

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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Senate Confirmation Session

June 14, 1978

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First Special Session

September 6, 1978 — September 15, 1978

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December 6, 1978

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APPENDIX

HOUSE

Wednesday, January 18, 1978

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

Prayer by the Reverend Russell M. Chase of the United Methodist Church, Monmouth.

Reverend CHASE: Good morning. This morning, before I invoke the Lord's blessing upon this group, I would like to set the record straight. Many of you have asked me if I can do something about the weather. Let me tell you right now that that has to do with management—I am in sales.

Oh God, our Heavenly Father, we know that Thy spirit is alive in the world, that it is well, and may it be well with us as we would strive to become more perfect each passing day. May Thy blessings rest upon this great institution and all of its members and their families. Keep us humble and keep us steadfast as we strive to follow in the footsteps of the Master, that we may indeed be able to keep on keeping on as we strive to know and feel Thy spirit within us. Bless us as we would strive in our deliberations to interweave Thy spirit into our thoughts and into our words, that we may feel Thy presence in all things and at all times while we pray in the Master's name. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

Bill "An Act to Revise the Sanford Sewerage District Charter" (S. P. 673) (L. D. 2081)

Came from the Senate referred to the Committee on Public Utilities and ordered printed.

In the House, referred to the Committee on Public Utilities in concurrence.

**Reports of Committees
Divided Report**

Later Today Assigned

Majority Report of the Committee on Health and Institutional Services on Bill "An Act Relating to Certificate of Need" (S. P. 384) (L. D. 1358) reports pursuant to S. P. 559 that the same "Ought to Pass" in New Draft under Same Title (S. P. 652) (L. D. 2013)

Report was signed by the following members:

Mrs. Snowe of Androscoggin, Mr. Greeley of Waldo—of the Senate.

Mrs. Nelson of Portland, Mrs. Trafton of Auburn, Mr. Tyndale of Kennebunkport, Mrs. Gill of South Portland, Mrs. Kane of Augusta—of the House.

Minority Report of the same Committee reports pursuant to S. P. 559 that the same "Ought to Pass" in New Draft under Same Title (S. P. 653) (L. D. 2014)

Report was signed by the following members:

Mr. Goodwin of South Berwick, Mr. Brenerman of Portland, Mr. Kerry of Old Orchard Beach, Mrs. Prescott of Hampden—of the House.

Came from the Senate with the Majority "Ought to Pass" in New Draft Report read and accepted and the Bill (S. P. 652) (L. D. 2013) passed to be engrossed as amended by Senate Amendment "B" (S - 433)

In the House: Reports were read. (On Motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and later today assigned.)

Non-Concurrent Matter

Bill "An Act to Provide Transition Provisions Governing the Recent Amendments to Article 9 of the Uniform Commercial Code" (Emergency) (H. P. 1956) (L. D. 2038) which was Passed to be Engrossed in the House on January 13, 1978.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S - 430) in non-concurrence.

In the House: The House voted to recede and concur.

Messages and Documents

The following Communication:

STATE OF MAINE
ONE HUNDRED AND EIGHTH
LEGISLATURE
COMMITTEE ON JUDICIARY

January 10, 1978

the Honorable John L. Martin
Speaker of the House of Representatives
Maine State Legislature
State House

Augusta, Maine
the Honorable Joseph Sewall
President of the Senate
Maine State Legislature
State House
Augusta, Maine
Gentlemen:

It is the recommendation of the Committee on Judiciary that the Legislature invite Chief Justice Vincent McKusick to bring a "State of the Judiciary message" to the Legislature in joint convention sometime in February (possibly February 21).

If you approve, should this be accomplished by joint order?

Sincerely

Signed

SAMUEL W. COLLINS, JR.
Senate Chairman

Signed

RICHARD A. SPENCER
House Chairman

The Communication was read and ordered placed on file.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE

January 10, 1978

Hon. Samuel W. Collins, Senate Chairman
Hon. Richard A. Spencer, House Chairman
Joint Standing Committee on Judiciary
State House

Augusta, Maine 04333

Dear Sam and Dick:

In response to your letter of January 10th, regarding Chief Justice McKusick delivering a "State of the Judiciary Message" to the Legislature, we have contacted the Chief Justice and he has agreed to do so on February 27th.

At this point in time it looks as if a joint convention at approximately 11:00 A. M. would work out best. No Joint Order is required as we will announce the Joint Convention on the 27th.

Sincerely yours,

Signed

JOSEPH SEWALL
President of the Senate

Signed

JOHN L. MARTIN

Speaker of the House

The Communication was read and ordered placed on file.

The following Communication:

STATE OF MAINE
SUPREME JUDICIAL COURT
PORTLAND, MAINE

January 16, 1978

Hon. Joseph Sewall
President of the Senate
Senate Chambers
State House

Augusta, ME 04333
Hon. John L. Martin
Speaker of the House
House of Representatives
State House

Augusta, ME 04333

Dear Mr. President and Mr. Speaker:

I am pleased indeed to accept your invitation to report to the Legislature meeting in joint

convention on Monday morning, February 27, 1978, on the State of the Judiciary.

Having come new to the bench, I have in the months since my swearing in on September 16 devoted a good deal of my time and effort to examining the operations of the Judicial Department, and also the first annual Judicial Conference is being held by all the judges of the Judicial Department on February 2-4 and is to be devoted to an appraisal of the status of Maine's court system. February 27 will therefore be an opportune time for me to report to the Legislature and through it to the people of the State on the status of our courts, and I am particularly eager to do so.

I am sending a copy of this letter to each of the chairmen of your joint Committee on the Judiciary.

I thank you again for the invitation to report to the Legislature on February 27.

With all best wishes to you,

Sincerely,

Signed

VINCENT L. MCKUSICK

The Communication was read and ordered placed on file.

The following Communication: (H. P. 2005)
STATE OF MAINE
MAINE STATE RETIREMENT SYSTEM
AUGUSTA, MAINE

January 16, 1978

John L. Martin, Speaker of the House
Chairman, Legislative Council
House of Representatives
Dear Representative Martin:

In accordance with the provisions of 5 MRSA, Section 1128 (Chapter 573, PL 1977), this is to advise that the Board of Trustees of the Maine State Retirement System has authorized a 4% increase in retirement benefits, effective November 1, 1977, paid to retired State employees, teachers and the retired employees of certain participating local districts, which increase is a cost-of-living increase.

In addition, this is to advise that the Consumer Price Index, published by the United States Department of Labor, Bureau of Labor Statistics, United States City Average, all items, 1967=100, reflected an increase, for the 12 months ending June, 1977, of 6.9%.

Sincerely,

Signed

W. G. BLODGETT
Executive Director

The Communication was read and ordered placed on file and sent up for concurrence.

The following Communication: (H. P. 2006)
STATE OF MAINE
DEPARTMENT OF STATE
AUGUSTA, MAINE

January 16, 1978

TO THE HONORABLE JOHN L. MARTIN,
SPEAKER OF THE HOUSE
OR REPRESENTATIVES OF THE ONE
HUNDRED AND EIGHTH, SECOND
SESSION, LEGISLATURE:

I have the honor to herewith transmit the budget estimates of expenses of the sixteen counties within the state for the years 1978-1979, the same having been filed in this office according to the provisions of Title 30, Sections 252 and 253, of the Revised Statutes, as amended of 1975.

Sincerely,

Signed

MARKHAM L. GARTLEY

The Communication was read and with accompanying papers referred to the Committee on Local and County Government and sent up for concurrence.

**Petitions, Bills and Resolves
Requiring Reference**

The following Bills and Resolves were received and, upon recommendation of the Committee on Reference of Bills, were referred to

the following Committees:

Appropriations and Financial Affairs

Bill "An Act to Abolish the Mental Health and Mental Retardation Improvement Fund and Make Appropriation from the General Fund to Continue Existing Programs" (H. P. 2010) (Presented by Mrs. Najarian of Portland) (Governor's Bill) (Ordered Printed)
Sent up for concurrence.

