HOUSE AMENDMENT "A" (H-678)** thereto, in **NON-CONCURRENCE**.)

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Thank you, Mr. President. I would like to urge this body to vote against the pending motion because we currently have no public representation of consumers before insurance when insurance rates might be raised. I want to point out to you that this legislation was modeled after the public advocate whom we have representing the public in utilities matters. It's interesting that we have that office and there's really no one who comes to me and calls me at this point and says, 'well, my electric rates are too high or my telephone rates are too high or I can't get by another day and still pay my light bill.' In fact, many people have come to me and said the cost of insurance has escalated to the point that they can no longer afford it. We have got no provisions, whatsoever, in our statutes, or in our bureaucracy to protect the public. Really the only advocates out there are non-profit groups and individuals who have to fend for their own. This bill would change that and provide an advocacy group, in very limited situations, and that would be when the rate hike is over 20%. I think if you look at the bill, you will see that it has a very limited impact fiscally, considering the great crisis that we're in with regard to the individual insurance rates. I'm hoping this body will vote against the pending motion and in favor of consumers and in favor of a panel that represents the interests of consumers and the public when the rate increases are filed.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **LAFOUNTAIN** of York to **ADHERE**, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish a Single-payor Health Care System"

H.P. 964 L.D. 1277

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-514)** (7 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - June 5, 2001, by Senator **LAFOUNTAIN** of York

Pending - **FURTHER CONSIDERATION**

(In House, May 22, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514)**.)

(In Senate, May 30, 2001, on motion by Senator **LAFOUNTAIN** of York, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, June 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514) AS AMENDED BY HOUSE AMENDMENT "C" (H-680)** thereto, in **NON-CONCURRENCE**.)

Senator **LAFOUNTAIN** of York moved the Senate **RECEDE** and **CONCUR**.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Mr. President. This one has given me great difficulty. As I drove up here today, I was actually considering making the motion to Adhere but I decided instead to make the motion to Recede and Concur. I have great concerns about the bill, however the amendment does answer some of my concerns. It still creates the board. I am troubled, however, by the fact that the board is 25 people, which I think is an unworkable group. Nevertheless, the board's goal is to attempt to implement a single payer system but it requires the board to come back to this legislature for funding. Actually, a future legislature will have the ability to either vote up or down on the issue of single payer. I also support the Recede and Concur motion because of what is going on at the federal side. As I indicated in my remarks last week, in Congress there is currently a bill, I think it's H.R. 1033, which is a bill to create pilot projects. My thought is that if Maine, at least, gets up and running to create a project, that it will probably be one of those 10 that may be considered in the pilot projects since we will be one step ahead of the game compared to what other states are doing. So as I indicated, reluctantly, I am supporting a Recede and Concur motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. I hope you will join me in supporting the motion to Recede and Concur as well. The questions that were raised the

other night when we first debated this bill, I think, have been answered by the amendment that comes from the other body. There were questions that were raised about 'we're not sure what we're voting for, we're not sure what the program will be, we don't know what it's going to look like.' This amendment, in fact, clarifies that before implementation can take place, the legislature must vote affirmatively so that there will be a plan to vote on, a plan that's been developed. The other issue that was raised had to do with cost. Is this going to cost more than what we're currently paying? In this amendment there is a requirement that a plan that comes back must see at least a 5% savings in what we are currently spending for health care costs. The third piece that I think is critically important, and it's one that I raised the other night, is that there are a number of ways that we are paying for health insurance. What has been amazing to me, having spent the last week to 7 or 8 days on the phone to groups in Washington, to groups in other states, trying to find out who, in fact, has looked at all of these other ways that we pay for health insurance, that information is not available. It's not readily available how we might reduce Workers' Comp if we had a 24-hour health care program that provided all the health care coverage we needed so that Workers' Comp didn't need to do that. There is not information available about what we might save on our auto insurance if you were injured in an automobile accident and your regular insurance picks that up, not your auto insurance. There is not information for general liability, about how that might be impacted if it didn't also have to cover health insurance. As I mentioned the other night, part of that issue came to me by a woman I met last summer who said, 'I hope if I ever need health care coverage, I get hurt in my car because it's the only place where I have health care coverage.' So if she were to be injured in a car accident, her auto insurance would pick that up. But if she had the same injury in some other way that wasn't covered she wouldn't. So I think we need to look at that. This is not an effort to overlay a new system on top of the old system, but a way to take the money that's currently being spent, to evaluate how we might pull that forward, and to make our small businesses more competitive. The other group of people that we need to think about very significantly in this situation are the folks that are out there in the natural resource based industries. The folks that cut wood for a living. The folks that farm for a living. The folks that haul lobster traps or dig worms or dig clams. Those people, because of the businesses that they are in, have the most difficulty in getting health insurance and are at the most risk because they are out there working all the time with their bodies in very difficult jobs. This bill, this proposal, will move us towards finding a way for them to have access to health insurance, which they so desperately need for themselves and their families. So we've tried to answer all of the questions that were raised. I believe that we've done an incredibly good job in doing that. I hope that you will support the motion to Recede and Concur so that we can move this process forward. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Mr. President, women and men of the Senate, I'd like to think of this bill as establishing a health system that is the group insurance for Maine. I think it's important to recognize that we have looked at and studied several different types of methods of getting better health insurance for our people. Senator Goldthwait of Hancock was chair of a task force over the

summer on purchasing alliances on which I sat. We learned that one of the biggest issues facing us is the size of the group. Because Maine is a small state, we have some difficulty in making various options work. One of the purchasing alliances that has worked very well is the city and county of Cleveland, Ohio. I think it's important that we pass this bill so that we can begin to think about creating a system in which we are all members of a group health insurance plan which is the State of Maine. I say that because in our individual health insurance market, we've seen a decline. We've seen insurers leave the state. We also have faced the problem, and there was a bill this session regarding groups of two who are having great difficulty finding any insurance that is at all affordable to them. These are some of the folks who work in the lobster industry or have a small unit, often a family unit, working together and they are simply not able to get the kind of group rates that will make health insurance affordable. So I think this is one step towards establishing a group that actually would work, group health insurance policy, and that is the group of Maine. It's true that I don't expect it to be implemented immediately, but I think we have got to recognize that the time is now to take this step. I'd urge you to vote in favor of the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. There has been various references made to the group that will be studying this. I'd like to talk about that a little bit. For those of you who don't know, it will be members from, and please bear with me, a statewide organization that advocates universal health care; a statewide organization that represents Maine's senior citizens; a statewide organization that defends the rights of children; an organization that provides services for low income clients; a statewide laborer's organization; an organization representing the health care economists; a statewide organization for primary care physicians; a statewide organization of specialty care physicians; a statewide organization of nurses; a statewide organization of health care providers; a statewide organization of hospitals; a statewide organization of long term care facilities; the business community; a statewide organization of mental health consumers and advocates; a statewide organization that represents persons with disabilities; an organization representing the self employed; and two member of the public appointed by the Governor and confirmed by the legislature. My concern with this make-up is these aren't the people that are going to be paying for it. I see the business community in there and several others, but for the most part it's made up of a group of people that perhaps would be able to put a health care system in place but may not be able to come up with the ability to pay for it because they don't have a stake in it. This is not truly a representative of the stakeholder group. That's why I'm not going to be supporting it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator McAlevy.

