

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

In Senate Chamber
Thursday
June 7, 2001

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

Prayer by Reverend Bruce Felt of the Augusta Baptist Church in Augusta.

REVEREND FELT: I have a brief reading before we pray. Get wisdom. Get understanding. Do not forget my words or swerve from them. Do not forsake wisdom and she will protect you. Love her and she will watch over you. Wisdom is supreme, therefore get wisdom though it may cost you all you have. Get understanding, esteem her and she will exalt you. Embrace her and she will honor you. She will set a garland of grace on your head and present you with a crown of splendor. Let us pray.
Father, we pray that this gathered Senate will this day seek and display that wisdom of which we've read in their deliberations and in their conclusions. We pray there will be respect and courtesy given to one another as they do Your business by serving us. In Jesus' name. Amen.

Reading of the Journal of Wednesday, June 6, 2001.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, to Clarify the Principles of Reimbursement for Nursing Facilities

H.P. 347 L.D. 437
(C "A" H-633)

In Senate, May 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-633)**, in concurrence.

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

Senator **MARTIN** of Aroostook moved the Senate **RECEDE** and **CONCUR**.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. This provision has been included in the Part I Budget, so we no longer need the language because the language is now inserted in the budget as well.

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act Concerning the Sentencing of Persons to County Jails"

S.P. 354 L.D. 1168
(C "A" S-277)

In Senate, May 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277) AS AMENDED BY HOUSE AMENDMENT "A" (H-693)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent 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)

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

In Senate, June 5, 2001, Reports **READ** and on motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in **NON-CONCURRENCE**.

Senator **DOUGLASS** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Health Data Organization Laws" (EMERGENCY)

S.P. 395 L.D. 1310
(H "A" H-643 to C "A" S-290)

In Senate, May 31, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-290) AS AMENDED BY HOUSE AMENDMENT "A" (H-643)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-290) AS AMENDED BY HOUSE AMENDMENTS "A" (H-643) AND "C" (H-685)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Facilitate the Implementation of the Enhanced 9-1-1 Emergency System" (Emergency)

H.P. 1098 L.D. 1467
(S "A" S-315 to C "A" H-442;
S "A" S-252; S "B" S-292;
S "C" S-306)

In House, May 17, 2001, **PASSED TO BE ENACTED**.

In Senate, June 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY SENATE AMENDMENT "A" (S-315)** thereto **AND SENATE AMENDMENTS "A" (S-252); "B" (S-292) AND "C" (S-306)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY HOUSE AMENDMENT "A" (H-687)** thereto **AND SENATE AMENDMENT "A" (S-252)**, in **NON-CONCURRENCE**.

Senator **FERGUSON** of Oxford moved the Senate **RECEDE** and **CONCUR**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **RECEDE** and **CONCUR**.

House Paper

Bill "An Act Providing Funding for the Office of the State Fire Marshal and to Increase Certain Fire Inspection Fees" (EMERGENCY)

Committee on **CRIMINAL JUSTICE** suggested and ordered printed.

Comes from the House, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **MCALLEVEY** of York, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 341

**120TH LEGISLATURE
SENATE OF MAINE
OFFICE OF THE PRESIDENT**

June 6, 2001

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

Dear Secretary O'Brien:

Please be advised that I have appointed the following conferees to the Committee of Conference on the disagreeing action between the two branches of the Legislature of the Bill, "An Act Creating A Pilot Project to Provide Video Camera Surveillance at Intersections in Ellsworth." (H.P. 728) (L.D. 948)

Senator Savage of Knox
Senator O'Gara of Cumberland
Senator Gagnon of Kennebec

Sincerely,

S/Michael H. Michaud
President of the Senate

READ and **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 343

**120TH LEGISLATURE
SENATE OF MAINE**

OFFICE OF THE PRESIDENT

June 6, 2001

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

Dear Secretary O'Brien:

Please be advised that I have appointed the following conferees to the Committee of Conference on the disagreeing action between the two branches of the Legislature of the Bill, "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property." (H.P. 1088) (L.D. 1457)

Senator Rand of Cumberland
Senator Goldthwait of Hancock
Senator LaFountain of York

Sincerely,

S/Michael H. Michaud
President of the Senate

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Enable Formation of Public Charter Schools"

H.P. 1134 L.D. 1531

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
ESTES of Kittery
CUMMINGS of Portland
ANDREWS of York

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-654).**

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

WATSON of Farmingdale
STEDMAN of Hartland
WESTON of Montville
LEDWIN of Holden

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

Reports **READ.**

Senator **MITCHELL** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE.**

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

ENACTORS

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

Emergency Measure

An Act to Permit the Salvage of Pulpwood

S.P. 628 L.D. 1811
(C "A" S-307)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Establish the Commission to Study Ways to Eliminate Cigarette Litter in Maine

H.P. 1314 L.D. 1778
(C "A" H-549)

Comes from the House, **FAILED FINAL PASSAGE.**

Senator **MARTIN** of Aroostook moved the Bill and accompanying papers **INDEFINITELY POSTPONED.**

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

Senator **MARTIN**: Thank you, Mr. President. This, as you can tell, is another study. It's a study that I, frankly, don't support. But more important, based on the action of leadership yesterday in Legislative Council, since they already killed about 80 of them, I don't see any sense of sending that one there and wasting any more time. So I would urge this body to Indefinitely Postpone.

S.P. 433 L.D. 1413
(C "A" S-309)

On motion by Senator **MARTIN** of Aroostook, Resolve and accompanying papers **INDEFINITELY POSTPONED**.

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Emergency Resolve

Resolve, to Establish the Blue Ribbon Commission on Postsecondary Educational Attainment

S.P. 616 L.D. 1797
(C "A" S-314)

An Act to Protect Consumers of Health Care Services

H.P. 1167 L.D. 1567
(C "A" H-661)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

An Act to Offer Businesses and the Technical Colleges Incentives for Providing Workforce Health Care Training

S.P. 505 L.D. 1592
(C "A" S-312)

Acts

An Act to Provide Health Insurance Coverage for General Anesthesia and Associated Facility Charges for Dental Procedures for Certain Vulnerable Persons

S.P. 127 L.D. 403
(C "A" S-300)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act to Amend the Laws Pertaining to the Department of Corrections

S.P. 580 L.D. 1758
(C "A" S-280)

An Act to Amend the Maine Clean Election Laws

S.P. 553 L.D. 1711
(C "A" S-308)

An Act to Amend the Business Equipment Tax Reimbursement Program

H.P. 1365 L.D. 1822

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

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

An Act to Implement the Recommendations of the Committee to Study Access to Private and Public Lands in Maine

H.P. 1353 L.D. 1810
(C "A" H-658)

An Act to Establish the Maine Research and Development Evaluation Fund

H.P. 988 L.D. 1325
(C "A" H-372; S "A" S-316)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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

An Act to Transfer Administration of Certain Reimbursement Functions of the Workers' Compensation Employment Rehabilitation Fund to a Voluntary Coalition of Parties in Interest

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

Resolve

Resolve, Directing the Department of Human Services to Adjust the Cap on Direct-care Staff Costs for Residential Care Facilities
H.P. 853 L.D. 1125
(C "A" H-622)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

(In Senate, May 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277).**)

(In House, June 6, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277) AS AMENDED BY HOUSE AMENDMENT "A" (H-693)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **MCALEVEY** of York, the Senate **RECEDED** and **CONCURRED.**

Off Record Remarks

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

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (6/5/01) 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.**)

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

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

Bill "An Act Concerning the Sentencing of Persons to County Jails"

S.P. 354 L.D. 1168
(C "A" S-277)

Tabled - June 7, 2001, by Senator **MCALEVEY** of York

Pending - **FURTHER CONSIDERATION**

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Guarantee Girls Equal Access to Sports Teams"

H.P. 1281 L.D. 1741

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-623)** (3 members)

Tabled - June 6, 2001, by Senator **SHOREY** of Washington

Pending - motion by same Senator to **RECEDE** and **CONCUR**

(In House, May 29, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623).**)

(In Senate, May 30, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

(In House, June 5, 2001, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**)

(In Senate, June 6, 2001, on motion by Senator **MITCHELL** of Penobscot, **ADHERED.** Subsequently, on motion by Senator **SHOREY** of Washington, **RECONSIDERED.**)

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. What this would do is provide an opportunity for females, women or girls, in high school, to participate in programs that would allow them to fulfill their potential. What this means is that currently some towns, some cities, some high schools allow girls to participate on boy's teams if they're good enough. I stress the fact, if they're good enough. This bill does not say that you have to allow females to play with the boys if they're not good

enough. All it says is if they are good enough to be on that team, they are allowed the opportunity to try it. Someone said, 'well some schools do it, some schools don't. If their school doesn't do it, why don't they move?' Well, that doesn't work. This bill would probably effect 10, 15, maybe 20 girls at the most in the state. These girls would have the opportunity then to compete at a higher level than they would currently be doing with the girl's sports. I would ask you to think about this and I request a division.

Senator **SHOREY** of Washington requested a Division.