Business Legislation

Bill "An Act to Amend the Charitable Solicitations Act to Change the Responsibilities of Religious and Small Organizations" (Emergency) (H. P. 2015) (Presented by Mrs. Trafton of Auburn) (Approved for introduction by the Legislative Council pursuant to Joint Rule 24) (Ordered Printed)
Sent up for concurrence.

Health and Institutional Services

Bill "An Act to Clarify Admission Procedures at Pineland Center" (H. P. 2016) (Presented by Mrs. Nelson of Portland) (Governor's Bill) (Ordered Printed)
Sent up for concurrence.

Legal Affairs

Resolve, to Appeal the Decision of the State Claims Board Regarding Property Loss Suffered by Henry E. Ripley of Augusta Because of Theft at the Augusta Mental Health Institute (H. P. 2011) (Presented by Mrs. Hutchings of Lincolnville) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25) (Ordered Printed)
Sent up for concurrence.

Public Utilities

Bill "An Act to Increase the Authorized Indebtedness of the Kennebunk Sewer District and to Limit the Use of that Increase" (H. P. 2012) (Presented by Mr. McMahon of Kennebunk) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25)

Bill "An Act Relating to Inspection of Dams" (H. P. 2007) (L. D. 2084) (Presented by Mr. Violette of Van Buren) (Governor's Bill) (Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Provide for the Valuation of Industrial Property, the Value of Which Exceeds \$10,000,000 by the State Tax Assessor" (H. P. 2013) (Presented by Mr. Hall of Sangerville) (Cosponsor: Mr. Morton of Farmington) (Governor's Bill)

Resolve, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law (Emergency) (H. P. 2014) (Presented by Mr. Morton of Farmington) (Governor's Bill) (Ordered Printed)

Sent up for concurrence.

Orders

A Joint Resolution (H. P. 2008) in memory of ALTON M. DIXON of Orrington who served the people of Orrington for 7 years as town manager.

Presented by Mr. Cox of Brewer.

The Resolution was read and adopted and sent up for concurrence.

Consent Calendar

Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day: (S. P. 627) (L. D. 1959) Bill "An Act Providing that Student Scholarships Under the Maine Student Incentive Scholarship Program Shall Not be Lowered from one School Year to the next and Appropriating Funds to Carry Out That Intent" (Emergency)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper

was passed to be engrossed in concurrence.

Second Readers

Later Today Assigned

Bill "An Act Relating to Type of Notice under the Exceptional Children Statutes" (H. P. 1868) (L. D. 1918) was reported by the Committee on Bills on the Second Reading and read the second time. (On motion of Mr Wyman of Pittsfield, tabled pending passage to be engrossed and later today assigned.)

Bill, "An Act to Amend the Appeal Procedures in the Employment Security Law" (S. P. 628) (L. D. 1960) (C. "A" (S - 429) was reported by the Committee on Bills in the Second Reading and read the second time. (On motion of Mr. Laffin of Westbrook, tabled pending passage to be engrossed as amended and later today assigned)

Enactor

Later Today Assigned

An Act to Increase the Limits of Authorized Indebtedness of the Brunswick Sewer District (S. P. 618) (L. D. 1906) was reported by the Committee on Engrossed Bills as truly and strictly engrossed. (On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be enacted and later today assigned.)

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter.

Resolve, Appropriating Funds to Renovate an Elementary School Building at Windham which was Destroyed by Flood Waters (Emergency) (H. P. 1864) (L. D. 1914) (C "A" H - 954)
Tabled—January 17, 1978 by Mr. Birt of East Millinocket.

Pending—Passage to be Engrossed.

Mr. Birt of East Millinocket offered House Amendment "A" and moved its adoption.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker and Members of the House: I would move the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: Again, I am reluctant to rise, but there is a principle involved here. All the superintendents in the State of Maine have recognized that there are two ways of financing construction, renovation and other necessary changes—one is major capital construction. The district must apply to the State Board of Education for approval and be put on a priority list. The other is to go the local financing route.

All the superintendents in the State of Maine have recognized this until the present moment. If we are to give one school unit in this state an exception, in fairness to all the other school units in the state, we should make exceptions for them too in the present law. And from what I have seen of amendments, we can now count on \$3 million attached to this bill.

I urge the support of all amendments to the bill.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: Just to clarify what has happened here, this all began back in October with the situation we have described so well and was so well received by the entire Education Committee. I think they all agreed it was an emergency we had on our hands.

What Mr. Birt is trying to do is to kill the bill. He signed the bill out as "ought not to pass." So, what he is saying is that the bill should not be here in his opinion, and what he is now doing by offering an amendment, I think he is saying all of a sudden that it is a good bill because it has gotten this far. Now, Mr. Birt and anyone else who submits an amendment indeed knows what the procedures are and they could very

well have submitted a piece of legislation, gone to the Education Committee and so presented their case. None of them did it. Most of them have been here longer than I have, and especially Mr. Birt, being on the Education Committee, knows the procedure. He didn't follow that route. I sympathize with him, and I am not even sure if his case is an emergency or not, I haven't seen it.

I had a telephone call back in December from the Education Department telling me that this bill did not stand a chance of a snowball in Florida, and essentially what they were saying is that it would never get out of committee. I said, that is possibly true, but if it is okay with you, I am going to try it anyway. They said, sure, go ahead, and I did.

It came out of committee with a minority "ought to pass." I went over to the Education Department right after that happened and they said, "Well, that is okay, but it certainly won't get by the House, but you can go with it if you want to." I said, "Thank you again." So I did.

The vote in the House on a roll call was 80 to 61 and it did pass. Then they surrying began and the result of that surrying you see today. You see amendments all lined up saying one way to kill this bill is to present a million or two million dollars worth of amendments. That will do it, that will deep-six it. We didn't do it in committee and we didn't do it on the first vote in the House, so one way to do that is to present these amendments.

I just want you to understand what is happening here, and to finish this all up, I would simply say that the procedure we have here in the State of Maine is, if we have a problem that is an emergency, you indeed come to the legislature and ask for help, which we did. I think the legislature has to look at each one of these individually or say that you cannot bring any of these to Augusta. We chose to follow the procedure of bring it, have it be heard and go from there.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket Mr. Birt

Mr. BIRT: Mr. Speaker and Members of the House: I don't know as the comments that have been made are exactly as have been expressed. I think we all recognize, as has been pointed out by the gentleman from Livermore Falls, Mr. Lynch, that there are certain guidelines to follow. And we have followed those guidelines. What has happened in East Millinocket is the fact that we have lost almost an entire boiler. The cost of replacing that boiler was \$65,000, which was borne locally. If we are going to open the door whereby some schools can have certain privileges, then the same rules ought to apply to all of us. This is the reason behind this amendment. I hope the indefinite postponement motion does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would indefinitely postpone both of these amendments. When Representative Diamond came before the Education Committee to explain the need for this bill, he convinced me that it was indeed an emergency because the damage was caused by flooding.

In reviewing these amendments which my colleagues on the Education Committee, Mr. Birt and Mr. Plourde, have submitted to the bill, I see boiler repairs noted on one and re-roofing on the other for an elementary school, but it is not explained in either of the amendments what caused the need for these repairs. I would have to assume, under the law, that these repairs are needed as a result of the natural deterioration of the equipment, or in the case of the elementary school, the roof, over a long period of time. I think that is an important distinction between what Mr. Diamond is trying to present and get passed, and that is some relief in a situation that was caused by a natural phenomenon; that is, flooding. I

wouldn't compare it to a natural disaster, but I do believe that there is an important distinction to be made and, in fact, under the education laws, if you will notice those, it does make that distinction.

I would hope that you would defeat the amendment and vote for indefinite postponement.