Senator **MCALVEY:** Thank you, Mr. President, men and women of the Senate. I have some concerns about the way we're going about this. I am concerned about a segment of our society that does not have medical insurance. My legislative history is such that I've supported initiatives to expand services to these

people and I will continue to do so. But I don't believe this is the vehicle to do it. I hear phrases such as a statewide state insurance. Do we really want the State of Maine involved in our medical insurance? In this age of privacy, our medical records are confidential. Right now they are shielded by the insurance company. Yes, we have insurance executives in Atlanta and Cincinnati and where ever else making daily decisions about the delivery of our medical system to us. They have some very strong, high ethical standards on confidentiality. That doesn't mean the state wouldn't. But quite frankly, I don't want a state knowing a thing about my medical records. A state already knows something about my medical records because I've filed for life insurance as a legislator. Isn't it coincidental that some of the medicine that I take for a disease became common knowledge in this chamber and in the other chamber. Somebody in this state leaked that information out. I have no faith in the State of Maine keeping our medical records confidential. If I need to provide medical services for a dependent of mine, who might be a victim of rape, I don't want the state knowing that. I don't want the state knowing what I take for medication.

Now let's take it to the extreme. I try not to be an extremist, I try to be a moderate, middle of the road, slightly conservative legislator. What happens if we have an executive who comes in and says, 'I'm going to do like someone else did elsewhere. I know a certain medical procedure involving women is the land of the law. But Mr. Commissioner of Human Services or Mr. Commissioner of whoever is handling this program by executive order, I'm telling you you will no longer pay for abortions.' Think that's too far fetched? State of Maine, the Federal Government, whatever entity it is, the Town of Waterboro, has no business having anything to do with my health insurance records. Think about it. I have no faith in this entity. I have a lot of pride and faith in this state to solve problems but I have no faith in this entity to keep my medical records or anybody else's medical records confidential. It's a separation. The state has too much information as it is. We sell driver's license history. We sell all kinds of things through the Secretary of State. Thirty years from now are we going to be so cash poor that we need to sell medical records to pharmaceutical companies so they can market pharmaceuticals? This is an idea that is worth discussing. But I firmly believe that it is an idea before its time. I suggest we revisit it in about 2030.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President. In my opinion, we can be part of the solution or remain part of the problem. It's easy for us to say, we've got great health care. But 165,000 Mainers don't have any health care and a whole lot more are paying through their teeth for a high deductible that will cover them in case of a disaster or catastrophe. The single most important issue on the minds of Mainers is health care. To presume that this collection of people, concerned with trying to find a solution and will not settle to have the problem continue until 2030, to presume they are going to come back and conclude all that we've just heard, I don't get it. This is a very important issue. We can ride high on our horses and say, 'oh, that's not for us.' Well, it's not for us because we've got really good health care and many don't. So let's get together, put our heads together. So it's a motley collection of people. It beats doing nothing. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. There are some assumptions in some of the debate that I think we need to dispel. One of the assumptions is that the plan that would be developed would, in fact, be a plan government runs in its entirety. That's not outlined in here. It might be that the most cost effective way to do it would be to have a contract, in the same way that we currently have a state employee health insurance contract, with an insurer. That might be another way to do it. The other piece that is intriguing to me, living in the county that has the highest percentage of older folks in the state, is that not one of my constituents has ever come to me at the time that they were turning 65 to tell me that they were not going to take their Medicare, that they were not going to accept it, that they were going to get some other kind of insurance because they didn't want the government involved in their health care. The people that I know, many of them working people who have not had access to health insurance, are really quite delighted to get to be 65 so that they have got health insurance, for the first time in their lives for some of them. I think we need to think about it and the fact that all of us are going to have our medical records, our medical information, not at the state government level, but at the federal government level when we turn 65. I don't know of any of us that are planning on saying we're not going to let that happen, we're not going to take that insurance coverage. So what we're offering here is an opportunity for other folks, prior to their being 65, to have coverage, to have an opportunity for preventative care, to be able to take care of their families. I think we ought to do it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President. I don't know if protocol would allow me to sing to you, but all that keeps coming through my mind is an old gospel hymn that says, 'there's honey in the rock for all God's children.' I guess I just want to say to you, I think there's honey in this rock. I think this is something we can do. The rest of the line is 'feed every child of God.' We can, in fact, look at this thing, do a conscious, good, reasonable job of studying it, and perhaps, there is more honey than you think. I hope you'll join us.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** Thank you, Mr. President, ladies and gentlemen of the Senate. I won't take but just a few minutes. I don't expect that there is anyone in this room that knocked on more doors than I did in the last election. Maybe there is. But maybe with the combination of doors in my house, I got ahead of somebody. No question that health care is on the lips of everybody in this state. But for all the doors that I knocked on, it is not the number one issue in this state. Taxes is the number one issue in this state. This may be the answer, but this is not a bill to determine whether we ought to do it. This is not a bill to explore what it's going to cost. It's a bill to do it without knowing what it's going cost the taxpayers of your district. I don't see how anyone could vote for something that is as large and monumental

as this issue, and not knowing what the cost is going to be. On that basis, I'll have to vote against this. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President, men and women of the Senate. The good Senator from Penobscot, Senator Youngblood, basically said everything I wanted to say and probably much more eloquently. I just wanted to add that if this were a real good faith effort to look into this issue and then find a way to fund it, we would not have a panel that was so one-sided, that looked only at the question of who needed access to this, and not who would be able to fund it and how we would do that. On the Education Committee, for the many years that I served on that committee, frequently we would put out proposals for study and the only way that that was ever successful was if we brought all the groups together and had the people who were in favor of what we were looking at and the people who were opposed and then have them come up with some sort of agreement. To set something up so one-sided, that we know is going to have a significant cost, that we know is going to be a huge increase in taxes and I don't think anybody really can deny that, and not have more representatives from the community who would be paying those taxes, I think is setting this up for failure. I think it's also raising hopes that will not be able to be met in the future legislature when this actually is brought back for their consideration. I too will be joining in the opposition to this legislation.

Senator **SMALL** of Sagadahoc requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Mr. President. We'll have to check our numbers later on to see who knocked on the most doors. But we all have heard about how important health care is. I am baffled. I would understand that some of us might not be able to vote for single payer right off the floor, right off the bat. But I cannot understand how all of us can't vote to look into it, to look into a program that's going to come back to us and require an affirmative vote of the legislature to be enacted. When I first came up here, I was told how the good legislators think out of the box. I've witnessed a lot of that over the last week of us sitting around in a room saying, 'and what about this? What about special ed? What about speech therapy? Gee, if we could put those costs...' It was a very exciting process. If we don't let this go forward, we won't be able to have that bi-partisan, very exciting process to see if we can move towards a solution. Someone said, 'I'm not supporting this but it's worth discussing.' Well, that's really what we're wanting to do. We're wanting to discuss it. We're wanting to bring back a plan that would require the affirmative vote of this body and the other. So as I said, I can imagine that there are those of us in this room that might not want to vote for single payer, but I cannot imagine that there are those of us in this room that wouldn't vote to look at it and bring it back to us. How can we go back to our communities if we don't?