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

Senator **ROTUNDO:** Thank you, Mr. President, men and women of the Senate. I just wanted to share with you what we were told in the Education Committee by Patricia Ryan who is the Executive Director of the Maine Human Rights Commission. She told us, that at this point in time, the Maine Human Rights Commission rules prohibit discrimination in school sports, both public and private schools, based on sex. In effect, what she was saying to us is that this law would not be necessary to prevent discrimination. All of us in this chamber are very concerned about providing access to sports for both boys and girls. I would maintain that this bill is not necessary. We already have protection for our children in school with this regard. So I would ask you to join me in Receding and Concurring on this item. Thank you.

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

Senator **MITCHELL:** Thank you, Mr. President. I also would ask you to vote against this motion for the same reasons that the Senator from Androscoggin, Senator Rotundo, has already explained to you. The Maine Principal's Association currently, and for many years, has a practice which is being enforced throughout this state amongst the schools which provides equal access for boys and girls to play in sports. It also allows them to participate in situations where there are not the numbers of boys in an area to have a complete team. The girls are able to participate. It's to try to offer an even opportunity for all girls and boys in this state and it's to make sure and to ensure that our children are not placed in situations where there is discrimination that might occur on either side. It can also work on the other side for boys. Where there is an equal sport or same sport that is offered and a girl wants to participate in a boy's sport, it could eliminate that boy from participating if they were of equal talent and the girl has the opportunity to go back and play with other girls on the same sport. The way that the Maine Principal's Association has this in effect is that on an even plain, all school boards have input into this, and these different districts have an opportunity to weigh what is going to provide a more equal opportunity for the boys and girls who participate in sports in the area that it particularly pertains to. So I'd ask you to please join us in voting against the current motion so we can move on to Adhere.

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

Senator **ROTUNDO:** Thank you, Mr. President, men and women of the Senate. I spoke in error in terms of the action that I was encouraging you to take. I would ask you to vote against the Recede and Concur motion. Thank you.

On motion by Senator **MITCHELL** of Penobscot, 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 (#120)

YEAS: Senators: BENNETT, GAGNON, GOLDTHWAIT, KILKELLY, MCALEVEY, NUTTING, PENDLETON, SAVAGE, SHOREY, TURNER, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BROMLEY, CARPENTER, CATHCART, DAVIS, DOUGLASS, EDMONDS, FERGUSON, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MILLS, MITCHELL, O'GARA, RAND, ROTUNDO, SAWYER, TREAT, WOODCOCK

ABSENT: Senators: DAGGETT, LONGLEY, SMALL

12 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **SHOREY** of Washington to **RECEDE** and **CONCUR, FAILED.**

On motion by Senator **MITCHELL** of Penobscot, the Senate **ADHERED.**

Senate at Ease.

Senate called to order by the President.

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

Senator **DAVIS** of Piscataquis 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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Increase the Penalty for Furnishing Liquor to a Minor if Injury or Death Results

H.P. 42 L.D. 51
(C "A" H-29)

Tabled - March 29, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 22, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-29)**, in concurrence.)

(In House, March 28, 2001, **PASSED TO BE ENACTED.**)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Specify That Possession of Sexually Explicit Materials by Way of the Internet is Criminal

H.P. 121 L.D. 125
(C "A" H-17)

Tabled - March 28, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 21, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-17)**, in concurrence.)

(In House, March 27, 2001, **PASSED TO BE ENACTED.**)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Add Prior Conviction for Burglary of a Motor Vehicle to Enhancement of Theft Penalties and to Include Burglary of a Motor Vehicle in the Presumption Provision for Theft

H.P. 240 L.D. 292
(C "A" H-16)

Tabled - March 28, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 21, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-16)**, in concurrence.)

(In House, March 27, 2001, **PASSED TO BE ENACTED.**)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Change the Snowmobile Registration Laws

S.P. 109 L.D. 335
(C "A" S-133)

Tabled - May 9, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-133)**.)

(In House, May 9, 2001, **PASSED TO BE ENACTED.**)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Prohibit Cyberstalking

H.P. 594 L.D. 749
(C "A" H-160)

Tabled - May 2, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 26, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-160)**, in concurrence.)

(In House, May 1, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Laws Pertaining to Domestic Violence
S.P. 232 L.D. 797
(C "A" S-172)

Tabled - May 21, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 16, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-172)**.)

(In House, May 18, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act Creating the New Crime of Aggravated Attempted Murder
H.P. 867 L.D. 1147
(C "A" H-260)

Tabled - May 7, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 2, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-260)**, in concurrence.)

(In House, May 7, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Criminal Laws with Regard to Animal Welfare

S.P. 386 L.D. 1283
(C "A" S-170)

Tabled - May 15, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 10, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-170)**.)

(In House, May 14, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Maine Criminal Code to Reduce the Incentive to Commit Theft

H.P. 1071 L.D. 1434
(C "A" H-202)

Tabled - May 3, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-202)**, in concurrence.)

(In House, May 3, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Implement the Recommendations of the Committee to Study Further Decriminalization of the Criminal Laws of Maine

H.P. 1086 L.D. 1455
(C "A" H-604)

Tabled - June 4, 2001 by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 25, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-604)**, in concurrence.)

(In House, June 4, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Increase the Penalties for Animal Cruelty
H.P. 1232 L.D. 1679
(C "A" H-423)

Tabled - May 18, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 15, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)**, in concurrence.)

(In House, May 17, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Prevent Interstate and International Smuggling of Illegal Drugs Into the State by Creating the Crime of Illegal Importation of Scheduled Drugs

S.P. 565 L.D. 1725
(C "A" S-146)

Tabled - May 14, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 8, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-146)**.)

(In House, May 14, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Control the Illegal Diversion and Abuse of Prescription Narcotic Drugs & Abuse of Designer Club Drugs

H.P. 1270 L.D. 1728
(C "A" H-353)

Tabled - May 14, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 8, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**, in concurrence.)

(In House, May 14, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Act to Define the Responsibilities of the Chief Information Officer and to Make Membership Changes on Technical Boards

S.P. 581 L.D. 1759
(C "A" S-232)

Tabled - May 24, 2001 by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 22, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232)**.)

(In House, May 24, 2001, **PASSED TO BE ENACTED**.)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Crime of Endangering the Welfare of a Child

S.P. 588 L.D. 1764
(C "A" S-203)

Tabled - May 21, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 16, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-203).**)

(In House, May 18, 2001, **PASSED TO BE ENACTED.**)

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

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Require Election Law Training to Voter Registrars and Clerks

H.P. 483 L.D. 623
(C "A" H-503)

Tabled - May 22, 2001, by Senator **MILLS** of Somerset

Pending - **ENACTMENT**, in concurrence

(In Senate, May 18, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503)**, in concurrence.)

(In House, May 22, 2001, **PASSED TO BE ENACTED.**)

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-503), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-326) to Committee Amendment "A" (H-503) **READ** and **ADOPTED.**

Committee Amendment "A" (H-503) as Amended by Senate Amendment "A" (S-326) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) AS AMENDED BY SENATE AMENDMENT "A" (S-326) thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Provide for Variance Notification in the Shoreland Zoning Law

H.P. 704 L.D. 919
(C "A" H-33)

Tabled - March 31, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 27, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-33)**, in concurrence.)

(In House, March 30, 2001, **PASSED TO BE ENACTED.**)

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-33)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-327) **READ** and **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-33) AND SENATE AMENDMENT "A" (S-327), in **NON-CONCURRENCE.**

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the Finance Authority of Maine Act

H.P. 1259 L.D. 1694
(C "A" H-467)

Tabled - May 18, 2001, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 16, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-467)**, in concurrence.)

(In House, May 17, 2001, **PASSED TO BE ENACTED.**)

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-467)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-467), in concurrence.

On further motion by same Senator, Senate Amendment "B" (S-325) to Committee Amendment "A" (H-467) **READ** and **ADOPTED**.

Committee Amendment "A" (H-467) as Amended by Senate Amendment "B" (S-325) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-467) AS AMENDED BY SENATE AMENDMENT "B" (S-325) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Off Record Remarks

On motion by Senator **SAVAGE** of Knox, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act to Reimburse Communities that have Constructed Sand and Salt Sheds and are Rated Priority 1 or 2
S.P. 148 L.D. 492
(C "A" S-148)

Tabled - May 14, 2001 by Senator **SAVAGE** of Knox

Pending - **ENACTMENT**, in concurrence

(In Senate, May 8, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-148)**.)

(In House, May 14, 2001, **PASSED TO BE ENACTED**.)

Same Senator moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **SAVAGE:** Thank you, Mr. President, men and women of the Senate. We're just Indefinitely Postponing this bill because it's been included now in the Highway Part II Budget. Thank you.

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

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Enable Formation of Public Charter Schools"

H.P. 1134 L.D. 1531

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-654)** (5 members)

Tabled - June 7, 2001, by Senator **MITCHELL** of Penobscot

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

(In House, June 6, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 7, 2001, Reports **READ**.)