The SPEAKER: The pending question is on the motion of the gentleman from Windham, Mr. Diamond, that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

69 having voted in the affirmative and 37 having voted in the negative, the motion did prevail.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: The proponents of the bill and those who sought indefinite postponement of the amendment have stressed that emergency construction projects ought to have consideration by this legislature, and there are other projects in this state equally important, if not more important than the Windham area, and I would ask that this bill be tabled for one day pending others having an opportunity to seek the same resolution.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I move this be tabled for one legislative day.

Whereupon, Mr. Wyman of Pittsfield requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this matter be tabled pending passage to be engrossed and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

66 having voted in the affirmative and 47 having voted in the negative, the motion did prevail.

The Chair laid before the House the following tabled and later today assigned matter:

Senate Divided Report—Majority (7) "Ought to Pass" in New Draft under Same Title (S. P. 652) (L. D. 2013)—Minority (4) "Ought to Pass" in New Draft under Same Title (S. P. 653) (L. D. 2014)—Committee on Health and Institutional Services on Bill "An Act Relating to Certificate of Need" (S. P. 384) (L. D. 1358) which was tabled earlier in the day and later today assigned pending acceptance of either Report.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, I move that we accept the minority report and would speak to my motion.

The SPEAKER: The gentleman from South Berwick, Mr. Goodwin, moves that the Minority "Ought to Pass" Report be accepted in non-concurrence.

The gentleman may proceed.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: We have before us a bill called Certificate of Need which, at best, is a fairly hard concept to understand, so what I plan to do is spend a minute trying to explain it and then get into the differences between the two reports.

The Certificate of Need, or CON, as it is usually abbreviated, is a planning and regulatory process which health facilities are required to undergo before the development of a new health service or certain changes in existing services. The health facility that is undergoing this must demonstrate that the service they want to build or start is needed. As a result of this process, the facility will receive or be denied authorization to proceed with the development of the new service or the expansion of the existing service by the Department of Human Services. Failure to obtain prior approval or ignoring a

denial may result in the withholding of a facility's license to operate and ineligibility to receive state and federal funds.

The philosophy that underlies a CON program is that the distribution and the capacity of the services provided by the health care providers should be based on a demonstrated need. The basic assumption behind this CON program, and other regulatory programs, is that an open market system in health care has ceased to be a reality with the third party payments, including public funds that have become a dominant source of payment for health care services.

While many states, although Maine was not one of them, initiated their own CON programs during the late sixties and early seventies, the federal government also got involved in this type of review with legislation aimed at controlling costs of medical services under Medicaid and Medicare. This initial intervention into the health care system was called an 1122 review, which is based on Section 1122 of the Social Security Act of 1972. The states would then contract with HEW to carry out the review project which would require federal funding and the state would recommend or not recommend that that project be carried out.

In addition to the 1122 process, Congress also passed, in 1974, the National Health Planning and Development Act. This is the act which encompasses most of your health planning, your health systems agency planning and a variety of other things which have come into being in the last couple years. This act, in effect, mandates that the states establish a federally approved certificate of need program by 1980. If a state fails to establish such a program, it will result in a substantial loss of federal programs which provide revenue for the development, expansion and support of health services. Thus, what began as a state program for some 30 or more states has now become a federally mandated program, complete with numerous and, to some extent, restrictive federal guidelines.

Furthermore, given the present national concern about rising health costs and the Carter Administration proposals in this area which are now in Congress, it appears that this is only one program among many which the federal government will be pursuing aimed at controlling costs, distribution and quality of health services.

I think what we should realize before we get any farther into certificate of need is that it is not going to be a panacea for future health costs, it is not going to be the final health cost controlling agent. It is just going to be a part or a cog in the total system. The effect, I feel, of the certificate of need is going to be a long-range health care cost, because what you are talking about really is the more adequate planning of future development of hospitals and facilities and large scale investments by providers of facilities in major pieces of medical equipment.

The certificate of need program goes beyond our present 1122 process in many respects and it will replace it once we have established them. For example, the federal guidelines mandate that a certificate of need program review all new institutional health services that cost more than the established dollar threshold that we set within our own state bills, regardless of where the money, construction or operation of services comes from. In other words, presently, if a hospital wants to expand using some federal monies that might be available, they have to undergo this 1122 review. However, with a certificate of need, if they want to expand using their own revenue, maybe a fund that has been set up or something, under the certificate of need they will have to get approval from the department. If they don't get approval, it can result in loss of licensing, fines and denial of state and federal reimbursements for services. So it is a much broader impact.

I think I should make it clear that both reports set up a certificate of need program. In other words, we are faced with this, it is going to be mandated by the federal government, and all we are doing with this bill, or these two reports, is to establish our state program.

The seal-in process will be similar to the 1122 review, except the decisions in the 1122 to grant or deny the project would really set with the Secretary of HEW. In this case, it will rest with the Department of Human Services or whoever the state defines as the agent to make the final decision.

So in summary, the certificate of need is a review process that is carried out under these bills by the Department of Human Services with consultation with the HSA, or the Health Systems Agency, to determine whether a new health service or certain changes in existing services are needed. I think this is an important concept to remember—What the CON is trying to do is not say, yes, go ahead and do it, or no, go ahead and do it, it is whether or not there is a need for that service—and that is an important distinction. Under the guidelines to grant or not grant a particular certificate of need, the basic underlying assumption is whether that service is needed. I think that is important because we will probably hear a lot of debate later on regarding the fact that we are trying to stop somebody from doing this or somebody from doing that, but what we are saying is that they must prove there is a need for this service, and the underlying assumption for that is that we aren't going to be building a lot of new hospitals or new hospital wings or providing new services that aren't going to be needed that the rest of us are going to be paying for in the future with our tax dollars and other dollars that go to health care, such as Blue Cross-Blue Shield premiums.

The facilities that are covered by this law, this will be required, before the development of the service or establishment of a new health facility which costs \$150,000 or more. The facilities covered by this act are hospitals, including psychiatric and tuberculosis, skilled nursing facilities and intermediate care facilities. Both are nursing homes, but now there is a distinction between what we call SNF, which is skilled nursing facilities, and intermediate care, but they are both what we traditionally call nursing homes. Kidney disease treatment centers, ambulatory surgical facilities, home health care providers and health maintenance organizations, and an eighth section is where the main difference is between the two reports, and I will get to that in just one second here.

I would like to explain the bill a little further because both bills are exactly the same until we get to this one difference. To get a certificate of need, the application process begins with a letter of intent by the facility at least 60 days prior to the application being filed. The application is declared complete by the department with consultation with the health systems agency. The review process is to take no longer than 90 days unless it is not practicable. The extension of 60 days is allowable. Of this time period allotted for review, the HSA will have at least 70 days, or two-thirds time, to complete its review. As I understand it, if the department does not complete its review in that time, the certificate of need is automatically granted.

There are also provisions for a waiver of review for certain emergency conditions. If you had a hospital that burned down, you obviously have to begin planning to rebuild that right away. It provides guidelines and criteria for what constitutes need for the facility of health services. The rest of the bill covers items such as reconsideration of the department's decision, the appeals process, the administrative procedures act, for the appeals process follows the administrative procedures act. Requirements for public information, exemptions and penalties for failure are included.

That, basically, outlines the certificate of need program. The difference between the two reports—the majority report and the minority report are, to the best of my knowledge, should be, at least according to the vote of the committee, identical except for one section in the minority report. The difference is that in the minority report what we are saying is that we would require a certificate of need by any person of facility not covered in the definition of health facilities when acquiring any equipment so designated by the Department of Human Services costing \$75,000 or more. What this translates into meaning is, which I am sure many of you have been lobbied on either from your local physicians or from people up here, if a physician or a mental health center or a drug treatment center wants to go out and buy a very expensive piece of equipment that is listed by the Department of Human Services, according to several criteria, they would have to seek a certificate of need. The reason for this is that in other states this has happened where a hospital will be denied a certificate of need for a piece of equipment such as a catscanner, that seems to be the most logical one to zero in on because we have had problems here in the state and it is a very elaborate piece of equipment used in diagnosis of various brain problems and other problems, as I understand it. If a hospital is denied that because the seal-in process feels that there isn't a need in that area for that piece of equipment, what has happened in other states is that physicians or groups of physicians in group practice would go out and buy this piece of equipment and then have it there and it would be used by the physicians when they send a person to the hospital and the hospital refers them over to this group of physicians for the catscanning treatment and then the state or the Blue Cross-Blue Shield would be billed and we would end up paying for it anyway, even though the hospital was denied a certificate of need because the people felt that it was not necessary.