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER**: Thank you, Mr. President, ladies and gentlemen of the Senate. A long, long time ago Auntie Sawyer used to sit little Tommy Sawyer on her knee and repeat a mantra that stayed with me over the years which is short, but I believe succinct. It was 'be not the first by whom the new is tried nor the last to set the old aside.' I believe that applies to the motion before us.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN**: Thank you, Mr. President, members of the Senate. I will begin with perhaps the comments of the good Senator from Penobscot, Senator Sawyer. Someone has to be first and let it be us. I thought a lot about this and I have been in the business for a long time. I have held an insurance license for about 30 years. I have seen people drop insurance because they can't afford it. I wonder how many of us in this room have no coverage? Yet we have 150,000 people out there that we represent that we apparently don't care about, or if we do care about them, not enough to care enough. The last time I checked, none of us went down to cancel their insurance. The Blue Cross Blue Shield Anthem paid for by the taxpayers of Maine. Why is it they can pay for us but we can't find the way so they can be covered by health insurance? Is this fairness? I don't think so. I don't think it is at all. Do we fear what will come from the results of this study? If you read it, nothing is going to get done unless the legislature chooses to implement it in the next session. Are we fearful that this group might just come up with a plan that we haven't thought of and that it will look reasonable and fundable? It is disturbing to me and I suspect that if all of us in this room didn't have health insurance today we'd work awfully hard to figure out a way so that we could be covered. Why can't we do the same for the people we represent?

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART**: Thank you, Mr. President, women and men of the Senate. I just have to get up on this issue of single payer health care. There is another old saying, 'if it ain't broke, don't fix it.' I'll say to you that while we may have the best health care that's available in the whole world, our way of financing health care in this state and in this nation is definitely broken. This is a way to examine whether we can fix it. We have spent so many legislative hours since I've been in this Maine Senate on health care. We've done some wonderful things. We've made great strides for the people of this state. We've passed Cub Care. We've passed the Maine RX Program. We have, through the Fund for a Healthy Maine, expanded health insurance for the parents of the Cubs. We've expanded the Low Cost Drug Program for the Elderly and now recently have passed the Healthy Maine Prescription Plan, I believe it is, the Medicaid waiver. We have another bill that we are considering in this session that would expand Medicaid so that single people and others of low income can be covered. However, we are still going to leave out thousands and thousands of Maine people. This bill gives us the opportunity to study whether we can cover everyone in the whole state, and I believe we can, for less than we are paying now. We have the report of that Blue Ribbon Commission that shows that we are paying \$5.3 or \$5.5 billion. Why would we not want to examine whether we can cover everyone in the state

and do it for less money? I think we owe this to our constituents. Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS**: Mr. President, men and women of the Senate, we don't really need to study this issue. Ten years ago we hired three of the smartest people in the state, Neil Rolde, Bob Keller, and Peter Hayes, who, any one of them, knew more about health care than any ten of us put together. We paid them and their commission several hundreds of thousands of dollars to hire actuaries, to hire consultants, to health care specialists. They held public hearings and other forms of public inquiries all over the state. I attended several of them. I still have a copy of their voluminous, ten chapter report at home in my library. I refer to it now and then. The task that was given to them ten or twelve years ago was to devise a scheme, a plan, a method, by which this state could convert its present health care delivery system either to a single payer system or to some sort of multi-payer system, or in the alternative, they were asked to come up with ways of simply improving the existing system through incremental measures. I think it was in the first page of the first chapter that they said that attempting to impose a single payer system on our local economy in this state, going it alone without federal support, was horribly expensive, counterproductive to the local economy, to the state's economy. It would be a disaster for this state to try to implement it. The very cost of the effort would be staggering. They went ahead, however, and gave us those costs of some ten years ago. Those costs are available, if anybody cares to go look at them. They haven't gone down any in the last ten years, certainly. They've gone up substantially. There is no great magic to this process.

If you want to extend health insurance to every citizen of Maine, there are four or five different modes of doing it. What I fail to understand is why the people who espouse this don't come forward with the courage to put the price tag on the process now, rather than passing out of here some silly bill that simply says, 'oh, we're going to start this fluffy little committee of 25 people, give them \$10,000 in funding, and tell them to go out and answer all of the complex questions that we grappled with ten years ago and paid for by this legislature.' It's unspeakable. If you really want to do this, tackle the tough questions and go ahead and put a bill in that does it. Take Medicaid up to 300% of poverty level. Put the fiscal note on the bill. Get the waiver out of the federal government. Put people on Medicaid if that's your solution. Alternatively, if you want to do the pay or play bit, mandate every employer in this state to provide health insurance. Make it a mandate. Fight it out nose to nose with the NFIB and the Chamber of Commerce and everybody else who has to pay for it. Bring them in here. Let's get the lobbyists to work. Let's put the money on the table. Let's see where the votes are. Get it done.

Or you can have an individual mandate. You can say that nobody can be a citizen of Maine, anymore than you can drive a car without insurance, you cannot be a citizen of this state without insurance. If you have the ability to pay, it's a crime for you not to buy insurance and participate in our social structure in that fashion. If you can't afford it, yes, we will subsidize it. Is there a cost for that? Of course there is. We may put you on Medicaid. We may have a state plan for you. But it will be a crime to be a citizen of this state and not have health insurance. Let's fill the Civic Center on both sides of that issue and get the answers. Do the people of Maine want to do business that way? Do they want that system put in place?

Or I'll give you a fourth alternative. You could take all of the public employees in this state, aggregate them into a pool, a single pool, and either farm it out by contract to a private agency or see if the state can do a good job of managing their care. See

if the state, itself, can save 5% off the amount that is currently being charged to us and funded by us under contract to various insurers. We could do that. We could take probably 8% or 10% of the population of Maine that's under our control, in a sense, because they are public employees and mandate that they get together in a group. Let's run an experiment for a couple of years and see if we can do it cheaper than the private sector can. We might be able to. I don't know the answer. But if that's your proposal, to get started on this, let's do it instead of just forming some fuzzy little commission of people to sit around and gab about it and report back in a couple of years and say to us, in our little self-satisfied fashion, oh we passed a bill on single payer, aren't we brave. We haven't done a thing with this bill.

There is no secret about how to do this. If you want to tackle it, you want to do the heavy lifting to get it done, then be brave enough to come forward with a bill that actually does the job. Face the people that have to pay the bill. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY**: Thank you, Mr. President. I request unanimous consent to address this issue a third time?

THE PRESIDENT: The Senator from Lincoln, Senator Kilkelly, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **KILKELLY**: Thank you, Mr. President, men and women of the Senate. With all due respect to the good Senator from Somerset, Senator Mills, had this been a committee meeting that I was chairing, and he was speaking before my committee referencing silly and fluffy and commenting on the intentions of the people supporting the bill, I would have ruled it out of order.