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

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. I ask you and urge you to vote with me on the Ought to Pass as Amended by Committee Amendment "A" Report. This does not threaten our public school systems in the State of Maine as far as funding at all. What it does do for us is give an opportunity to the existing schools and existing programs who meet the federal law requirements to actually form their charter school formation and gives them authorization. There are 36 states and D.C. that have charter schools. If we don't pass this, it will prohibit these schools from getting federal funds. This amendment is not going to encourage new schools or get us into a situation where we're going to have to have the funding follow the students at this particular time. The Muskie School gave a day seminar at the Civic Center and we learned about the Kennebunk School that is doing an excellent job in providing alternative education along with many others in this state. Every child doesn't fit, as we say, in a large school. We had students come to our public hearing and testify that they were failing at Portland High School because they just didn't fit, they were lost. By going to a smaller school, they have been able to graduate with much higher grades. Some of these students have gone on into colleges and they have gone into technical colleges where

they have been able to assume positions and jobs that have paid them a good salary. We do not want to put ourselves in a situation to deny these students an opportunity to further their education. We know that the federal government is releasing more money to charter schools and is very supportive of it. Why should we keep our doors closed when 36 other states plus D.C. have opened their doors to allow federal funding and charter schools to become chartered? All this means is these existing schools, if they meet the federal guidelines, can apply for a charter, and when granted a charter, will become eligible for federal funding. The second part of this particular amendment directs the department to come up with rules on setting up a process to instruct schools on how to set up a new charter school. Those rules would come back to the committee and it would be voted on. But right now our concern is why should we deny these schools an opportunity to get federal funding? They are meeting the needs of many of our children. Schools in Rhode Island and Massachusetts, who went from one to fifty in a very short time frame and it's been very successful. There is a significant minority of over achievers and under performing students that can be better served by charter schools. It's the most efficient way to let our good intentions reach all students by trusting parents and children to determine which education is best for them by opening the door and let them make choices, choices that will not cost you, at this particular time, the state or take away funding from our existing public schools. It allows public charter schools to be able to get federal funding. So I would encourage you to vote with me on the Minority Ought to Pass as Amended by Committee Amendment "A" 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 hope you will join me in defeating the motion that is currently on the floor. I would contend that this will effect funding for our public schools in a time when we don't have sufficient funds to begin with. We should not be further increasing the financial burdens on the schools. Many of our public schools are trying to do exactly what charter schools are trying to do, have smaller classes, create a more intimate atmosphere. We know these are important for our schools to succeed. Yet our own public schools that are already in existence now don't have the money to make those changes because there is not sufficient funding. I think it's very important for us to support what we already have and help our public schools do an even better job. Thank you.

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 brief. I want to echo the comments of my seatmate on the Education Committee, the good Senator from Androscoggin, Senator Rotundo. We have enacted, this year, learning results, for instance. We need to, in the coming years, really increase school funding some more, and I'm sure we will, to cover the cost of learning results. Diverting money into programs like this, to me, just has the potential of saddling more schools with unfunded learning results, for instance. So I would urge you to vote against the pending motion. 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 did have, reluctantly, the pleasure of watching Massachusetts deal with public charter schools, having lived in Massachusetts from 1991 to 1999. During that time, I watched charter schools go from a single entity to over 50 in that period. I watched a Republican Governor, Weld, work closely with a Senate President, Bulger, and Speaker, Finneran, both members of the Democratic party, and watched the governmental apparatus in Massachusetts work in a very non-partisan fashion to craft public charter school legislation which appears, to me, to have worked very, very successfully in our neighboring state to the south. It is my understanding that the legislation before us is mapped directly with the legislation that Massachusetts has enacted and has had great success with. You also may be aware that in Massachusetts they have dealt with restrictions on public funding of their schools for some time, having passed a proposition 2 ½ tax restriction in the 1980's. They have been able to deal with public schools and charter schools successfully, even though the money has not necessarily flowed as greatly as some parties would wish. So I would ask you to think carefully and consider the motion that is before us and would encourage you to vote in favor the enabling legislation with respect to charter schools. Thank you very much.

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

Senator **MITCHELL:** Thank you, Mr. President. I would just remind you again that this amendment, as the amendment is written, not the regular bill, does not incur any state funding. This is strictly allowing federal funding by existing schools and would further ask that we have a roll call.

On motion by Senator **MITCHELL** of Penobscot, 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 (#121)

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

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

ABSENT: Senator: DAGGETT

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MITCHELL** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-654) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-654)**, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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 **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Maintain a Centralized Database for Schedule II Prescriptions Dispensed by Pharmacies in the State"

H.P. 532 L.D. 687

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

BROMLEY of Cumberland

Representatives:

- THOMAS of Orono
- HATCH of Skowhegan
- DUPREY of Hampden
- RICHARDSON of Brunswick
- BRYANT of Dixfield
- DORR of Camden
- MICHAUD of Fort Kent

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-630)**.

Signed:

Senators:

- YOUNGBLOOD of Penobscot
- SHOREY of Washington

Representatives:

- MORRISON of Baileyville
- CLOUGH of Scarborough
- MURPHY of Kennebunk

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **SHOREY** of Washington moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. Maine has become the poster child of prescription drug abuse. This bill was brought about by the recommendation of Jay McCoskey, a U.S. Attorney who sees this as an effort to curb this drug abuse by tracking it and knowing where it is coming from and knowing where it is going. What this bill does is provide an opportunity to track Schedule II drugs, prescription drugs, through distribution and prescription writing. It is only for prescription Schedule II drugs. Currently this tracking is being done by three investigators. These investigators drive from Kittery to Calais to Fort Kent to Jackman and manually get this information. This is information which is already being collected by the state. This isn't new information. This is information that's currently being collected. What this would do is centralize it with the Department of Health and Human Services. The reason that was chosen, and if someone would care to offer an amendment which would specify another agency, I would be more than happy to go along with that as long as this bill gets passed, but the reason the Department of Health and Human Services was chosen is because they have the facilities to do it already and it wouldn't cost any money to do it.

I had some problems understanding what happened to this bill. We went through three work sessions and it looked like we were making some really good progress to develop a way to curb the drug problem, the drug abuse, not only in Washington County, but throughout the state. Then, all of a sudden, it just stopped. The progress stopped. We took a vote, and obviously I was in the minority. From what I understand in our discussions, the biggest problem was the privacy issues. Again, this information is already being collected. This body just recently voted to have the state do health care with single payer without any concern at all for the privacy issues of all of our health, not just the Schedule II drugs. Just Schedule II, that's it. This doesn't talk about any thing other than Schedule II drugs. So I would urge you and I would ask you to please let's have this body pass out something this session which will actually do something about the drug problem in the State of Maine. Thank you.

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

Senator **BROMLEY:** Thank you, Mr. President, men and women of the Senate. The committee did struggle with this because the intent behind it is a good one. The committee did want to enact something. But once again we're seeing the intersect between law enforcement and privacy. We've dealt with that and will

continue to deal with that in this chamber on some other issues. That was a thorny issue for us. I would ask us, before we vote, to simply consider the why, who, and how of this. Why is this coming about? There is a problem with prescription drugs, particularly Oxycontin and particularly in the northern part of our state. Who is going to have access to this data? It says here that the Department of Human Services may disclose at the discretion of the Commissioner some information. It doesn't spell out exactly what. It's not limited in this statute, which is very troubling. The statute does not limit the amount of information that can be collected. It also doesn't clearly say how this information can be used. It says it can be released to the Maine State Police, the Maine Drug Enforcement Agency, and the Attorney General. But how? With a court order? With a search warrant? Or just releasing it? Also any of you that have ever had a prescription of a Schedule II drug will be in a data base. That's troubling to me. It could be any data base housed in the Department of Human Services. There is also a pretty large fiscal note on this. In other states and in this state, there are some other things that we need to consider before we do this. In fact, the manufacturer of Oxycontin is now providing, free to doctors, what they call a tamper resistant prescription pad program. We need to look at that further. We need to look at other ways of using technology and we have to be really careful about thinking that a data base and the collection of information on who is using a particular medication, is going to help this problem. Also this bill does not really speak to the fact that there are legitimate uses for this drug and we might cause people that want to and need to use this for cancer pain and so on to think twice about having their names in a data base. So I urge you to defeat the pending motion. 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. The first thing I'd like to say is that I want to make it absolutely clear that my comments today certainly do not apply to the many patients who benefit enormously from these drugs. They are extremely efficacious medications. They make huge differences in the quality of life for people who need them. What I'm talking about today is that portion of our population, rapidly growing in size, who are abusing these medications, are addicted to them, are preying on other people, are killing our kids with them, and those are the people this bill is trying to target. Unfortunately, the availability of these drugs for the people who truly need them is going to be effected by the fact that we have so far been unable to come to grips with this problem. Hannaford has already said that they will not carry some of these drugs because the risk to their employees is too great to have them in that building. They are a highly marketable commodity by which you can make a lot of money. If you're addicted to them yourself, you need that money to go out and buy more. So this is a vicious cycle that we've created here and we are going to put these drugs beyond the reach of the people who can benefit from them if we don't do something and do it fast to get a grip on this. Unfortunately, one of the other aspects of this that people don't like to talk about is what we call 'impaired providers.' We call them impaired because we don't want to say addicted. But we have a lot of health care providers who are addicted to these substances and have rather ready access to

them. A data base of this sort could be helpful to us in sorting that out.