What we have done is set up a procedure whereby the department will set up a list of this type of equipment. Presently, it probably would include only three or four pieces of machinery. There is the catscanner, which is an obvious choice, and there are a couple other pieces of equipment that the department people have mentioned to us, things like a new machine that is being developed by dermatologists to treat or diagnose certain skin problems which is going to be very expensive. There are possibilities of various types of medical equipment dealing with lasers, and these things are going to be very expensive. So what we are saying is that the department will set this list and there would have to be four criteria. There are three listed in the bill, and I don't know if it was through an oversight or what, but a fourth was not put in. If this gets to second reader, I will offer an amendment for that. The three that are in there would be that it would be associated with the diagnostic treatment or rehab of a patient, it would contribute significantly to health care costs and would have to significantly reduce the utilization of similar equipment if already available if need could not yet be demonstrated for it. The fourth requirement would be that it would not be routinely found in a doctor's office, so it would not include things like X-ray equipment or other types of things that would be involved in most practicing physicians' offices.

When we had two bills before the committee in the last session and carried them over and worked on them, one bill included physician offices, which would have created quite an uproar if they were going to equip their offices for a large amount of money over the threshold that was set and a few other things. The committee found that this was not necessary. However, a group of the committee members felt that we needed some control over the purchase of very expensive pieces of medical

equipment in order to close off a loophole that would be established if we passed the majority report, and that would be if a hospital is denied a CON, a group of doctors could circumvent the law by buying that piece of equipment and then subsequently, we would end up paying for it through reimbursement of the doctors practices.

This is the basic difference. The two bills are identical up until this point. I would like to emphasize that it does not include physician offices unless they go out and try to purchase a large or expensive piece of medical equipment that is designated by the department according to the criteria that we set. As far as I know, this would affect one physician or one group of physicians in the state and this one group happens to already have bought a catscanner and is already suing the state of Maine because the state does not want to have to pay for it. They do not feel that it is necessary in that particular place.

I think you would find that over the course of the years this type of requirement would probably affect about one percent of the doctors in this state. It would affect the specialist who want to try to circumvent the law on some aspect because he wants a particular piece of equipment that the CON processors deemed may not necessarily be needed in this particular area.

I think the underlying philosophy of this is that we as legislators, as guardians so-called of the public trust of the public funds of the taxpayers, have got to begin to make some decisions as to just how much money we are going to be able to come up with to cover the rising health care costs. It is time that we started to attempt to put a lid on this and say, we are not going to be able to fund everything that everybody wants. I am not saying that there may not be a need for it. What I am saying is, if there is a particular need for particular piece of equipment, then we should have that equipment. What I am saying is, we do not need that equipment in five different places in the state if it is only going to be used by several hundred people in the course of a year. It may mean that some people may have to travel a little bit but it may mean that we will be able to save some money in the long run so we can put into other types of medical costs that will reach and help a lot more people.

THE SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Stonington, Mr. Greenlaw, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Greenlaw assumed the Chair as Speaker pro tem and Speaker Martin retired from the Hall.

THE SPEAKER pro tem: The Chair recognizes the gentlewoman from Auburn, Mrs. Traf-ton.

Mrs. TRAFTON: Mr. Speaker, Ladies and Gentlemen of the House: I think there are two defensible positions with regards to certificate of need today. I think one is reflected in the majority report and I think the other will be reflected, probably, in the remarks of the gentlelady from Portland, Mrs. Najarian. One seems to suggest a more cautious approach towards the certificate of need process and I think the other approach seems to feel, in fact, the certificate of need will be the answer perhaps many of us here are looking for with regard to the rising health care costs. The minority report, however, seems to be in never-never land and it seems to use some of the cautious and sensible approach of the Majority Report and yet it seems to throw in a few zingers.

I would like to go back and just offer some of my thinking and I think the thinking of the majority of the committee as we have approached this issued over the last year. The reasons for the certificate of need laws seems to have changed from what it was initially conceived of

as being tools for allocation of scarce resources, basically a planning device but with some kind of regulations on costs to being primarily a cost containment measure. If certificate of need programs are intended to contain costs, I think we should be able to measure how effective this has been by looking at the experience of other states.

New York whose CON has been in effect for the longest time, has found that both the licensure of health care facilities and reimbursement controls are more effective cost containment tools than CON. In the committee's work on CON we saw no indication from other states that CON had been a useful approach in responding to increasing health care costs.

The experience of other states may show that any expectations about the cost containment potential of CON are faulty. As we consider L. D. 2013 then, I believe we should see it not as a way to show the increase in the total dollars which are spent on health care but rather as a way of possibly giving some assurance that the total dollars are spent more wisely. We should not, therefore, expect the enactment of L. D. 2013 to contain health care expenditures. What we may reasonably expect it to do is encourage a better allocation of health care resources.

When future legislatures attempt to measure the effectiveness of the CON law, they should consider not the rate of spending but the growth of new services and the places where these services are offered. I believe the majority of the committee saw this as the main purpose of CON laws as it voted on L. D. 2013.

Before turning to the difference between the majority and minority reports, we need to remind ourselves why certificate of need is being considered at this time. There seems to be groundswell of public opinion calling for this legislation. As I mentioned earlier, studies of the experiences of other states do not give strong recommendations for CON laws. Most states have not had CON programs long enough to provide adequate information to give any guidance at all. We are considering it now for just one reason. The federal government requires that every state implement a CON program or be subject to the withholding of substantial amounts of federal money if not enacted by 1980.

On the basis of little experience elsewhere, then—the Federal government is requiring all states to participate in something like a national 'pilot project' on CON programs. In recent years other programs required by the federal government have not always been as successful as first projected. The Hill-Burton program for health facility expansion was so "successful" that nationwide there is now a problem of excess bed capacity. The earlier health planning laws mandated regional and state health planning organizations which, overnight, seemed to disappear. Against this background, the majority of the committee was skeptical about the actual effects of a CON and wanted to proceed in a cautious way. Remember, there is no reason why we cannot add anything to this in future legislative sessions.

The difference between the majority and minority reports is the decision of the minority to go beyond the minimum federal requirements to include certain equipment is only one to two percent of the total cost of health care. The committee was told of only one instance of the purchase of such equipment and was given no evidence that a provision covering equipment had worked well elsewhere. The particular instance in question in Bangor where the buying of the catscanner would be covered by the majority report because that is a leasing situation back to the hospital.

Believing that the state should move cautiously into a CON program and that the major sources of expansion of health care services (hospitals and nursing homes) are covered in the bill, the majority voted not to require a CON for the purchase of this equipment.

In a few weeks another bill studied by the committee will be before the Legislature. The bill provides for rate review of hospitals and nursing homes. Unlike the CON bill, the committee was unanimous in its support for a cautious approach to rate review. Although the bill studied by the committee called for rate regulation and although the evidence for rate regulation as a meaningful cost containment tool is stronger than the evidence for the usefulness of CON, the committee agreed upon an approach which would provide only for information gathering rather than full-scale regulation.

The majority of the committee believes that this same cautious approach should be taken with CON and that approach is contained in L. D. 2013.

Finally, I want to suggest that the approach supported by the majority of the committee reflects a general skepticism about government's ability to regulate health care at this time.