I think it's a problem when we are grappling with issues of this magnitude and trying to come to a place where we can move forward. The response is not one of 'I disagree' but one of 'this is silly, this is fluffy, and fuzzy, and people are going to sit around and gab.' I can assure you that this is not the intention with which the amendment that is currently on the bill was conceived or brought forward. It was brought forward out of a very sincere concern that there are other ways to look at solutions to problems and that what we have done in this legislature, as we've talked about this issue in the past, is to go in the circle of saying, 'we can't afford it, we can't do it' and we leave 165,000 people uninsured. When we have, in fact, made some of those incremental steps, whether it's through prescription drugs or Cub Care, we have moved forward by thinking out of the box. This bill is another opportunity for us to think outside of the box.

We have, in this state, as was mentioned earlier, a number of ways in which we are currently funding health care for citizens. We've heard about schools who are struggling with special ed costs. We've heard about correction facilities that are struggling to find ways to provide health care for the folks that are residing in them. We know that employers are dealing with Workers' Comp issues. In trying to gather that information about what the costs are that are being spent in that way, it has been impossible to gather because it has not all been collected. The amendment on this bill does that and says instead of saying we are merely going to over lay a universal system on top of the systems that we currently have in place, it says what we want to do is understand

what we are currently spending and find a way to capture that as savings and apply it towards the cost of what we would need to move forward.

In listening to the concerns the other night, the issue of 'we are concerned because we don't know what we're voting for.' This bill clearly requires the legislature to come back and vote on a plan. It clearly indicates that a plan can't even come forward unless there is a 5% savings. It asks for the information to be gathered that I've been unsuccessful in gathering from, as I said, sources that work on this nationally and sources that work on this through the state, about how money is currently being spent and how we might capture that savings. It isn't meant to be an easy piece of legislation to vote for. It's not meant to be just something that's out there and soft and fuzzy. It's meant to be a sincere and honest effort to look at this problem in a way that is different from the way it's been looked at before and to craft a solution that may be unique to Maine. It may work. It may not work. We have an opportunity to take an action on it if it appears that the plan that comes forward will not and we've addressed, hopefully, those concerns in a way that will move us towards this process of having all citizens of the State of Maine have access to health insurance so that when their kids are sick they can take them to the doctors, when they're not well they can get preventative care, they can get early care in a situation so that we're not also seeing the burden on our hospitals or the abuse of emergency rooms because folks can't afford to do something else. It's put forward as a sincere effort to move this issue forward.

I had a conversation with a Senator earlier today about the need to learn about incrementalness, that this legislative process is one that does not take big steps very often. That's a good thing. But what we have to appreciate is the importance of incremental steps to move us forward to a goal. For those of us who have a goal that every person in this state have health insurance, I believe that this is a vehicle to reach that goal. For those that have other goals, it may not be that vehicle. So be it. But let's all be respectful of the fact that these things come forward because we all do care about the people of this state. While we may have different ways of expressing it, one should not be demeaned. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I must say that having been hanging out with the Senator from Somerset, Senator Mills, for the last 8 years as a seatmate in my freshman year and a committee-mate now, if I can get through a day where the worst thing he calls me is fluffy, I'm having a pretty successful day.

I do, however, disagree with him on this particular issue. I wanted to reference just a couple of the suggestions that he made as to what might have been a better bill because we did, in fact, have a bill by the very same sponsor which was courageous enough to present this as a package with a \$6 billion price tag. We voted that down. We didn't have a bill to require everybody in the State of Maine to have health insurance. But we did have one this year to require this of people who went snowmobiling. Usually it is young and healthy people who wreck themselves on their snowmobiles and their hearts want to beat, no matter what. They can be pretty expensive, so there was a bill to require people who snowmobile to have health insurance. We voted that down. We had a bill in, I think, about 3 terms ago, to try to

develop a program in which the state employees would form the basis for a pool of covered lives which we could use to try to make some improvements in the health care system. But those employees objected and we voted that down. So I think there is a lesson in incrementalism. These other attempts have failed. This is a more measured approach to try to get us towards what I think is a valuable goal. Fluffy or not, I'm going to support it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. All of our legislators are very conscious about addressing health care. We have worked tirelessly for so many years, as many of you have alluded to in your testimony today, to better health care and the provision of health care in our state. We've been successful. When you mean 'step out of the box,' let's step out of our state. How do we compare to other states? Those of you who communicate regularly with members on committees from other states and legislators who have worked, and are just as frustrated as we are, on how to provide health care to everyone in their state. What did they come up with for answers? The same answers as we have. We want to give everyone health care but we need the money to pay for it. Let's look at what is happening in other countries who have implemented the package that you are suggesting. What type of health care do they have? Where do they come when they want improved health care that can't get with the single payer system in their country? How many buses come across from Canada into our state for health care? What kind of services do our hospitals, near the border, provide and the percentage of those services are to people from outside of our country but come across the border for health care? Medications. It's the same situation. They can't always have the medication that they want. So they come to our country to try to receive the health care because we have the research and development in this country. We have the updated medical services to provide the solutions to illnesses and diseases and the cures that other countries don't have. This health care problem, yes it's vast across our country and it can't be affordable to everyone, but let's listen to what the Senator from Somerset, Senator Mills, is saying about the intensified study that was done and the price tag attached to it. We have a million people in this state. Let's not forget where our income compares to other states and the tax free income. What are we paying on taxation today compared to other states? Neighboring states like Massachusetts lot their state income tax, 3% less than we are in this state. Yes, we want health care for everyone. But let's find an affordable way that we can afford so that we're not closing more small businesses, that we're not sending more retired people to Florida and other states because they can't afford to register their vehicles, they can't afford to pay their property tax, they can't afford to pay the state income tax. So health care? They'll have to acquire it where they move. We want to give health care, but let's be realistic and do a study, if you want to, as was suggested by the good Senator, Sagadahoc, Senator Small, that encompasses people from both sides of this so you can get a total picture. This is not a bill that we can support, not for the reason that we're against health care and providing it to everybody in the state, but because we care for the people who are going to have to pay for it. Please join me in voting against this motion.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I've heard a number of comments in the last couple of months about Canadians rushing over here. I just need to tell everyone that it's the other way around. American's fled across the border to get their medication, their prescription drugs, with physicians now licensed in both countries. For example, I happen to be president of a health center and all of our physicians are licensed in both counties so that they pick up their medications across the border. Madawaska happens to be the largest community in the valley with a close to 5,000 population and about half of them are treated by the Edmundston Hospital, not the other way around. The biggest users actually go across the border and get treated there. As I think about it, I do hear from time-to-time the story that there are, in fact, instances where people with money in Canada will skip across the border to get treated because they figure they can get certain kinds of treatments here. But if you look at what is happening along the border, without exception, there is tremendous coverage on the other side. Granted they have problems with physicians and nurses. Matter of fact, they just went through a nurses' strike about three months ago. I will point out that the nurses won. The government gave in. Then they had a physicians' strike. Just completed. The doctors got their money. Not as much as they wanted, but we tried to recruit one to come over during that strike and his comment was 'no, I'm more than happy here, I just want more money.' I'm not suggesting that we want a system like Canada. Don't get me wrong. But we need not and should not overstate the case of what is going on there and elsewhere.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. I wasn't going to say anything because I think probably everyone has made up their mind how they are going to vote on this topic. I do spend a lot of time in Nova Scotia in the summer. I was down there a couple of three years ago and they had a campaign. They had a Cape Bretoner that was Premier of Nova Scotia. He was being challenged by a Dr. John Ham, who is an aggressive conservative. Being interested in politics, I did listen to a lot of their debates and about 90% of the debate was on health care and how to pay for health care. I found that very interesting. I can tell you first hand, some of my relatives have had to use their system. If they've got anything seriously wrong with them, they come to the United States to get their health care. I did have an uncle that was in his 70's that had a heart attack. He went to the hospital and rather than being put in ICU, he was sent home and he passed on within 24 hours. So hopefully, that's not the type of system that we're looking at here in the State of Maine. These single payer systems are extremely expensive. The Nova Scotians have been in this for at least 30 years and possibly 40. They are struggling with the cost. I know they are a pretty socialistic type of society compared to ours. It is a problem. I don't like to be labeled as being anti-health care and I resent it deeply. I'm not. If there is a solution, then we've got to work and work through and take care of those folks that can't afford it. These people in the middle. The wealthy people are okay and the