You are talking to the woman who used to carry her entire world fortune around in her jeans pocket because if I put it in the bank they wanted my phone number. I am seriously interested in privacy issues. I do not see this as a privacy issue. It's an invasion of the privacy of a person who wants to abuse the drug, nothing more than that. We need to use every weapon in the arsenal to come to grips with this problem because we're pretending it doesn't exist in Maine. By the time we're ready to acknowledge that it does, it's going to be way too late. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask you to set aside and forget everything I said yesterday about privacy issues. Four years ago, we established an elder care unit in the Attorney General's Office and it was funded federally through the Human Services Department. One of the pieces of that legislation, which did many, many things, was to set up a registry for the people who become guardians of elderly people so that we could see when Johnny Rotten became the guardian of seven or eight or nine elderly people because that was a precursor to potential exploitation of those people. That has stopped that practice. This is the same thing. We're not expanding or dipping into negating more privacy. It's already being gathered. We can't work any harder, we can only work smarter. Oxycontin is a very dangerous narcotic. People do shop for doctors. People are using a legitimate system that we have set in place for people to have legal narcotics, after advice and consent by the doctor and a prescription. People shop for doctors and when someone's name turns up on this list, whether it's gathered by hand by these agents or gathered in an electronic base, and they see that they are getting four or five prescriptions for Oxycontin from different doctors in the state, that's not for legal use. I think this is proactive. It does two things. One, it gives law enforcement the ability to find who is illegally using the system to obtain these drugs and to sell them for huge profits. Two, in some cases to find, not the individual user, but someone who is shopping for doctors and has two or three doctors and is addicted and get them into a substance abuse program. There is a nexus between crime, burglaries, theft, and drugs. People commit crimes to buy drugs. I prefer they commit those crimes in other places other than Maine to buy their drugs. But the reality is that we're ahead of the curve, very slightly. There is a problem. We're not ahead of that problem, but this is one very good step towards solving it. We deal with it today, in this manner, or we will deal with it tomorrow, which will probably be a need to do through more draconian methods. I'm not an alarmist, I'm a realist. I worked for the Drug Agency for a few years. There is a drug problem. It is our responsibility to protect the citizens of this state. This is a legitimate tool. It does not violate the privacy of anybody who is legally obtaining these drugs. Now on a pure philosophical point of view, does it violate the privacy of someone obtaining these drugs illegally? I don't think so because when you sign on that dotted line that you received these drugs, you know that you've put your name on the line. The reality is do we want to do something seriously to prevent drug abuse from spreading in this state or do we want to sit on our laurels and our principles and

say there is a higher realm going on here, and regardless of where this problem takes us, we're not going to do anything because we don't want to, technically, violate something. If we do not do something today, we'll have to do it tomorrow and it will cost more money and more lives will be ruined by the time we get around to doing it tomorrow. Now is the time to draw the line in the sand and say this is a legitimate method to keep our people safe, to identify uses, and more importantly, to get the dealers, who are selling these things for huge profits, off the streets and into a substance program for help or into a jail cell. Thank you.

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

Senator **PENDLETON:** Thank you, Mr. President, men and women of the Senate. I must have bumped my button because I was just reading this amendment. I don't think this is going to do what we think it's going to do because it says here the Department of Human Services may compile, and the statistics will be going to the Department of Human Services you understand, a statistical report from the information contained in the data base. The report may not include information that identifies any practitioner, ultimate user, or other persons administering a controlled substance. So I think if we're saying that we want this bill to detect who is using the drugs or who is administering or even prescribing them, according to this, what I'm reading, that's not going to happen. So I think maybe we could be barking up the wrong tree by accident. Thank you.

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

Senator **RAND:** Thank you, Mr. President. May I pose a question through the chair?

THE PRESIDENT: The Senator may pose her question.

Senator **RAND:** To whomever can answer, I would like clarification as to what data is collected right now as far as those who are prescribed Schedule II drugs and those who do the prescribing and an explanation of how this bill would change that in whatever way it changes it? Secondly, I'm not clear as to who has access to this information and what criteria is used before the information is released. Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Rand poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I can't respond to the whole question, but I think I can to part of it in that the existing confidentiality rules, to my understanding, are not effected by this proposal. The same types of provisions, specifically that this amendment would allow for communication in this investigation amongst pharmacists, physicians, and dentists already exists in the confidentiality law that we most recently passed. So there isn't a difference in terms of the distribution of that data to health care providers.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I'd like to address the concern the good Senator from Cumberland, Senator Pendleton, had. The amendment, if you would permit me to read, additionally requires the dispensing facility to report, at a minimum, the pharmacy prescription number, the pharmacy number, the patient identifier which may include the same name as the customer, the customer's date of birth, the date the controlled substance was dispensed, the metric quantity of the controlled substance, the national drug code of the controlled substance, estimated days of supply of the controlled substance dispensed, and the prescriber's United States Drug Enforcement Agency registration number. So it does actually do what I was purporting it do earlier. That is on Committee Amendment "A" in the Minority Report, filing number H-630. 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. Let me begin by indicating that I support the concept of this legislation. In reading the Committee Amendment, I am a little surprised that all of a sudden this has shifted from the Maine Board of Pharmacies to the Department of Human Services. The committee that has jurisdiction over that department has had absolutely no input, whatsoever. I was reading the bill, but in reading the amendment, I have some real concerns about the fact that this is all going to be done without rules being adopted that would provide for the process by which this is going to be done. I would suggest two things, perhaps. One of two things that we do right now. I am a supporter of the concept. I would suggest that this bill be referred to the Committee on Human Services or that this be amended and tabled until such time that the committee can work with it because we are doing something to the department that we have told them not to do on something else. So I have a little concern that we're going at crossed purposes here.

The Chair ordered a Division.

Senator **MARTIN** of Aroostook moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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 Full Disclosure of Prescription Drug Marketing Costs

H.P. 778 L.D. 1022
(S "A" S-304 to C "A" H-517)

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

ORDERS OF THE DAY

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

Bill "An Act to Authorize Release of Certain Information Pertaining to the Certification, Authorization and Approval of Educational Personnel" (EMERGENCY)

H.P. 1295 L.D. 1765

Tabled - May 31, 2001, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **DAGGETT** of Kennebec to **INDEFINITELY POSTPONE** Committee Amendment "A" (H-532), in concurrence (Roll Call Ordered)

(In House, May 23, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-553) AS AMENDED BY HOUSE AMENDMENT "A" (H-572)** thereto.)

(In Senate, May 31, 2001, on motion by Senator **ROTUNDO** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-532) **READ.**)

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

Senator **MILLS:** Mr. President, may I pose a question to anyone who might be able to answer it?

THE PRESIDENT: The Senator may pose his question.

Senator **MILLS:** Could someone simply refresh my memory, just briefly, on the substance of Committee Amendment "A" that we are now seeking to strip and dispose of?

THE PRESIDENT: The Senator from Somerset, Senator Mills 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. Committee Amendment "A" with filing number H-532. The Education Committee spent quite a bit of time on this. At the beginning of the session we really didn't think we'd be in this position. Numbers and figures were illegally leaked and so that's why we're in this position. We put all the interested parties in a room and almost threw away the key. What Committee Amendment "A" does is call and says that it will be legal for the Commissioner of Education to release two numbers.

One number is the number of people fingerprinted. The second number is the aggregate number of school personnel who are no longer qualified or approved to either teach or be the business manager or drive school buses, etc. Those are the only two numbers that will be released under this Committee Amendment. Thanks.

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

Senator **MILLS:** Thank you, Mr. President, men and women of the Senate. If I understand the posture of the current motion, if we defeat this motion than we will be rehabilitating the work of the committee. It will then put the bill in a posture to authorize the release of these two elements of information that many of us regard as important facts for making an ultimate determination in the feasibility of fingerprinting generally. A vote of no on the pending motion would put us on the track towards a bill that would give us the information that we need. If anyone can respond, if they wish, to my question as to whether that is the case?

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

Senator **NUTTING:** Mr. President, ladies and gentlemen of the Senate, yes, I would agree with the good Senator from Somerset, Senator Mills. The motion is to Indefinitely Postpone and so if we defeat that motion, than the Committee Amendment would go forward. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would like to, for the record at least, get one point of view in. I'm not quarreling with the good Senator from Androscoggin, Senator Nutting. The figures were illegally released. If we're talking about the same instance, it was the Department of Public Safety who was asked and they released a figure. It wasn't until after that fact that the Department of Education went to the Attorney General to get a ruling. So to characterize these figures as being illegally leaked, they were asked a legitimate question during a legitimate public hearing. They answered that question in good faith. They were then later advised, after the ruling by the Attorney General, that the confidentiality law covered all of it. I'm very confident, had they known that, they would not have responded. That is, at least, a very limited perspective, from my point of view. I just wanted to set a portion of the record straight. In no way am I being critical of the good Senator. I'm just critical of a couple of the words that may have been used by him and some others.

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

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would encourage you to join us in voting against the pending motion. What we need is the information so that people will know the results of the existing fingerprinting and that's all this is going to do. So please vote for

us to be able to release the information so that people will be able to understand and determine whether or not it is necessary to repeal fingerprinting. Without this information, we are unable to make sound decisions on going forward. So please join me in voting against the Indefinite Postponement of the Committee Amendment "A".

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

Senator **NUTTING:** Mr. President, ladies and gentlemen of the Senate, in response to the good Senator from York, Senator McAlevey, from my experience with this bill when it was originally passed, everyone was at the table when this bill was originally passed. There was a very clear understanding that at no time was anyone ever supposed to release any information. Thank you.