A recent study show that in England, where 95 percent of hospitals are government owned and where the government has enjoyed complete financial and administrative control over hospitals and hospital staffs since 1947, the government has been unable to reduce the bed rate despite a deliberately initiated policy to do so. Similarly, the government of Ontario, which must approve the operating budget of all hospitals in the province has similarly been unable to achieve a reduction in bed capacity. These two examples show that even in tightly controlled settings the costs of medical care have been unable to be reduced. Health care in this country is significantly less controlled than in England or Canada and may yield even less easily to goals of legislatures and other policymakers. This is not intended to be a recipe for doing nothing in the area of trying to understand and solve the problems of health care delivery and health care costs. Rather, it is a reminder that we should be realistic in our expectations and careful in adopting any new approach.

It is a commonplace that the health care industry is enormously complex. It is, however, too easy to forget about that complexity when we are presented with shiny new tools like CON for solving nagging problems such as health care cost inflation or resource allocation.

The report to the President of the Council on Wage and Price stability (The Rapid Rise of Hospital Costs) argued that the primary reason for hospital cost inflation is that patients are now much more willing to demand and pay for expensive care because insurance now finances a much greater share of these costs. In setting out to regulate the health care industry and enact limits on one sector or another we might keep in mind this observation. In health care, as in problems of the environment we have met the enemy and the enemy is at least to some extent, us.

The SPEAKER pro tem: The Chair recognizes the gentleman from Portland, Mr. Brennerman.

Mr. BRENNERMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make several points in support of the minority report and clarify some misconceptions. The minority agrees with the majority in philosophy on this bill. The certificate of need is not the total answer to cost containment. However, it is the first important step to getting a handle on health care costs and bringing about sensible development of medical facilities and equipment purchases.

As Representative Goodwin told you, a certificate of need would apply only to those purchases which would not normally be associated with a physician office. That would be the purchases of equipment that would significantly increase the cost of medical care. That list would be determined by the Department of Human Services in consultation with the health systems agency.

Of course, as technology changes, so would

the list. Certificate of need would not apply to new or expanded services or to location of physicians offices. It would only deal with purchases of expensive pieces of equipment. The minority report also believes that it is the responsibility of physicians, not just hospital and nursing homes and the government to hold down the costs of medical care. The cost of certificate of need process is hardly harmful to the very limited occasions where a \$75,000 or more purchase would be made. We think that as many parts of the health care system should be involved in cost containment as possible. The free market system certainly does not apply in this situation because third party payers are paying the costs, for the most part, and because doctors generate and control the use of the new equipment not patients and third party payers. It is certainly not an infringement upon the free practice of medicine to show a need for such purchases, considering that all health care consumers can pay for the purchase of the equipment. After all, there are reasons beyond patient demand for such equipment and I think the doctors told us that at the hearings — that they gain more prestige, there is also added income for those people and also purchase of expensive pieces of equipment would attract other quality doctors to their particular office. There would be no limit to the unnecessary subtraction of low risk patients to the equipment in order to make it pay for itself.

Statistics from the Health Systems Agency show us that reimbursement to a hospital for use of a Catscanner would probably cost about \$150,000, while the same scanner in a physician's office would pay \$400,000 in fee for service costs. As you can see, that is probably more than double the cost in the hospital.

As Representative Goodwin also told you, if physicians are not included in this process, then, hypothetically, a hospital could apply and be turned down for a certificate of need and doctors could purchase the same equipment, possibly lease it to the hospital and, in that case, would cost the consumers more money.

I urge acceptance of the minority report.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I am also one of the signers of the minority report, and I think perhaps you should hear some more reasons as to why the minority feel that doctors should be included under certificate of need. We are not, however, just talking about doctors, we are talking about dentists, community mental health centers, ambulatory care centers and others. We are not making an attack upon the doctors, which has sometimes been suggested.

I recall Mrs. Trafton's suggestion that this bill was aimed at cost containment and that is not the case either. This is not aimed at cost containment, it is aimed at the planning and regulation and development of new services.

We are not asking the physician not to purchase any major pieces of equipment. We are only asking that physician to justify a need and show that there is a need to make that purchase which exceeds \$75,000.

There have been reasons given for not including physicians somewhere along that line but I have not heard any of them here today. I have not heard one good reason to exempt the physician from certificate of need. The doctor is the essential decision-maker for more than 70% of all the health care services that we receive, and there is virtually no competition in that field. I do not see why we should be exempting that physician, that dentist, those community mental health centers or anyone else and allow them, with a loophole in the law, the opportunity to circumvent the certificate of need legislation itself.

I think that you are all aware, as well I am, that the cost is going up not only in the hospital but it is increasing in the physician's office and

the dentist's office as well.

Eight years ago, the delivery of a child cost me \$100. That same doctor today charges \$450, and that is a 450 percent increase in eight years. So, I suggest to you that there is an increase in the cost in the dentists' and the doctors' offices as well.

Health care is a big business today. I think we are all well aware of that. The lobby has been working to try to protect all the interests that it can, but there are costs rising in those offices and we are trying to put a cap or put a handle or whatever you want to call it, regulate, if you want to call it that, but put some sort of an oversight to what future planning we will have.

There has been some mention that the federal guidelines did not include doctors so, therefore, it is suggesting that we should not consider including doctors. Well, I do not buy that argument. The federal guidelines did not tell each and every one of the states what it should adopt for its own particular needs. It allowed each state to make those decisions themselves, and those decisions are based upon the geographics of the state, whether or not the state is rural. There are many decisions to be considered there when you are deciding on certificate of need.

In Maine, as you all well know, we do not have a medical school and our Maine resources for health services are poorly organized. They are maldistributed and they are complex and they are fragmented throughout the State of Maine, and I suggest to you that the rural areas are being shortchanged and that many times people are afraid to be sick, that manytimes in the rural areas people do not go to a doctor because they cannot even afford the office call.

I think it is time that we redirect the flow of these new health resources into these underserved areas, and I suggest to you that the minority report will work on that. I do not suggest that it will solve it, because actually both bills are weak; they are going along mainly with the federal guidelines.

The health care costs have risen and they have risen in your insurance premiums; they rose 30 percent last year. Many of you are probably not aware of that because you don't pay directly that hospital bill. Those costs are somewhat hidden and that third party payer is making those payments.

I am not standing here telling you that I think the doctors are not a highly honorable dedicated professional, because that is not what I believe at all, I think that they are. I think there are also some of them out there who do realize the necessity of being included in certificate of need. The hospitals did not take a position on whether or not they wanted to include doctors under certificate of need. I wonder why; don't you wonder why? The doctors themselves did not speak out, they had the medical lobby speak out for them. I am not suggesting the doctors didn't speak out, because I certainly received plenty of mail from physicians and that they would want to be included and they would not want to seek out official exclusion from the certificate of need. At the same time, I have to wonder how many patients are out there subjected to unnecessary and expensive tests.

You know that you can select your own family physician; I can select mine, but oftentimes you can't select your specialists. You are told by the physician who you should see and why and what tests and so forth should be performed. Well, I am suggesting that there is a need out there to consider including physicians under this certificate of need, and the minority report does just that. I hope you support it.

The SPEAKER pro tem: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I have a series of questions here which I don't think have been

adequately answered in regard to this. One of them is, if the federal government is mandating this program on us with a deadline date of 1980 and if, as the testimony in front of us here seems to be, the committee feels this is an experimental program and we should go slow, enter it in slow degrees and if, as again the people have said here, and it doesn't seem to be contradicted, there is no tie-in to this program in actually reducing health costs, which again would point to go into the program slowly, why do we need to take the extra step of including physicians at this point? We have until 1980. We can take the initial step and we can add other steps tightening up the program at any time along the way.

I keep having the thought come into the back of my mind that, agreed, there are unnecessary tests, but at what ratio do tests become unnecessary? If you save one life, maybe then a certain number of unnecessary tests are justified.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I will attempt to answer a little bit the questions raised by Representative Jackson.

Some members of the committee have recommended the cautious approach that for 15 years national health planning has been languishing in Congress, and that is primarily due to the strength of the medical and health lobbies.