very poor are okay. The elderly, as a rule, are pretty well off. But nevertheless, I don't think going down this socialized medicine and socialized single payer system is possibly the way to go. I thank you for listening to me. I'll sit down at this time. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I have to confess to you, I didn't expect we'd be debating this matter this afternoon. It's taken me 20 minutes to get out of shock to think that this body, the body of reason, is actually seriously debating this matter. I'd like to think I know a few things about the private sector, about economics. At the end of the day, for all of us, there can be no free lunch on health care. It has to be paid for. It's been suggested that this is simply a study and I've taken the time here to look at the two amendments that we would Recede and Concur on. One talks about the duties of a board. This sounds like much more than just a study to me. It would be authorized to set reimbursement rates for participating providers. It would be adopting rules necessary to implement the plan. It would be establishing systems for enrollment, registrations for providers for participation, rate setting and contracts with providers of services and pharmaceuticals, develop budgets with hospitals and institutional providers, administer the revenues of the plan, employing staff as necessary to implement, and on and on. So this sounds to me like much more than 25 people, and to use the good Senator from Waldo, Senator Longley's, term, it is a large group of people, a motley crew, who seem be very fixed in terms of what their position might be. It gives me great pause to look at the composition of the board and then talk about the duties that it undertakes. Thinking about and reflecting on the comments of the good Senator from Somerset, Senator Mills, I wonder if any of the 25 who would be appointed would have the horsepower and knowledge of the subject to which he referred to in his testimony earlier? I honestly don't know the answer to that question. I go to House Amendment "C" and this talks about the amendment, authorizes the board to introduce legislation to the second regular session of the 120th legislature, allowing the legislature to make modifications to the plan, so forth and so on. This seems to be much more than a casual study being thrown at us out of frustration because of our concern for health care. I think all of us have expressed widespread concerns about the cost of health care. We need a mechanism that's going to work. It's not clear to me that this bill and its amendments is the vehicle that gets us where we choose to go. I've spoken, at least on one occasion, about my Uncle Bert. A business guy who spent all his life, except for four years at Northeastern University, in downeast Maine. He said, at the end of the day, someone pays. Usually it's the business person who ends up paying. He may be only partly right in this case, because my fear is that all of us will pay. We'll end up with a system that covers everybody poorly, as opposed to covering a large segment of our population today very, very well. I remain terribly concerned about the motion to Recede and Concur in this. I would hope that you would vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE**: Thank you, Mr. President, men and women of the Senate. I've heard two prior members of the Senate mention people going back and forth across the border for services. I'll just tell you a little story, and this is not hearsay because I, in fact, saw this because my husband was having radiation treatments in Augusta, 5 days a week for 5 weeks, usually in the morning. One week he couldn't be scheduled for morning and we went in the afternoon. He said, 'you sure we're in the right part of this hospital because here's a room solid full of female patients in their johnnies all talking French.' We had no idea if they were talking about us or not. Maybe they were. After about the third day of that week when the same group of women were there, we asked what was happening. It seems that, yes, in fact, they were coming across the border from Canada. They had had an extensive mammogram screening process in Canada which detected breast cancer in numerous female patients but they could not treat them. They sent them to the State of Maine, Augusta, Lewiston, I think some even went into Vermont. They couldn't take care of the patients that they discovered with problems. I personally don't want to go to Canada for any kind of treatment that can't be done in the State of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS**: Mr. President, men and women of the Senate, I do apologize to the extent that any of my remarks were regarded as personal. I try to avoid that. I just hate losing. My seatmate sometimes says that I'm the master of two languages, English and hyperbole. That having been said, and in a calmer tone, may I remind all of something that I think we all know and understand well. There is another bill that is working its way through this building that will be down on our Appropriations Table and I can predict, with certainty, will be back here in this chamber for further consideration. It will have an expensive price tag on it. It is not a mere incremental improvement in our health care picture. It is a major and significant step for this state to take. It will invite us to provide free health insurance coverage, comprehensive coverage, to all Maine citizens who are trying to exist at 125% of the poverty level and below. I will remind the members of the opposition that there are at least several members of my caucus, I believe, who stand in support of that proposition. There are some of us who will be seeking to find the funding for that proposition. It will not be easy. It's expensive. It is hard to predict what it will cost in the long run. Medicaid is one of the most rapidly growing components of our budget. It is scary to see how rapidly it rises, particularly the prescription drug line. That, to me, is a bill that fits the criteria that I gave to you earlier. We will have to make a tough decision whether we're going to pay for that expensive coverage or leave these poor people uninsured. I represent many, many of these people in Somerset County. Many of them are people in their 50's who no longer have children which would entitle them to coverage under the Cub Care plan. They're not yet of Medicare age. Many of them are working in jobs that do not afford them health coverage. Many of them have reached the age where they have high blood pressure, diabetes, circulatory problems, respiratory ailments, a host of difficulties that they cannot afford to control or to manage without health care assistance. Some of them make their way into the clinics that we have available through Health Reach and other such rural health clinics. But when they need hospital care or pharmaceuticals or tests, they simply can't afford them. We, as a legislature, will be