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

Senator **MARTIN:** Thank you very much. Let me attempt to draw more confusion or less confusion of this process. There has been some discussion about trying to give people an opportunity to offer an amendment. The amendment conflicts with the committee amendment. Senator Longley would like to offer that amendment. The two options are to adopt Committee Amendment "A" and then for the Senator to offer her amendment. If her amendment were to be adopted, then we could go back and reconsider adoption of Committee Amendment "A". It's just a process. For lack of trying to prevent getting ourselves out of this mess, let me suggest that we vote against Indefinite Postponement, which will adopt Committee Amendment "A". If the Senator offers her amendment and that should prevail, than we can go back and reconsider adoption of Committee Amendment "A".

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

Senator **SMALL:** Thank you, Mr. President, men and women of the Senate. I just have to make a clarification on some of the discussion that has been going on about the confidentiality. I think I'm the only member here that served on the Education Committee the entire time that this issue has been discussed. Each and every session it was never my understanding that this information and the aggregate was confidential. I think if you talk with the other members of the committee, at least from the most previous session when we dealt with this issue, we put in language to ensure that individuals had absolute confidentiality. We did not want the release of names. We did not want the release of schools. We did not want in any way it to be tied back to the individual who might come up against this. But it was never my understanding, and I don't believe anybody else on the committee who supported the legislation would say it was their understanding, that we were not going to have access to the information in the aggregate that was non-identifying so that we'd know how effective this bill was. If anyone in the other body has got information to the contrary, than I would be happy to listen to that. But in all the times that I was dealing with this, I never had the understanding that this information in the aggregate would not be available and would not be released. I believe that is why the

Department of Public Safety was also misguided in their release of the information. I don't believe they had ever heard anything in our committee during our deliberations that would lead them to believe that this information, in the aggregate, was not going to be available to the public. 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. I did not serve on the Education Committee during this time but I certainly have heard a lot about this issue. My position hasn't changed since we originally had the choice on how we vote on this issue about fingerprinting. My fears at the time, I think, have come to fruition. Information is being released that is giving some impression about what is going on in our schools. Whether it is accurate or not we don't know. We will never know whether we release this information or not. Not having served on the committee, but just sort of sitting on the outside and sort of absorbing what the general public has received, I feel as though most people feel that the reason we are fingerprinting, the reason we are putting teachers through this process, is because we didn't want our children to be exposed to criminals who have committed some crime, sexual crime, against children. But I understand now, with fingerprinting, and I have a little bit better understanding of the law, that if, for example, a person lives in Arizona or some other state and they've committed some white-collar crime in which they might have served a year or so in prison, having to do with bank bonds or something, whatever the white-collar crimes are, and they came to Maine and began teaching, let it be the best teacher in your district, and then is fingerprinted, that teacher would be automatically be denied certification. That's my understanding and if that's not correct, than I hope someone will correct me.

So what we're in the position of doing is now releasing this information and saying that X number of teachers and others were fingerprinted and Y number of people have been denied their certification without a lot of the other details. Just these numbers. I think what that will do is give the impression that, whatever that Y number is, that is the number of sex abusers in our schools when, in fact, some percent of that Y number is going to be people convicted of some white-collar crimes who have served their time, paid their debt, and have now been automatically denied. I suspect that probably in the Education Committee somewhere along the way they said, 'well, if they really are posing no real threat to children, than they can have a right to appeal and that the appeal will probably take that into consideration and then they will be able to get their certification and then continue teaching.' But the bottom line is that we're dealing with a very emotional issue when it comes to our children. I have three small daughters in public schools right now. I'm not sure if even releasing the data is in the best interest of what we're trying to accomplish.

The amount of money we're spending on this project and the information that is being generated and put out there, particularly without a whole lot of detail and to allow people to come to their own conclusions about why Mr. Jones, or whoever it might be, was denied a certification. Some years ago, at the institution I currently work at, I was responsible for the security department. I always heard the expression when people wanted to begin certain programs that if we could prevent just one whatever it might be, one bike theft, one crime of whatever the nature is, than we ought

to do it, it's worth the money and we ought to do it. Usually, when things got so emotional and got to that point, you found that the solution wasn't always the best solution and use of money wasn't always the best use of money. I could give you some examples, but I still work for that institution. My fear in all of this is that I'm not sure if are really getting to the heart of what people feel the problem is. We've clearly identified what the problem is and how to best solve the problem. What we have instead is somebody's best attempt to come up with this, maybe done in other states, approach of fingerprinting.

What we have today is mess. Clearly a huge mess. We've got some teachers who have been fingerprinted and are on 'the list'. We've got people releasing numbers who weren't supposed to release numbers, creating sensationalism. We've got a mess. Here we are to sort it all out. Frankly, I don't know where we are or where we are going in this mess. But I think that when you start suspending people's civil rights, which is how I view this issue, and granted there are many people who have been fingerprinted for other jobs as they enter that job, whether they be attorneys, or whether they work for law enforcement, understanding that has been the standard procedure and must work then, I think that when we decided to do that, what we were saying to a group that is not in law enforcement, not in the military, that does not work for the CIA, or the irregular standards, but just a group of teachers. I don't mean just a group of teachers, I mean a group of teachers. Teachers who have spent their whole lives, by in large, and you all know the majority of these teachers, 99%, committing themselves to children, who probably could work someplace else for more money. I got my teaching license. I didn't go into teaching. Their honesty, their years of service, their integrity, they feel, is called into question. Now we can sit here and say that their integrity is not being called. That's not our intent. But it is the way it is perceived. There were warnings throughout the whole thing that information was going to leak, who was going to use the information. Guess what? It happened.

So clearly you know what my position is on this issue and how I think that we have taken a group within the state and have done everything we can, in my mind, to humiliate them, to make some quit their lifelong careers, or to simply just buck up and go get their fingers black and be done with it. Not liking it, but hey, gotta do it, gotta pay the bills. We're making policy for the State of Maine. They don't take our finger prints. In that example of how much is enough to save one person or to save one situation, I had a bill a few years ago that I got a lot of grief from concerning dog bites. I tried to put some money in the budget that would help teachers teach children about dog bites. Did you know dog bites is the number one injury to children in this country? Number one according to the National Center for Disease Control. But we couldn't find \$15,000 to \$20,000 to teach about it. But we're finding all this money to deal with something that people are finding just abhorring to think that something could be happening in the schools.

Let's back off and figure out how we're going to solve this problem. Try to work with teachers as part of the team. Got to mend those fences and go after the problem instead of going after teachers. Thank you, Mr. President.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I was thinking about moving that we place this on the Special Appropriations Table so we could have some time to figure it out, but that's not a good idea. If you would turn to page 14 of the hymnal, here is what I think. If somebody could tell me if I'm right or wrong that would be helpful. Committee Amendment "A" is a fairly small refinement of the original bill that tightens some language, makes some modest improvements in terms of protection by clarifying that it is the Commissioner who would determine the ineligibility of the applicant, and it clarifies that we're talking about aggregate information and not individual information. So that, in my opinion, is an important but relatively modest adjustment to the original bill. If this motion prevails, we have lost that modest improvement. So I'm not sure I see a value to that. In addition, it says 'in concurrence' but I can't identify that from the actions taken in both bodies. It appears to me it would put us in 'non-concurrence' since the House adopted that amendment. That's the piece that I don't get. H-553 is the piece that repeals fingerprinting. H-572 is the part that says the records have to go back to the person who was fingerprinted and not be kept on file, etc. So it seems to me that we are in as strong a position supporting Committee Amendment "A" and working from there as we would be by repealing Committee Amendment "A" and ending up with the original bill, which is not as good a version, and having to work from there. So I would encourage you to oppose the pending motion to Indefinitely Postpone Committee Amendment "A".

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

Senator **SMALL:** Thank you, Mr. President, men and women of the Senate. There has been some reference as to what the violations would have been to have caused the Commissioner to have denied certification. I just wanted to point out to people that they have a yellow hand-out. That actually lists what they are. It's not the prior crime that may have been committed ten or fifteen years ago and it's not the youthful transgressions that we may have all committed back many, many years ago for some us, longer for others. But it's very recent violations or violations that directly effect children. I won't go through it, I won't take your time up. But please look at that so that we're all understanding exactly what the record has to have been for someone to have their certification pulled. That's the number of people who will be disclosed. Not everyone who happened to have a violation in their past. Thank you, Mr. President.

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

Senator **MCALVEY:** Thank you, Mr. President, men and women of the Senate. I hope I can try to bring some clarity to this very dynamic issue. I think there are two pieces to the dynamics of this issue. We need to bifurcate them. Let's set aside the merits thereof or not thereof for fingerprinting. Let's look at why this initial bill is before us. Initially, the Department of Public Safety came to the Criminal Justice Committee with the Part I Budget and wanted almost a million dollars to continue this program. The committee of jurisdiction has some responsibilities, so we said all right. How many have you fingerprinted? Legally we can't tell you. How many more do you have left to finger print? Legally we can't tell you. How many more years are we going to

have to do this? Legally we can't tell you. We asked both the Department of Education and the Department of Public Safety, is there anything you can tell us about this procedure that you're asking us to spend almost a million dollars on? They said no, we can't discuss any of it. Regardless of how individual members felt in the Criminal Justice Committee, some wanted a whole lot of information and some were kind of chagrined that we couldn't even get some basic information, our duty as policy makers is to decide if the program is needed. Based on that, does it warrant the amount of money that we appropriate. To do otherwise would not be doing our job properly. So we asked the Education Committee to work with the Department of Education and the Department of Public Safety to see if they could come up with some language that would allow us to get some basic numbers. That's why we are where we are today.