I can show to you actual figures on the money that has been saved the people of the State of Maine by the present review of health care facilities that now exists under the Social Security Act of the federal law. I can't tell you right off hand how many nursing homes we have disapproved, recommended disapproval to the Commissioner of Human Services because they could not justify the need, how many applications for nursing homes have had to reduce the number of beds that they had proposed because they couldn't justify the need.

There was a catscanner proposed by Central Maine Hospital in Lewiston which was disapproved by the commissioner. How much money did that save? Well, I can tell you that every time you have one examination for a catscanner, it costs \$185 to use that piece of equipment one time, plus at least \$50 for the physician. It would have raised the health care premiums for Blue Cross-Blue Shield of every person in Androscoggin County another \$4.35. That money has been saved.

I am very much in support of the minority report of the committee, because if you exclude physicians from the coverage of this law, you are leaving a tremendous loophole. Physicians now make the decision primarily on whether or not the hospital seeks a certain piece of technical equipment. If the hospitals from going out and buying that equipment themselves, which we will all have to pay for even though it is not needed.

Take the example of the catscanner. We are mostly talking about pieces of highly technological equipment that almost become obsolete before they can be installed because technological progress is so fast and changes are so rapid.

There is still a lot of debate among physicians themselves about the efficacy and the real value of catscanners.

You need approximately 300,000 people to support one catscanner efficiently. We have one in Portland which is not now being used efficiently, and then you have the one proposed for Lewiston, just 30 miles away. It is only a diagnostic piece of equipment. They still continue to use the other tests. Instead of being 95 percent sure of their diagnosis, they become 97 percent sure. We have got to start looking at whether this little bit more assurance on the part of the physicians is worth the cost to all of us. The money that we can save here might be

better spent and serve more people and save more lives if they were to put in ambulatory care centers in the rural area, if more money were spent on the promotion of health, motivating us to live more healthful lives. It might, in the long run, save more lives than one life being saved with the pieces of expensive equipment.

Mrs. Trafton gave the example of Ontario and England, it had not saved costs, no hospital beds had been reduced. I could give you the example of Quebec where they reduced the number of hospital beds, I think has a good health system which I think would be good for the State of Maine and the United States anyway. They are covering all the people in their province at less cost than they were before through health planning, through budgets for hospitals, but that is beyond the scope of this. This is just one step, rate review, only establish rates for existing services and equipment, but it doesn't say whether that equipment is needed in the first place, which is what this bill would do. It decided first whether the service or the equipment costing more than \$150,000 is needed. Then, the rate review would step in and decide a rate for that service once the need is established.

There is no doctor that has anything to fear from this law unless they want to circumvent the intent of this law, because it only applies to equipment not normally associated with their practice. I just would urge all of you to read on the first page of this what the purpose of this law is — to promote effective health planning, to provide quality health care at the lowest possible cost and to avoid unnecessary duplication. Those are three things we are trying to avoid. There are more on the second page. I am not going to read them to you, but that is the intent of the law. Omitting physicians, as the majority report does, circumvents the entire purpose of the law as outlined on pages one and two. I hope you support the minority report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Blue Hill, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I have two or three questions regarding this. There has been the figure of \$75,000 passed around, and the \$75,000 in purchases I am assuming would refer to remote clinics, and I am wondering if the \$75,000 is composite or is that a singular purchase. Because speaking for the rural community, a composite of \$75,000 then, I think, impedes our progress for clinics in the rural community. I am also a little suspect of the list that is submitted by the Division of Human Services because I have seen these lists expand greatly manytimes, and in a time where our rural health care seems to be foundering, I wonder if this will not impede the progress of rural health care within the state.

I am sympathetic with the expanded medical costs in all areas, but I wonder if we are not cutting off our nose to spite our face, because we are penalizing the rural community in order to implement a system which is much more severe than the federal has required.

The SPEAKER pro tem: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: In answer to Representative Perkins' questions, first of all, there are some typographical problems with this bill and there may be a problem in the reading of it. I will check on that because that would be a problem in both cases, both minority and majority reports.

In regard to what the bill is supposed to be doing, it is supposed to be \$75,000 for a piece of equipment. That is one problem I have and if this gets to second reader, I plan to offer an amendment to up that to \$150,000 to remain consistent with the bill. I probably should have brought that out initially, but in the rest of the bill most of the thresholds are \$150,000 and I

think with a lot of just routine equipment you can run up to \$75,000.

In terms of the problem with rural health, I can't see any way that this is going to affect it. In fact, I can see this type of legislation, whether it be the majority or the minority report, as eventually helping programs in rural health, because as Representative Trafton has said, this in more, or hopefully the philosophy of this is to try to get at the allocation of scarce resources so that we don't misallocate resources to an institution or a piece of equipment so that we have those resources to use in other areas, such as physician assistants or rural health clinics or this type of thing. I submit to you that there would be very few rural health programs that would ever need the type of equipment that we are talking about. This is the type of equipment that is commonly found in specialized practices — the catscanner, dermatology machines, laser machines. This is the type of thing you are going to need that you are going to find in specialized medical practices. This is not going to affect the family physician, the rural practitioner and those type of people. In fact, in the long run, by trying to get a handle — that is what we are trying to do — it is one segment of our whole health care problem and by trying to get a handle on this we can hopefully begin to allocate some of our finite dollars, and they are, we have just so many dollars that we can spend on health care and we are trying to develop a system where we don't overuse some of these dollars in one area so that we can have them for areas where we really need them, and in this case, in this state, one of those areas is rural health care.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I signed the majority report and I have some serious reservations about including doctors in the first go-round so far as certificate of need legislation is concerned. Ultimately, I think probably the doctors will have to be included because of the fact that there is so little experience as to how this legislation will actually function. It is my opinion that doctors should be left out of the legislation the first year or so, so we can at least, to use the expression, get a handle on the way the legislation works as applied to medical institutions.

As an example — the most important decision in the drafting of the statute is the burden of proof for acquiring a certificate of need. Is it the applicant who must show that he or she is entitled to do what he or she wants or is it upon the state to show that the applicant be restrained from doing what he or she proposes? I don't know; that is something you have work out. It is very complicated legislation.

To talk a little bit about why not include doctors, and someone asked, what about rural health care? Most of the doctors in the State of Maine practice alone and it costs twenty to forty thousand dollars to set up an office. That is not including the rugs and drapes, that is including the tables, the stethoscopes, etc. Most doctors, in their offices, also include lab equipment and that is because, — or at least if they don't set it up in their own office, they send it out to independent laboratories.

I live in Portland; let's talk about Portland for just a few minutes. If you were to go to the the Maine Medical Center to have your blood drawn, it would cost you \$13, because not only do you pay for the cost of the blood being drawn, you pay for the cost of someone washing the windows and cleaning the floors; that is understood; that is built in. If you went to a private doctor, along with your physical examination, he would take your blood, he would have set up or he would then give it to an independent laboratory. That cost would be \$6. If doctors — and we say doctors, but if we were including veterinarians, dentists, and may I

add, we just passed a bill concerning denturists. In the bill it said that denturists are supposed to work inside a dentist's office. If the dentist's office is to expand and have another chair in order for the denturist to work in the office — we are not talking about new things, this is an expansion — that would cost, according to what I was told by some denturists, it costs \$20 to \$40, depending on the quality of the chair and so forth to expand the office, for a piece of equipment.

I mention these figures because you talk about \$75,000 as if it were a lot of money, but when you are dealing with complicated equipment, it is very expensive. A laser beam would never be associated with a gynecologist's practice, but now that is "standard equipment". I can't tell you how much a laser beam costs, but I am sure it is more than \$20,000; it is a lot of money.

Why would someone go to a private doctor? Well, the parking is easy, you can have all these tests done for you. You can have your chest X-rayed, your blood taken, you don't have to make another appointment, lose a day's work. If you are out in a rural area and one doctor is there, and so many times we have in our committee that one of the reasons why doctors do not go to a rural area is because there are no other doctors around, they would like to expand their practice. If one doctor were to expand his practice to invite two or three other doctors in, perhaps this is a gynecologist, and maybe it seems logical that he should include a pediatrician — that seems to go hand and glove, so to speak — or maybe you would have a urologist. A urologist's office costs \$75,000 to set up. If you were going to expand it, that is just the X-ray equipment, the blood lab which is ordinarily associated with a urologist — nothing special. Equipment is expensive.