grappling with exactly that issue, Maine's most needy people, and we're going to be dealing with that before we get out of here in 10 days. To me, to focus our energy on that very serious issue and the even more serious issue of how to pay for it, is a more noble and straightforward and honest way to start tackling this issue than to form a commission that many of us, I'm afraid, know, even those of you who support it, that when they come back with some specific recommendation, it's going to prove completely unfeasible. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Mr. President, men and women of the Senate. During this debate, I've heard that the proposal is fluff, that it is silly, and I heard that it's far too serious, it goes too far. Sounds like we are at an incremental reproach. In regards to the report that was written 10 or 12 years ago, I remember writing a report 10 or 12 years ago, it reminded me of that, for my employer, concerning computers and how it was unfeasible to think that we would be able to afford computers for each faculty member at the institution, never mind having each student have a computer or a computer at each workstation. Here we are sitting with these machines scattered around. When it comes to this type of equipment or this type of technology, 10 or 12 years is an eternity. I would suggest that maybe 10 or 12 years ago no one anticipated what health care would be today. There are those who believe that we are in an impending health care crisis and there are those of us who believe that it is here. For us, it's not here. We are all receiving quality health care coverage. But for a number of people it's been a crisis for a long time. It reminds me of that story, what's the difference between a depression and a recession? The recession, of course, is when your next door neighbor loses his job. The depression is when you lose your job. This is a problem that's not going to go away. It's getting worse dramatically each year. It's an impression from the debate that somehow the cost of this is not currently being borne. It is being borne by municipalities, by school systems, by Medicaid and Medicare, what we have for state employees, what we have for ourselves. This seemed like a very intelligent approach. Take a look at all of those things that we're spending money on, all of those programs. Take all that money and just conceivably say, 'could there be a different way?' That's what we're trying to do. That's what I think this bill tries to do. I applaud the good Senator for coming in with a fiscal note as huge as this bill had. You all say wait a minute, wait a minute. Let's think a little bit outside of the box. I was in the same position as some of the people who have spoken. Anywhere from being that this is impossible, wouldn't it be nice, where is Santa Claus, to this being a most ridiculous bill. But I've always been impressed by this body. They've taken a program, an idea, and have somehow managed to find a way. The Maine RX program is a good example of that. Never in my wildest dreams did I think that something could happen from that. Here we are today. Huge press conferences. Winning in court. Hooray for Maine. We're doing something. Let's not bury our heads in the sand about this. We know what the issues are. We know how it's not going to go away. We know we're paying for it. Let's just take another look. Let's look at how we might spend those dollars more wisely. Again, let's try to get value for our dollar, cover more people. Not the few. Let's cover more people. Let's cover all people if that is possible. It might not be possible. It's very difficult to sit here and debate against a

program that we haven't even heard what the program is yet. There has been a suggestion that it's going to be very expensive, it's not going to work, it's not workable here, Canada's program stinks. I haven't heard that they want to repeal it. To try to respond to criticism about a program that doesn't exist, it's not even on paper. Let's do that when we get the plan. We'll have plenty of time to debate it. Much will be written about it, I'm sure. Maybe we'll get nothing from this group. Let's give it a try. Nothing ventured, nothing gained.

On motion by Senator **SMALL** of Sagadahoc, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I doubt that the words spoken here are going to change any of the minds, but I feel compelled to at least put a few more thoughts into the chamber that are perhaps not new to any of you. The good Senator from Kennebec, Senator Gagnon, talks about a health care crisis. I would agree that we do have a health care crisis. I would further suggest to you that we have a health crisis, not only in this country, but in this state. I have said this to some of you in smaller sessions and I've said some of it to you individually. As I went door-to-door campaigning for the opportunity to represent District 26 in this chamber, I often quoted the sister of the good Senator from Somerset, Senator Mills, who has said repeatedly and continues to say repeatedly, 85% of our ills are self-inflicted. Self-inflicted. We either do it because we smoke. We abuse other drugs such as alcohol. We fail to exercise. We have terrible diets. We generally do a very poor job of taking care of ourselves. Everything in this world is economic. You may not think of health care as being economic, but it responds to two things, supply and demand. We've driven the demand for health care services up dramatically because we have chosen to be very unhealthy as a people. Some of us in this chamber run every day, others eat fruit every day. Some of us still smoke every day. But individually we have much control over our lives and the health of those lives. Until we choose to address and demand that our people accept some responsibility for their lifestyle and live in a more healthy way, whether we do it universally with a single payer system or we do it in a haphazard fashion using Medicaid and Medicare and private insurance, we are going to be in a real pickle trying to meet the demand and figure out some way to pay for it. There have been multiple opportunities presented to the previous legislature, as well as this one, to try to attack, directly, the cost of health care by getting people to assume some additional responsibility. We're leading the nation as having a percentage of our population with our young people having stage two diabetes, tied directly to diet. Nobody wants to do the tough things. Nobody wants to log the 3 or 4 miles a day. Everybody likes to have an extra slice of pizza at night. On and on and on. Until we step up to those issues, no matter what we do, we've going to be failing in this issue because it's more than a health care crisis, it's a health crisis brought on by our own actions as a people. I'd ask you to think about that carefully and if there is any way that, in good faith, you believe this conjures up a solution for that, I think we'd all vote for it. I don't see it and I hope that you don't as well. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Mr. President, men and women of the Senate. Currently we don't have a system of health care. We have default. Those who are unable to pay, simply don't go to the doctor. I appreciate the comments of the Senator from Cumberland, Senator Turner, about our unhealthy lifestyles. I'm going to tell you that probably 15 years ago I got an interesting prescription and it was from a family practice nurse. It was to exercise and to take some time off. I thought it was a great thing because I actually followed the prescription, just because it was written down on a piece of paper from the doctor's office. It has stood me in good stead throughout those intervening years. But there are many citizens in Maine who do not have that option. We need to recognize, here and now, that a study that was done 10 years ago is of little use to us in the current debate, that privacy is not the issue, that taxes are not the issue because we are paying for health care and we will pay for the health care of those who do not have insurance when they are ill and they have no money left through the Medicaid program. We can choose to keep our head in the sand and say it costs too much or the plan isn't firmly enough created or we can have a group take a look at the plan. We can ask others to serve on that committee if you wish. But it's time for us to recognize that we do pay, we all pay, and what we ought to be doing is covering everyone with those dollars and using them more wisely.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator LaFountain to Recede and Concur. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#117)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, KNEELAND, LEMONT, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: ABROMSON

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **LAFOUNTAIN** of York to **RECEDE** and **CONCUR, PREVAILED.**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act to Classify Employer-provided Medical Treatment as a Payment under the Maine Workers' Compensation Act of 1992
H.P. 644 L.D. 844
(C "A" H-244)

Tabled - June 5, 2001, by Senator **EDMONDS** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In House, May 29, 2001, **PASSED TO BE ENACTED.**)

(In Senate, June 4, 2001, **FAILED ENACTMENT**, in **NON-CONCURRENCE.**)

(In House, June 4, 2001, that Body **INSISTED.**)

Senator **EDMONDS** of Cumberland moved the Senate **RECEDE** and **CONCUR.**

The Chair ordered a Division.

On motion by Senator **MARTIN** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#118)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LAFOUNTAIN, LONGLEY, MARTIN, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: BENNETT, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LEMONT, MCALEVEY, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: ABROMSON

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **EDMONDS** of Cumberland to **RECEDE** and **CONCUR**, **FAILED.**

Senator **MARTIN** of Aroostook moved the Senate **INSIST.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **INSIST.**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Implement the Recommendations of the Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for All Maine Citizens"
H.P. 315 L.D. 392

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-670)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - June 5, 2001, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, June 4, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-670).**)

(In Senate, June 6, 2001, Reports **READ.**)

The Chair ordered a Division.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMUNICATIONS

The Following Communication: S.C. 334

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
APPROPRIATIONS AND FINANCIAL AFFAIRS**

June 5, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 60 An Act to Require Full Funding of the State's
Share of General Purpose Aid

S/Sen. Jill M. Goldthwait
Senate Chair

S/Rep. Randall L. Berry
House Chair

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

Sincerely,

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

The Following Communication: S.C. 335

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE**

June 5, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 1443 An Act to Make Adultery Illegal