Confidentiality. I sponsored the original finger print bill in the 118th Legislature, which passed both bodies. It laid on the Appropriations Table and was not funded. NEA supported it then. There was no opposition. The second bill came up last session. I was a co-sponsor. Probably that bill had the most debate or acrimony of discussion of any piece of legislation I've ever experienced in my short tenure here. The last minute, the last hour, an amendment which was offered in the other body, which afforded individual people who would be fingerprinted more protection of confidentiality. It was my understanding that the aggregate numbers could be released but not the specific numbers by district or by individual.

Now the reality, going back to this first point that I talked about in the bifurcation of these issues. We should not be spending money on any program that we can't talk about to measure its progress or lack of progress. Forget about where you stand on the merits of fingerprinting. The issue is do we want to get some legitimate based data to make a further decision later on about whether this program should continue or not? I'd rather look at some base data to see how much more it's going to cost, how much longer we're going to be doing this.

Let's switch gears and go back to the merits of fingerprinting. I won't belabor you with this. Thirty years ago this month I graduated from the University of Maine. I've been an educator most of my life. Public school, teaching through the police academy, now teaching part-time at the university. I've many good friends that are educators. Yes, I have a bias. I investigated child abuse as a police investigator most of my police career. But I tell you, 99.9% of our educators, and when I say the work educators I'm talking about support staff as well as our teachers, they are all role models, are there for the right reasons. They do a good job. They are there because they have a tremendous talent to impart knowledge, to get our youngsters to want to learn, to grow. But unfortunately there is only 1/10th of 1 percent of the people that are there, and I won't call them an educator because they are not, they are there for all the wrong reasons. They are there for one reason and that is to find children to befriend, compromise, and exploit. Masquerading as support staff or educators. That is the 1 percent I want to prevent from continuing in this profession or coming into it. Not one educator that I know would allow a child to run into a burning building for fear of death or permanent scarring for life. If we were losing 10, 12, 14 children a year to bad burns because of improperly sprinkled schoolrooms and rashes of fires, we would be incensed, we would be doing something about it. Well I put to you, as both a survivor of abuse and an investigator of abuse, sexual exploitation leaves a person scarred for life. We have it

within our ability to prevent anyone from having that happen again. I don't want to put our educators in a tough spot where they feel put upon, but I don't know of any educator who would stand by and let a child run into a burning building. This is the same equation. In the last 15 years, a number of teachers, educators, and support staff have lost their license because of disclosures to the department through Superintendents to the Department of Human Services, through parents for inappropriate behavior. Since the advent of this program, up until yesterday, and I can't tell you why up until yesterday and not today, not one individual has lost their license in the last year and a half because of disclosures. There haven't been any disclosures. I submit to you it's working. I don't care how many children we save, 1, 10, 40, or 50, the reality is our children are safer today in our schools than they were two years ago.

That's my pitch on the necessity of this law. Let's go back to the reality. What we choose to do as an institution is up to us. The more information that we're armed with, the better decisions we can make. To make decisions about the merits of a program by being unwilling or afraid to look at raw data that the department will present to us in a meaningful and non-threatening manner to the profession is nothing that we should fear. It is nothing that we should fear. What we should fear is who is out there abusing our children or our child today. Thank you.

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

Senator **MILLS:** Mr. President, men and women of the Senate, the situation is really extremely simple, in my view. We spent well over \$2 million, we fingerprinted probably nearly half of the people in the public school system. As a wild guess, we may have fingerprinted 30,000 to 35,000 people by now. We know pretty much for a fact that some number of these folks have been denied certification, probably for a host of reasons. But they've been denied certification under a set of objective standards that the department has issued, clearly and unequivocally. For all that we know, they've done a good job at adhering to their standards and of rejecting certifications only where it is clearly appropriate based on objective data, based on records, not based on innuendo or speculation. Now we, as a sort of board of directors for this very large educational system, are tempted to say, 'oh, we don't want to know, we just want to spend.' We want to have spent the \$2 or \$3 million on this project, repeal it, and then never know what the results are. I think that is not a mess, that's the height of irresponsibility. If we were a private corporation, the stock holders would fire everyone of us. 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:** Under my hypothetical situation, Mr. Jones, who possibly served a year in prison in Arizona for some white-collar crime less than three years ago, is now teaching and if fingerprinted, is denied certification. Number one, is that correct? Number two, would that then appear as that number of people who were denied certification?

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 Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. Under that hypothetical question, Mr. Jones would have a right to appeal and so it would depend on whether or not the appeal was in his favor or not. I think some of that might depend on the nature of the white-collar crime. If that person were working in the office of the school, that might be something that would be of concern and that might be a reason to deny the certificate or the school approval or whichever category they come under because this isn't just for teachers. I think we would all guess that driving violations of an extreme nature might not be a problem for someone that was in a classroom or someone that worked in the cafeteria, but it certainly would be of concern if it was someone driving a school bus or would at any time be driving children to and from. That would be one of the instances that the denial would be, only if it was related to the position held and they would have a right to appeal. If they lost the appeal, yes that would be one of the numbers that would be in that aggregate.

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I just want to speak to the issue of fingerprinting in general. I just want us to be clear that if your goal is to prevent child abuse, this will not do it. Pure and simple. What will prevent child abuse is us spending that kind of money on actually giving young people the information they need and the support they need to make decent decisions and to have the support to report something. That's what is going to deal with child abuse. Fingerprinting people is going to give everybody the impression that just because somebody has been fingerprinted, everything is hunky-dory. I think that is an unfortunate result. Thank you.

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

Senator **WOODCOCK:** Mr. President, ladies and gentlemen of the Senate, I am, as the good Senator from Kennebec, Senator Gagnon, referred to earlier, just a teacher. I have been fingerprinted, but I have not been fingerprinted for recertification. I have been fingerprinted as a young soldier going off to Vietnam. I was more than a little surprised to understand that they wouldn't accept those fingerprints as part of this process. Over 30 years ago, I went off to war. For the last 23 years, I've been at war in the classroom on a regular basis. They won't except my fingerprints to verify that, for some reason, I have not committed any sexual acts against young people. I was bothered by that. I can understand the reasoning because I was told that I could have altered those fingerprints. I suppose somehow I could have crawled into the St. Louis military collection agency of the Department of Defense on a quiet Saturday night when no one was guarding it and changed my finger prints on the record. I suppose I could have altered my fingers as they stand today. I hope that is not a problem, Mr. President. However, I'm offended by that. I have been from the beginning. This law, has from the start, I feel, been a poor application of good intentions. No one in

this body, no one here today, would ever seek to place someone in a classroom who is going to sexually abuse a child. No one would seek to do that. We differ on this issue. Should we or should we not continue this program? Has it worked? Has its intent been followed? I was not here as part and parcel of a decision that was made earlier. I would share with you very briefly, if we are to accurately identify and accurately use the fingerprints, if we continue with this process, we should, first of all, if possible, prosecute those people found in violation of abusing children. We do not do that currently. Many are simply asked to depart the school and not have their contract renewed, thereby nullifying their fingerprints, fingerprint from here until eternity. That person, you have not identified that offender who was caught in the act as being a sexual offender. We must eliminate the atmosphere of guilt which surrounds the members of my profession. I can assure you, that when this fingerprint law was first put into effect, in the teachers' rooms in Maine there was much discussion about what, suddenly, we had become in the eyes of the general public. We had become violators. The figure which has been leaked, inappropriately I maintain, now again causes people in the State of Maine in the teaching profession to be inappropriately perceived as offenders. So today, this legislator feels an extra burden on his shoulders. The burden of the teaching profession. I do not feel the law has been applied appropriately. I do not feel that we should not release the figure. It's already been released in some sense. The time has come to release the figure. Don't hide anything when it comes to the figure and take a closer look at a better application for this law. My profession has not had its civil rights violated. I do not believe that and I would disagree with the good Senator from Kennebec, Senator Gagnon. But we have been burdened. We have been discolored. A profession as honorable as any profession in this land. The time has come, I feel very strongly, to do some justice to this law. A bad application of good intentions. A long time ago in New England we started a tradition which we uphold today through the mismanagement of this fingerprinting law. The New England witch hunt continues. 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. The original intent of this bill was to get the information back on the fingerprinting and not to embarrass or cause pain to any of our existing teachers. But what it is trying to do is to protect our children and our people in Maine from sexual predators coming here from other states who have been convicted of child abuse and assault and have been from a state that required fingerprinting. If by us requiring fingerprinting, they will not be allowed in this state because we would be able to stop them from coming into our schools. By us repealing this, what it is going to do is open the doors to these predators from other states, know that Maine is a state that does not require fingerprinting, there is a place for them to go. Last week, or two weeks ago now I believe, when the House acted on this, and it was in the Bangor Daily News, in the upper left hand corner. In the lower right hand corner was the court case of a person from the teaching profession who had been convicted of assaulting many young boys and who will go to prison. Without the fingerprinting law, when this young man comes out of prison, he will be able to go anywhere and get a job because there will be no record of what he has done. Just this past week, there have been