If one doctor wished to expand in a rural area to have three or four more doctors come in, they would have to fall under certificate of need. They would have to prove there is a need and they would have to go through filing all those reports. Most doctors have a secretary. They don't have a sophisticated kind of staff that a hospital does, so it seems reasonable that a hospital could, indeed, fall naturally under certificate of need. It is important, it should be done, it should be passed and it should be passed now. But let's take it easy and not throw everything in there, it gets sloppy and we have already been accused of sloppy legislation. Let's keep it simple and see how it works.

I am not a great lover of doctors, I know they take Wednesdays off and make over \$100,000 a year. If you want to get to the doctors, introduce a special piece of legislation to get to them. This is not to get at doctors, not this way anyway.

You know, if I am sick and my gallbladder has to be removed, I need them, I can't perform that surgery myself, so you need them. I understand that.

This is very complicated stuff; we worked on it for a long time. We had a lot of people testifying for us and it was a very difficult decision as to what to do. I bring you the facts of dollars and cents so that you will understand what we are talking. The threshold of \$75,000 for one rural doctor to expand to several other doctors so he could have a community health center, it is not unrealistic, indeed, that he would have to file for certificate of need.

I hope that when you vote, and it will be soon, I hope, you will vote "ought not to pass," the motion before you.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, a point of inquiry. Do we have a quorum?

The SPEAKER pro tem: The Chair would ask the members in the rear of the hall to come in so that we can have a quorum to enact the

business.

The Chair recognizes the same gentlewoman.

Mrs. BERUBE: Mr. Speaker and Members of the House: Something was said earlier by one of the proponents. He said words to the effect that we can't get everything that we want. I think it would be well to remember that when future bills come before us to expand our bureaucracy.

I did want to point out, and I think perhaps it has been addressed, that the federal requirements are \$150,000, so why we should feel a need to bring it down to \$75,000, I don't know.

I have another question, however, and I am wondering who would be administering this expanded program. Does it mean the creation of a new state agency over and above the Maine Health Systems which is already overseeing some of these?

The SPEAKER pro tem: The gentlewoman from Lewiston, Mrs. Berube, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker and Men and Women of the House: As far as the additional state agency, in either report basically what is happening is, the Department of Human Services of health planning will be the agent in charge of administering this particular program whether we pass in charge of administering this particular program whether we pass the majority or minority report. The additional workload with the minority report is minute because of the amount of this type of equipment that will ever be purchased by doctors. As I said, there is only one in the state right now.

I am sorry that I was out back talking, but I think Representative Nelson mentioned something that I would like to clarify. She did mention that if a group of physicians were trying to establish themselves in a rural area, they would have to acquire a certificate of need, and this is absolutely false. The only people who would be required to get a certificate of need for any type of expansion or establishing new programs is the list that I read a little earlier here. The only people that would be covered are those covered under federal regulations on what the feds are asking us to cover — hospitals, skilled nursing facilities, and the immediate care facilities, kidney disease treatment centers, ambulatory facilities, kidney disease treatment centers, ambulatory surgical services and health maintenance organizations. The only time a physician would enter into this is if that physician wanted to purchase a piece of equipment that is listed according to the criteria in the bill on the Department of Human Services' list, and as of today, according to the Department of Human Services, it would probably be one piece of equipment, and that is, a catscanner.

There are a couple of other pieces being developed now that could probably come under that. I think it has to be made very clear that we are not talking about physician offices. That is not in the bill.

I have gotten a lot of letters from physicians on this calling me a variety of names — everything from Communist to Socialist to etc., etc., that I am not supposed to bring on the floor of the House here. They just don't understand what is going on with this bill. It does not include physician offices, only if they want to purchase a piece of equipment. The only reason that is being done is to try to prevent future attempts by someone to circumvent the intent of the bill which is trying to hold down unnecessary expansion of house care facilities and equipment.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from So. Portland, Mrs. Gill.

Mrs. GILL: Mr. Speaker, Ladies and Gen-

tlemen of the House: I think the important thing to remember in this bill is that there is no document of need that physicians should be included in this bill. The department came before us and this whole thing came about including physicians because of that one incident in Bangor and that if the Catscanner. There is not a proliferation of Catscanners or Laserbeams or any of these expensive pieces of equipment throughout the state.

I was interested to hear Representative Goodwin say that he has an amendment he hopes to propose to raise it from \$75,000 to \$150,000 minimum. We studied this bill for a whole year and I think, at this point, after the bill had been printed, we have had two versions and he is going to come in at this point in time and offer an amendment to the bill — what I am afraid of is that in future times, someone else could come in, if we included physicians, and offer another amendment or change the legislation entirely and to reduce the amount to \$75, \$1500, or \$3000 — just to lower it so they would have to come before this board for anything.

In the bill itself in 214, which talks about Section E, No. 3, where it talks about there is not widespread need or for which there is insufficient data to demonstrate the need — who determines this? If I go to my doctor, I take his advice because I trust him. I have the right to choose whoever I go to and I go to him because I have faith in this man and I trust his judgment that he will take care of me. I am not going to the department and say, okay, if I have a problem, what do you require the need to be? What data is available? How long a period of time will they have to select this data and gather this material before they can decide whether this is really, indeed necessary or not?

I sat on a committee on rural health and the need for physicians in the rural areas. I think instead of expanding primary care in those rural areas, what we are going to do if we include physicians in this bill, is that we are going to insure that we are going to have to go to the hospitals in the metropolitan areas to require the special equipment that we need. I cannot really see that the doctors are going to go out and buy a piece of equipment that is not going to be utilized. They are not going to put their own money into it if they cannot get it paid back somehow. It is not required by federal common legislation. I am not positive that we, in the state, need common legislation anyway but we are mandated or we are going to lose funds. So, I think we should go on with the minimum federal requirements and exclude the physicians in this bill.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: Not to prolong this debate any longer but I think there has been so much of it, even I, am getting to be confused by some of the things that have been said.

I think the basic point here between the two versions of the Certificate of Need Bill is this. What is your philosophy of legislation? Do you believe that we should pass legislation in this House and the other body and signed by the Governor and become law on the theoretical chance that someone might someday do something that is in violation of this law and we might not like? As Mrs. Gill said and as the gentleman from South Berwick, Mr. Goodwin made my point, I think better than I will be able to make them, that this is not going to be used. There has been no problem in this House. At our committee meetings, I asked the Health Systems Agency and the department, has this been a problem or would they think it might be a problem? They said, no, it is not. The doctors do not want this. The reason they do not want it is because they do not want any more regulations imposed on them than are necessary. This is not necessary.

If, during this year, in the next year or so, we

find doctors are buying expensive pieces of equipment and thus circumventing the certificate of need intent, we can include them. We meet every year. What is going to happen? Are health costs going to go through the ceiling in the state between June and next January? They are not. Doctors, I believe, in good faith have told us that they do not want to buy this equipment, so why pass legislation just to harass them? I really yield to nobody in this body and my contempt for physicians who are interested in money, prestige or anything else more than the welfare of their patients but I do not feel that we should pass legislation just out of spite.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Members of the House: Including Physicians is not based on theory or something that might happen in the future. It is already happening in the state. It is happening in Maine, in Bangor, where the physicians did not like the decisions by the Health Planning Agency, that they should not have a catscanner and they went out and bought it themselves anyway and the physicians are planning to do the same thing in Lewiston. Now, the physicians have not been regulated at all.

You name me one regulation imposed on physicians by the state. Mrs. Kane said, well, the physicians said there is not need for it because they are not planning to go out and buy this equipment anyway—then why are they opposing it? It is not going to bother them at all. If they are not planning to buy equipment that a hospital would be denied, then there should be no problem. Why the opposition?