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

Sincerely,

S/Sen. Michael J. McAlevey
Senate Chair

S/Rep. Edward J. Povich
House Chair

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

The Following Communication: S.C. 336

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
HEALTH AND HUMAN SERVICES**

June 5, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 219 An Act to Expand the Cub Care Program and to Establish the Bear Care Program
- L.D. 1289 An Act to Reimburse Restaurants for the Cost of Testing Water

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

Sincerely,

S/Sen. Susan W. Longley S/Rep. Thomas J. Kane
Senate Chair House Chair

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

The Following Communication: S.C. 337

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON LABOR**

June 5, 2001

Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 971 An Act to Exempt Retired Persons Who Work as Substitute Teachers from Paying into the Maine State Retirement System
- L.D. 975 An Act to Establish an Exemption to the Exclusivity Provisions of the Maine Workers' Compensation Act of 1992

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

Sincerely,

S/Sen. Betheda G. Edmonds S/Rep. George H. Bunker Jr.
Senate Chair House Chair

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act to Require Teaching of Maine Native American History and Culture in Maine's Schools

H.P. 255 L.D. 291
(C "A" H-666)

Tabled - June 5, 2001, by Senator **DAGGETT** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, June 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666)**, in concurrence.)

(In House, June 5, 2001, **PASSED TO BE ENACTED.**)

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I move that this bill be exempted from the Special Appropriations Table. I'd just like to explain that we're taking this rather unusual measure because the bill does not have a dollar fiscal note. It has a sum cost note. So even if it were to go to the Special Appropriations Table, we undoubtedly simply pass it on because there is not an identifiable cost. There is another issue about the bill and that is that it is a requirement for schools to teach Native American History and Culture. That is a mandate, however in this situation, the bill does not have a mandate preamble, it does not provide funding for the program. Therefore, under the Maine Constitution, the schools are not required to follow the program. It has some other valuable pieces to the legislation in that it provides some resources for those schools who should choose to do this, but in its current form, assuming it is not further amended, without that preamble or the funding, schools are not required to follow this statute, although many of them do because of the learning results. Again, because of the absence of the specific fiscal note, my committee did move to exempt it from the table. Thank you.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce"

H.P. 944 L.D. 1258

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-650)** (7 members)

Report "B" - **Ought Not to Pass** (5 members)

Report "C" - Ought to Pass as Amended by Committee Amendment "B" (H-651) (1 member)

Tabled - June 5, 2001, by President Pro Tem BENNETT of Oxford

Pending - motion by Senator MILLS of Somerset to COMMIT the Bill and accompanying papers to the Committee on LABOR, in NON-CONCURRENCE

(In House, June 4, 2001, Report "A", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650) READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650).)

(In Senate, June 5, 2001, Reports READ. Motion by Senator EDMONDS of Cumberland to ACCEPT Report "A", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650), in concurrence, FAILED.)

The Chair ordered a Division. 18 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator MILLS of Somerset to COMMIT the Bill and accompanying papers to the Committee on LABOR, in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Senator DAGGETT of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator SMALL of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator NUTTING of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator SMALL of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator MCALEVEY of York was granted unanimous consent to address the Senate off the Record.

RECESSED until the sound of the bell. After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on EDUCATION AND CULTURAL AFFAIRS and the Committee on HEALTH AND HUMAN SERVICES on Bill "An Act to Improve Child Development Services"

H.P. 611 L.D. 766

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-662) (15 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-663) (10 members)

Tabled - June 5, 2001, by Senator LONGLEY of Waldo

Pending - motion by same Senator to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662) Report, in concurrence

(In House, June 5, 2001, the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662) Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662).)

(In Senate, June 5, 2001, Reports READ.)

Senator MARTIN of Aroostook requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator NUTTING: Thank you, Mr. President, ladies and gentlemen of the Senate. I would urge you to vote against the

pending motion so we can then go on and accept the Minority Ought to Pass Report. The Majority Report says that we're going to restructure. Then it says we're going to try to figure out if there is a problem or not. The Minority Report says we're going to do a survey and talk to parents and talk to providers and talks to CDS site workers. After that survey is done, then we're going to, possibly, proceed with some changes. To me that's very, very reasonable. I'm concerned that you've all received a yellow handout here that really says what CDS claims and the facts. I've got to address some of these so called facts. The yellow sheets says that 16 regional CDS sites all operate independently. You know, that's good if it's an SAD, but I guess it's not good if it's CDS site. Every CDS site has a local board of directors. The yellow sheet says that children are on waiting lists. Well, I can assure you that the waiting lists are much shorter now than they used to be in the old system where the private providers could see somebody when they felt like it. The waiting lists were much longer then than they are now. The yellow sheet says that there was funding disparities. Yes, three years ago there were. But the new distribution formula for CDS has made huge strides in making the distribution of funds much fairer now. For instance, in the last little bit Aroostook County has gained 40% funding. They needed to. They have. The yellow sheet says there is no collaboration with DHS. In fact, the public health nurses of the DHS are used by the CDS system. The yellow sheet says that the CDS sites are not working with the private providers. Well, the other option, the option we used to have, was that the private providers were in a position to make decisions about the CDS sites, decisions that would have a direct effect on their own pay. That isn't the case anymore. In fact, now the private providers have to compete for providing services. To me that's healthy. The yellow sheet goes on to say that CDS sites are hiring staff when community providers are available. Yes, three years ago there were 21 on-site providers hired. Ladies and gentlemen of the Senate, that number is now 3 statewide. It's dropping. The yellow sheet says that providers are going out of business because of CDS. They are going out of business because of the Medicaid reimbursement program, in my opinion. Lastly, the yellow sheet criticizes the accounting and management of the CDS system. Even the last point on the yellow sheet, on the back side of it, says that they question the cost of the building and renovations at the Lewiston site to provide individual therapy rooms. I have toured that site. Yes, there are two very modest site rooms in the back that have been reconstructed. Not large rooms. The cost was around \$50,000 to do both rooms. The numbers have been provided. The real effect of that reconstruction at Lewiston is that now the waiting lists are even shorter than they used to be. I guess that's a problem for some of the provider community. The parents that have called me overwhelmingly support the current system, a current system that is undergoing changes. It's working better now than it was. The waiting lists are shorter than they were. I would urge you to reject the pending motion so we can go to accept the Minority Ought to Pass Report. I try not to use too many clichés here, but I've always, as a farmer, tried never, ever, ever to put the cart before the horse. This Majority Report is, to me, a classic case of putting the cart before the horse. The Minority Report puts the horse where it belongs. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator MITCHELL: Thank you, Mr. President, ladies and gentlemen of the Senate. This bill is 'An Act to Improve Child Development Services.' An act to improve. The difference between the two motions, Ought to Pass the current motion before you, as amended by Committee Amendment "A", is a solution. The Minority Report, as amended by Committee Amendment "B", is an attempt to identify 'do we have a problem?' in which to implement the solution. We don't want to waste time, energy, and money directing a solution before we identify if we have a problem. The CDS system, pre-school handicap program, is in better shape than it has ever been. The issues of concern that have been brought before the Education Committee in this session and in the last session are being fully addressed. These changes, worked on jointly with providers and other stake holders, need time to work. The Commissioner of Education has been working on this, and by most accounts, has made a lot of improvements and progress. Why interrupt that process? Currently, what's happening with CDS is that it's federally funded, as you know. January, the federal government will giving us an new set of guidelines to implement for this program. Why do we want to restructure something before we get new sets of guidelines to implement in January? We have reports that are going to be coming in from the various committees that we have been giving studies. We need to look at those to identify where the problems are. I would ask all of you, are you getting any calls or e-mails telling you that there are problems in CDS? In the 16 sites, I have not received any negative comments. I have only received positive. 'Do not change this CDS.' 'Go with the Minority Report.' There's nothing wrong with what we're doing. There may be isolated areas. That's what we would do with the Minority Report. We would try to identify the problem to implement a solution. So I would ask you to assess what is going on in your own districts, if you've been receiving calls, positive or negative. Let's make sure that we don't try to implement something before we need to do that. Vote against the pending motion so we can go on with the Minority Report.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator LONGLEY: Thank you, Mr. President, colleagues in the Senate. I don't know where to begin. Those of us on the committee, the two committees, have been getting tons of e-mails from people within the CDS system who have been told, 'write these people and tell them how wonderful the system is.' That's fine. That's the type of warfare. So be it. But there are kids who are screened out of the system. Around the state there are pockets of places where it's working. There are pockets where it's not. You're hearing from those pockets where it is working, and for not illogical reasons they are saying maintain the status quo. There has been four studies. Those of us who have been here a while, it's study after study after study. In my opinion, the Minority Report is, let's study it some more. We're saying, in my opinion, insanity is repeating actions that weren't successful. That doesn't mean they were total failures. They have not been totally successful. Absolutely not. Otherwise we wouldn't have this reoccurring CDS bill. The Senator who sat here before me last term, one of the teachings he relayed to me is when you come to the Senate, part of your job is to think in terms of the state, not just your constituents. I'm asking you to think in terms of those pockets in the state that the status quo isn't working and what do we end up doing? We end up having kids lost between the