cases that we've been reading about in the paper where people in the teaching profession and in our schools have been convicted, of again, sexually assaulting young people. The fingerprinting will keep those people from obtaining jobs when they come out of prison and it will keep them from coming into our schools and being active around our children. No, it is not going to prevent child abuse. That is not the intent in its entirety. But if it can effect a small fraction of these sexual predators that are harming our children and ruining their lives mentally, then we need and we owe it to ourselves to at least look at the information, of the numbers that have been fingerprinted, so that we, as legislators, and the people can better understand if we need this or don't we. To answer your question, yes. Anybody who has had a felony within the last three years would be denied. However, they are entitled to an appeal, as the good Senator from Sagadahoc, Senator Small, has told you. But it would prevent any conviction involving child abuse, assault, or exploitation from receiving recertification or certification. What we need to do is to look at the numbers and it will tell us whether or not we need to repeal this law or not to repeal it. Without doing that, we have got the guilt on our shoulders of opening the door for these predators coming in here from other states, from existing people who are serving sentences coming out of jail, and going back into our school systems. Their intent is not to provide good education to our children. There is only one thing on their minds. So I would ask you, please, not to vote for the Indefinite Postponement. What is wrong with us looking at the information? Why can't we look at the information and make a legislative decision on whether or not we need to repeal this law? Without the information in front of us, we're making a decision without really having full access to all of the information necessary to make a sound decision on behalf of our children in this state. So please join me in voting against the Indefinite Postponement.

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

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. All students of ethics sooner or later study the, I guess it's several decades old now, case of Tylenol. When, in the stores, Tylenol packages were vandalized and a foreign substance, I don't know if it was poison, was added. Tylenol, early on in the case, publicized the problem, and recalled the Tylenol at great short term expense to the company. But as the students will study, the argument is over the long term benefit of the reputation of the manufacturer. It seems to me, obviously, the bill before us has to do with the release of information. We're not really debating, I don't believe, whether fingerprinting is good or bad. Clearly the results will be debated and discussed irrespective of what we do. We have two choices. We can destroy the data. But I predict the response will be 'what are they hiding?' I would propose that the better course is to provide the numbers. That would allow the people who are effected to own the numbers, control the numbers, and as a recent successful President was so successful at, to put the numbers behind you. Sitting here in the front row because we're not allowed to look around too much, I have regularly assumed the position in my chair and I tend to focus on that center window. I must tell you, during the course of the debate I keep envisioning, from my childhood days, three little monkeys sitting on that ledge. One of them has their hand over their mouth, speak no evil. One of them has their hand over their ears, hear no evil. The third, obviously,

has their hand over their eyes, see no evil. I fear if we don't publish this information, we will metaphorically be assuming that position as well. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I find the analogy of the three monkeys very interesting. I won't tell you where the forth monkey is sitting or what he is doing. That is what we are trying to eliminate. There is another issue here that goes beyond, and it is an unintended consequence. I will not mention the number that was quoted earlier that some people think was leaked because I don't want to be party to violating the state's confidentiality law. But those of you who have certificates or had certificates or had licenses to work in a school district recall the application you filled out. It asks, 'do you have a criminal history?' On the bottom it says, 'any fraud, falsity, or omission may result in denial of a license or revocation of a license.' Now let's put this into perspective. Somewhere between 1,000 and 2,000 educators, probably on the lower side, either lied or forgot, or conveniently forgot that they had been convicted of a criminal offense when they applied for a certificate or a license. They are the culprits here. Does that make them a bad person? No. Are they guilty of anything? Aside from their offense, no matter what it is, it could be something minor or something heinous, they are guilty of bad judgment by not disclosing the full truth. Probably 99% of these people will not fall into the category of the people that we are looking for, to keep away from our children. People make mistakes when they are younger. People make mistakes and learn from them. The defense that is 20 years old or 10 years old certainly, from someone who has a good track record from that period of time on, it should not be held against them. But if we have an individual who is convicted of selling drugs last year, do you want them in your school system? I don't think so. That is a separate issue the department has to deal with in terms of whether they are going to extend or renew or cancel certificates and licenses for those who forgot to list on their application of their license their criminal history. But the reality is, I'm not going to let that small number influence the respect and the admiration I have for the majority of people in that profession. They are there for the right reasons, they are doing a good job. Our children are safer today than they were yesterday. If I had, in my wildest dreams, thought that people would take this big of offense to this issue when I submitted the legislation, I probably wouldn't have submitted it six years ago. Until someone comes up with a better method to keep people from away from coming in here for one reason and one reason only, to find where children live and reside or work and learn. For one reason and one reason only, which I will not mention, then this is what we have. Is it perfect? No. Has it alienated the profession? It probably has. I feel bad about that. I really do. But has it protected our children? It sure has. Do I feel bad about that? No. I gather some comfort from that. If you are going to replace this, find something better to replace it with. To those who feel put upon, to those that feel like they've been made criminals, please don't feel that way. Please feel that you, in your very small part, by putting your finger on that piece of paper with a piece of ink attached to it, has made some child somewhere in this state safer than they were before you did that.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Daggett to Indefinitely Postpone Committee Amendment "A" (H-532). 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 (#122)

YEAS: Senators: CATHCART, EDMONDS, GAGNON, RAND, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: DAGGETT

6 Senators having voted in the affirmative and 28 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAGGETT** of Kennebec to **INDEFINITELY POSTPONE** Committee Amendment "A" (H-532), in concurrence, **FAILED**.

Committee Amendment "A" (H-532) **ADOPTED**, in **NON-CONCURRENCE**.

House Amendment "A" (H-553) **READ**.

On motion by Senator **MARTIN** of Aroostook, House Amendment "A" (H-553) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

On motion by Senator **LONGLEY** of Waldo, Senate Amendment "A" (S-330) **READ**.

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

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. Thank you for being patient as I try to figure out these procedural issues on this complicated bill. This amendment does two things. It's very simple. Basically, the first thing it does is says that for the dissemination of information related to conviction data, it is illegal to disseminate that information. That is confidential. It's a Class C crime. The second piece of this amendment says that when the Committee on Education meets and gets a report back from the Department of Education, add to that report back a report back from the State Bureau of Investigation, the SBI, on what delays were happening and why. The reason for that is that we've heard, from various constituents, that they were tagged. That they went for their finger prints and

then they were tagged. There are very, very specific types of conviction data that the SBI and DOE are supposed to be looking at. Sometimes they go beyond that, I think. This is an attempt to keep everyone on focus. So again, summarized, this amendment does two things. It says this information is not to be disseminated. If it is disseminated, it is a Class C crime. It's not okay to disseminate, it was meant to be confidential. Secondly, when the DOE and SBI report back to the Committee of Education, the committee of jurisdiction, and gives their report, in that report, account for those delays and explain. This is an attempt to keep them focused on this precise conviction data that they are supposed to be looking at and not anything more. Again, that is my reaction to the words we're hearing about teachers being tagged somehow by suggesting they are bad people and have done something wrong. That's not at all what we want to convey to them. Thank you.

At the request of Senator **MILLS** of Somerset a Division was had. 12 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ADOPT** Senate Amendment "A" (S-330), **FAILED**.

At the request of Senator **DOUGLASS** of Androscoggin a Division was had. 25 Senators having voted in the affirmative and 6 Senators having voted in the negative, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today 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 - June 7, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**

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

(In Senate, June 5, 2001, Reports **READ** and on motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, June 6, 2001, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in **NON-CONCURRENCE**.)

Senator **DOUGLASS** of Androscoggin requested and received leave of the Senate to withdraw her motion to **RECEDE** and **CONCUR**.

On motion by Senator **DOUGLASS** of Androscoggin, the Senate **ADHERED**.

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

An Act to Ensure That State Employees Receiving Workers' Compensation and Filling a Limited Period Position Remain in Their Respective Bargaining Units

H.P. 592 L.D. 747
(C "A" H-547)

Tabled - June 4, 2001, by Senator **DAGGETT** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, May 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-547)**, in concurrence.)

(In House, June 4, 2001, **PASSED TO BE ENACTED**.)

On motion by Senator **EDMONDS** of Cumberland, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-547)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-547), in concurrence.

On further motion by same Senator, Committee Amendment "A" (H-547) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-328) **READ**.

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. This bill is a bill having to do with state employees and those folks who have been put in limited period positions. I want to add this amendment because of the piece of work that

has been worked out by all parties involved to make it more narrow and thereby allow people who are put in these limited period positions to remain in their bargaining unit but to not have that influence their work search or work assignment or issues related to Workers' Comp. So I think it solves a problem that was in the bill. I hope you will support its adoption.

On motion by Senator **EDMONDS** of Cumberland, Senate Amendment "A" (S-328) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-328), in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Bill "An Act Providing Funding for the Office of the State Fire Marshal and to Increase Certain Fire Inspection Fees" (EMERGENCY)

H.P. 1368 L.D. 1825

Tabled - June 7, 2001, by Senator **MCALLEVEY** of York

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence

(Committee on **CRIMINAL JUSTICE** suggested and ordered printed.)