cracks. If you miss a kid in those early years, you've missed them when the window of opportunity is wide and the investment is relatively cheap. We have pockets in the state where the system isn't working for the kids and the families. We're only asking to add costs to the tax payer dollars, in my opinion, unless we have a statewide approach that says, yes, in some areas it's working. That's the parochial vote. Voting for the Majority Report is voting for the statewide approach. I encourage you to think of kids across the state who need help. The system isn't working for them. Thank you.

Senator **DAGGETT** of Kennebec requested and received leave of the Senate for members and staff to remove their jackets for the remainder of this Session.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you very much, Mr. President, members of the Senate. There is, to some degree, at times, a reason why you probably shouldn't be here very long. CDS is one of them. I've been here now through probably more studies on CDS than any other division or department. We have at least 3 or 4 more ongoing now, which are part of this Minority Report. The problem hasn't gone away. It just gets progressively, in my opinion, worse. Look at the attempt a number of years ago to deal with coordination. Keep in mind you have 3 departments attempting to deal with young children; Mental Health and Retardation, Education, and Human Services, no one's in control. Then on top of that, you superimpose 16 boards at the local level. You attempt now to deliver services to the vulnerable children below the ages of roughly six. Then what happens is that when you, as a parent, want to appeal something that's happened, there is no appeal process. It dies. You talk to the Commissioner or all three Commissioners and they will tell you 'sorry, there's nothing we can do.' In reality, that's true. I want to point out that the proposal before us doesn't restructure a thing, nothing is restructured here. It gives the Commissioner, and requires the Commissioner, to bring back a plan for the restructuring to us in January for a delivery service for which the Commissioner shall be responsible. Is it a surprise that the Commissioner doesn't like this? No, of course not. Because then the power will be in the hands of the Commissioner to make that decision and the responsibility will lie with that Commissioner. Boy, there's something wrong with that because then if something goes wrong, everyone in this state will know where it lies. At the present time, you can share the blame all over the place and you never have to worry about being liable for it if you're the Commissioner.

Let's take a child, if that's our concern, in Cumberland County or take any county. They get an assessment, and by the way, the state pays for that. The child moves. Another assessment, the state pays. The child is in the DHS process. As you know, foster children end up moving from location to location. An assessment. You can have assessments literally over and over again, because there is no statewide system. All this bill does, the Majority Report, is to require the Commissioner to develop a plan and bring it back to you. That's all it does. The Minority Report says we're going to take all these studies that are ongoing and we've

going to send out letters to all these people and see how they like it. The Department of Education could have done that years ago. Obviously they didn't. This is a way just to submerge the Majority Report, that's all it is. So, my approach is very simple. If you believe that there is a problem with the system, than you ought to vote for the Majority Report, see what the Commissioner comes back with. If you don't like it, fine. But we will then know where the responsibility lies. That's why the Majority Report, in my opinion, carries the entire Human Services Committee and I believe 3 of the Education Committee members voting for it. So I would urge your support and I did want, as you may have noticed earlier, be very brief and all I asked for was a division, hoping that we would probably decide this and I'll be able to enjoy my birthday. But since most of you have choose instead to participate in debate, which of course doesn't bother me any, I would ask that when the vote be taken it be taken by the yeas and nays.

Senator **MARTIN** of Aroostook requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Mr. President, men and women of the Senate. Just very briefly. I do have some concerns with the timing of this work that the Majority Ought to Pass Report would require of the Commissioner of Education. The Commissioner of Education will be here for a couple of more years. Than we'll have a new administration. I think it's unfair to families throughout the state to have something potentially put in place now that probably will be redone when a new Governor and a new administration comes in in a couple of years. For that reason, I would ask you to reject the Majority Ought to Pass as Amended Report that's now on the floor. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. First, I would like to say that the good Senator from Aroostook, Senator Martin, is, I'm sure, enjoying his birthday because he is having an opportunity to debate. Secondly, I think the relative points here to me are really the following: it's been a long standing problem. Everybody understands that. There have been 4 studies. The time for studying is over. The Majority Report before you embodies the responsibility for action with the Commissioner of Education. He is clear to use that authority or not and continue on the course of action that he believes will correct the problem and he will report back to us his decision. But he is further empowered to reorganize, if he sees fit, to make a host of organizational changes, if he sees fit, and it is very clear in the Majority Report that he is able to do that. If that isn't what he needs, he doesn't have to exercise those options. So I would encourage you to join us in voting in favor of the pending motion. Thank you very much.

On motion by Senator **MARTIN** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#119)

YEAS: Senators: BENNETT, BROMLEY, CARPENTER, CATHCART, DAGGETT, EDMONDS, GAGNON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LONGLEY, MARTIN, MCALEVEY, PENDLETON, RAND, SAVAGE, SHOREY, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: DAVIS, DOUGLASS, FERGUSON, KILKELLY, LEMONT, MILLS, MITCHELL, NUTTING, O'GARA, ROTUNDO, SAWYER, SMALL, TREAT

ABSENT: Senator: ABROMSON

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-662) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)**, in concurrence.

Senate at Ease.

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED** to Wednesday, June 6, 2001, at 10:00 in the morning.