(In House, June 6, 2001, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In Senate, June 7, 2001, **RULES SUSPENDED, READ TWICE**.)

On motion by Senator **MCALLEVEY** of York, Senate Amendment "A" (S-331) **READ**.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. This changes one line in the Committee Amendment. As some of you know, we had a shortfall in the Fire Marshall's Office this year that is funded solely by the Maine Fire Premium Tax. Rather than raising the tax, to the credit of the industry, the insurance industry who writes fire insurance came forward and said they would voluntarily do a self assessment to make up that shortfall. Initially, when the Committee worked, we wanted the industry to make a note on the billing that their bill was increased for this shortfall on this one time assessment, one time assessment only. The Committee met again the other day with the industry and found out that the one time assessment that they voluntarily agreed to do is almost half a million dollars, which, much to their credit, alleviates a major problem for us. But to do this advertising, to do this disclaimer, would cost them way and above that, beyond the assessment. The Committee agreed, and felt, that it would be best if we don't require that. Hence this amendment today, to strike that one line requiring a disclaimer. In

all reality, if the disclaimer was required, then they would be saying your bill went up 47¢ because of a one-time assessment by the Maine Legislature. So this changes that and it gives them the ability to send the bills out without occurring an additional expense of changing their language on their bills. I must commend the industry. I've been one of their harshest critics at times over the past few years when dealing with the Maine Fire Premium Tax; that's what funds our Fire Marshall's Office and also our Maine fire service training. But I must commend the industry. They came forward voluntarily with a number of options which we worked on until we came up with this. I think we've turned a corner and I have acknowledged the partnership we've formed with them to get a tough job done through their help and assistance.

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

Senator **MARTIN:** Thank you, Mr. President. May I pose a question through the Chair for anyone who may answer?

THE PRESIDENT: The Senator may pose his question.

Senator **MARTIN:** I guess I'm really pleased that the industry is willing to deal with the one time assessment, but I would pose a question as to whether or not this is going to be a part of the profit line of the industry or if it is going to come out of our pockets when they reassess it and do their rates?

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 York, Senator McAlevey.

Senator **MCALLEVEY:** Thank you, Mr. President. I thank the good Senator from Aroostook, Senator Martin, for the question. Those are two good questions. One answer is that some of the members of the industry are going to eat it. They are going to pay it themselves. The other answer is that there are going to be some that will be passing it on to the rate payers and call it an assessment tax or a special fee. A tax is a tax. It walks like a duck and talks like a duck. But the reality is we didn't feel that we should be coming to the General Fund and there is an emergency on this and if we don't get this funded, then we will literally shut the doors July 1st. I thank the good Senator for prompting those questions. Those were things that should have been addressed earlier in my remarks.

On motion by Senator **MCALLEVEY** of York, Senate Amendment "A" (S-331) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-331), without reference to a Committee, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Bill "An Act to Facilitate the Implementation of the Enhanced 9-1-1 Emergency System" (Emergency)

H.P. 1098 L.D. 1467
(S "A" S-315 to C "A" H-442; S "A" S-252;
S "B" S-292; S "C" S-306)

Tabled - June 7, 2001, by Senator **FERGUSON** of Oxford

Pending - motion by same Senator to **RECEDE** and **CONCUR**

Off Record Remarks

(In Senate, June 4, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY SENATE AMENDMENT "A" (S-315) thereto AND SENATE AMENDMENTS "A" (S-252); "B" (S-292) AND "C" (S-306), in NON-CONCURRENCE.**)

(In House, June 6, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY HOUSE AMENDMENT "A" (H-687) thereto AND SENATE AMENDMENT "A" (S-252), in NON-CONCURRENCE.**)

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. My knowledge about what was going on with 911 and its funding mechanism until last week was zero. Then, having raised the issue, it has amazed me what I was able to discover in such a short time. I am amazed on how, frankly, the citizens of Maine, through assessments on their telephones, have been fleeced. Let me try to describe to you some ways in which that has happened. Apparently, by rules that have been established by individuals over the years, you're assessed so much per telephone line. Of course, if you happen to have more than five, you don't pay any more. So if you have 500 telephone lines, you pay for five. If you have three in your house, you pay for all three. Very fair, I think. If you believe that, I've got something I can sell you real cheap. Then I find how much money we've been spending putting the PSAPs, and they ought to be called something else, around this state. When you stop and think that New Hampshire has one, Vermont has one, New York has three, California has three, and I could keep going. Apparently someone decided we should have a lot in Maine, so we started with better than a hundred. We've done pretty well, we're down to 48. But I will give credit to at least some counties who have made an effort. Franklin, Hancock, Kennebec, Aroostook, Knox, Lincoln, Piscataquis, Sagadahoc, Somerset, Waldo, and Washington have one. They have decided to have one. So all of you who represent those counties, you are paying for what others are doing with your money from your telephone line. Not that I want to pick on two counties, but I will. Cumberland County, the PSAPs will be located in Cumberland, Brunswick, Cape Elizabeth, Cumberland County, Freeport, Gorham, Gray, Portland, Scarborough, South Portland, Westbrook, Windham, and Yarmouth. Keep in mind that the State of New York has three. Then let's go to York County. Biddeford, Kennebunk, Kennebunkport, Kittery, Old Orchard Beach, Saco, Sanford, South Berwick, Wells, York County Communications, and York. Not to be outdone, Penobscot County, of course, is going to have four. Bangor, Orono, Old Town, and Penobscot County apparently. So far, we're down to 48. So they've taken this money, generated by 32¢ thus far, shortly, if we pass this bill, to take it to 50¢, and we're going to buy all those units in all those towns and places that I've just read off and they are going to have 911. Now keep in mind that 911 doesn't respond to a single call. You just call that number and they dispatch to someone else. So if you live in Portland, they'll dispatch to Portland. Cumberland County will dispatch wherever in the whole county, so if you happen to be real lucky, you might get two ambulances at your door rather than one. This is mismanagement at its worst. What's amazing to me is that we're paying for it and no one knows it or no one did. Shortly, if we enact this bill, which I intend to vote against when it finally comes

for enactment, it will be 50¢ if you have five lines or less. Keep in mind that not only will you be helping those counties, but you're going to be helping telemarketers who have hundreds of lines, but they pay for five. That's it. Now I know that it's not the fault of the good Senator who is the chair of the committee. I don't mean to imply any of that, because some of those things were done way before the Senator was ever involved on the Utilities Committee. But I just had to tell the rest of you what this is all about. I couldn't let it go. It's just too good. Now I'm going to vote to Recede and Concur today even though Aroostook County is obviously going to get the treatment because you see a deal was originally made with Aroostook County five years ago which they have now reneged on. This group, not this body, not this Senator or other Senators. There are letters to that effect, but we need to move on. But I would hope for those of you, keeping in mind that under the system that we have bought over the years, especially if you live in Cumberland and York Counties, each one of these will be staffed, which you will pay for out of your tax dollars. You see, as I understand it, 911 only pays for the equipment that goes into these PSAPs. As I said, another name could be easily devised. You will absorb this through your property tax. That is what we have now. Frankly, I don't know how to get out of it. I will say that the amendment that was put on by a couple of Senators in this body will help us a little bit to try to put a handle on this in two years, if we don't forget and other people aren't elected who don't remember or didn't know anything about it. Since the Senator from Oxford will be leaving at the end of term limits, there will be someone else in that location. I hope that whomever sits there will remember the mess that we've created and how the people who have telephones in this state are paying for it. By the way, in case you forget, we have a \$5 million contract with the largest telephone company in Maine. It's funded through this process, by the way. Just thought you'd like to know. So, reluctantly, because we have no other choice, I'm going to go along with the motion to Recede and Concur today.

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 probably should sit down when I'm ahead, but I have in my hand a letter that's dated April 11, 1990. I'm going to just mention who its addressed to. The Honorable Charles P. Pray, President of the Senate and the Honorable John L. Martin, Speaker of the House. This happens to be the first report of the E-911 Advisory Committee, as required by law, and it's signed by John R. Atwood, who was the Commissioner at that particular time. I'm not going to belabor the point. I do appreciate the good Senator from Aroostook, Senator Martin's, indication that he is going to vote for the Recede and Concur motion. I've been worried about this all day because Senator Martin is one of the most skillful debaters in the Senate. I was nervous as the dickens and I did prepare a lot of facts. But with him concurring with me, I will sit down and let it go under the hammer, Mr. President. Thank you.

Off Record Remarks

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

Senator **MARTIN:** Mr. President, members of the Senate. I thank the good Senator. I was thinking back of my days as the presiding officer of the other body. I can assure you that there are an awful lot of reports I got that I never read.

On motion by Senator **FERGUSON** of Oxford, the Senate **RECEDED** and **CONCURRED**.

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

Senator **TURNER** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **YOUNGBLOOD** of Penobscot was granted unanimous consent to address the Senate off the Record.

On motion by President Pro Tem **BENNETT** of Oxford, **ADJOURNED** to Friday, June 8, 2001, at 9:00 in the morning.