The SPEAKER pro tem: The Chair recognizes the gentleman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: In reply to the gentleman from Portland, as to why the doctors are opposing this, I will give an example. Suppose the Governor proposed a bill that no legislators could buy a car costing more than \$25,000? Would we support the bill or would we oppose it? How many of us in this body are planning to buy a car costing more than \$25,000? I certainly am not and I doubt if anybody else is. We would oppose it because we do not want some of our rights taken away for no good reason.

Mrs. Najarian of Portland was granted permission to speak a third time.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: The difference is, if I wanted to buy a \$25,000 car, I have to pay for that myself. If a physician wants to buy a \$25,000 piece of equipment, he does not pay for it. You and I and the State of Maine and the taxpayers pay for it, not the physicians. That is the difference.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from South Portland, Mrs. Gill.

Mrs. GILL: Mr. Speaker, Ladies and Gentlemen of the House: I would suggest that Mrs. Najarian ask those people whose lives in Bangor and the surrounding areas that have been saved because of the catscanner to decide whether it was an extra piece of equipment or not, whether it was needed or not.

The SPEAKER pro tem: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me that the argument comes down on two sides. On one side, you have the physicians who are saying, that they look at this bill or any imposition of any regulation as interference of free enterprise. They have traditionally never liked any interference with free enterprise. They opposed Medicare; they opposed Medicaid. They have opposed almost every bill that is the slightest bit leaning towards any type of regulations, so, it is not unusual for them to be in that position today.

The other side of that coin is, if you do not regulate, if you do not tell them that there are only so many catscanners you can have in the State of Maine to serve just so many people before everybody has to pay an exorbitant amount on their insurance, then you are going to be in some difficulty. It seems to me that the experience in Bangor is a perfect indication of what can happen.

The gentlelady from Augusta, Mrs. Kane, and I believe Mrs. Nelson from Portland, have both indicated that there is not any need for this sort of regulation, nothing has happened. Why should we make a law on something that might happen in the future? Well, it has happened. Beside the fact, even if it had not happened, do you always propose to close the barn door after the horse is out?

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Auburn, Mrs. Trafton.

Mrs. TRAFTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify just a few points. First of all, in response to the points just made by Mr. Pearson, if you will refer to Page 2 of L. D. 2013, the incident we are referring to here on the floor of the House, was that purchase of the catscanner in Bangor is, indeed, covered by the majority report and that a situation, as I mentioned earlier, where physicians went out and did buy a piece of equipment and are leasing it to the hospitals and under Section 303, Number 3, would be covered under the majority report.

Secondly, the question has been raised whether in fact there would be a fiscal note on this bill and you will see on the calendar today, there is an amendment that was put on in the other body and there is a \$60,000 price tag on it. That, obviously, is regardless of whether you pass the minority or majority report. I am assuming they will not add on some money for the minority report.

So, I would just say again that regulation does cost money and if we are going to regulate, let's make sure we are really accomplishing something.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, I would like to pose a question through the Chair. The point that was just made concerning the case in Bangor, which she said has been covered in the bill, does that mean that the incident will not happen again if the Majority Report is accepted?

The SPEAKER pro tem: The gentlewoman from Falmouth, Mrs. Huber, has posed a question through the Chair to anyone who may answer if they so desire.

The Chair recognizes the gentlewoman from Auburn, Mrs. Trafton.

Mrs. TRAFTON: Mr. Speaker, the particular incident in question could not happen again because that is a leaping situation and we specifically included it in this. It seems to be the case that when physicians, or in that case, in order to justify the expenditure of that equipment or in order to pay themselves back they had to rent it out to the hospital. It could be said that there is so much money around that they could do this all on their own, that has not happened in the state yet and that particular kind of thing would not be addressed by that section.

The SPEAKER pro tem: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Speaker, I would like to pose a question through the Chair to anyone who may answer it. In L. D. 2014, on Page 4, the amount seems to be a \$150,000 whereas in L. D. 2013 with the Senate Amendment, it appears to be \$75,000. My question is, if we vote for the Minority Report, are we voting for a \$150,000 figure?

The SPEAKER pro tem: The gentleman from Standish, Mr. Spencer, has posed a question through the Chair to anyone who may care

to answer if they so desire.

The Chair recognizes the gentleman from So. Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, I guess I did not make this quite clear when I tried to explain the bill before. The \$150,000 that Representative Spencer is referring to on Page 4 deals with the health care facilities expenditure for construction development establishing of a new health care facility. In other words, if a hospital was going to expand or build a new building or something like that, that was going to cost in excess of \$150,000 or more as a capital expenditure, this is why I say if my report passes, in order to be consistent with the rest of the bill, I would raise the \$75,000 up to \$150,000 in an amendment tomorrow.

What happened to this bill, if I can digress just for a second, is we worked on it during the Fall and due to the press of between the holidays and the rest of the schedule of the committee and everything, we kind of agreed to the bill before we finally saw the final version that were then printed up and had to be signed the first day of the session. There are some typographical errors, I think, in both bills that will have to be corrected in the Second Reading if they are not already taken care of completely in Senate Amendment "B" so there were some problems with this that just did not get ironed out because of the time frame we were working under.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I think that issue before us today is in the amendment we have before us in the minority report. I believe that this bill is a consumer bill and I am really concerned about the high costs of medical care that we have here in the State of Maine and all over the United States. I see the real possibility of the hospitals circumventing the intent of our legislation here and again, passing the costs on to the consumer.

I come from a community which has two major hospitals, no more than a quarter mile apart and I see both hospitals buying equipment, cobalt treatment equipment, which costs in excess of hundreds of thousands of dollars. What has happened is that the cost of this equipment, obviously, has been passed on to the consumer, who goes to either hospital. In my opinion, it has not added to the medical care in my community. All it has simply done is brought the cost of medical care up in my community and passed it on to other people—what we call hidden costs in room charges.

The concern that I have is that if we do not accept the minority report, I think doctors are like everyone else, they are businessmen and I do not see too many doctors present in the State of Maine right now, who are interested in buying equipment in the excess of \$75,000 and I would have no objections to raising the limit to a \$100,000. Yet, I also know, as businessmen, that if a hospital was rejected a piece of equipment, hospitals are in competition, we have the best and that is why you should come here, and what they would simply do is go to a group of physicians in that hospital and the physicians would buy the equipment and then simply sublease the equipment to the hospital. Therefore, the cost of medical care would again go up and that is the concern that I have. I think we, as legislators, have a responsibility in this area. We represent people and I had a personal experience myself with a younger brother, who was very ill and I remember my father going to the hospital and saying, "give him the best of everything" and I think we all want to do that.

I am sure the way the legislation is written in the minority report, there will be some place in the State of Maine where that person can get the best but I would hate to have my Dad pay the price in a hospital for some pieces of equipment that really was not necessary. That is what we are talking about here today. It is a

consumer bill. We are not denying the people of Maine proper medical care. We are simply saying, let's give the people of Maine proper medical care, let's not have those people who, for whatever reasons, because they want to have their hospital have everything and lets let the consumer pay for it. That is what is happening here. The consumer is paying for it and the perfect example is my community with two hospitals having the same piece of equipment, which cost in excess of several hundred thousand dollars. Who paid for that but the consumer? I believe that Lewiston was in need of a piece of equipment but one hospital should have had it.

Both reports deal with the hospitals but the Minority Report—the key is that it plugs up the loopholes and we have to address that because if we are not willing to do that, we might as well not pass the legislation. Who are we kidding?

Mr. Garsoe of Cumberland requested a roll call.

The SPEAKER pro tem: The Chair recognizes the gentleman from Portland, Mr. Brenerman.

Mr. BRENERMAN: Mr. Speaker, Members of the House: I would like to clarify a misunderstanding about the Bangor situation. The doctor in Bangor leased space in the hospital for the catscanner. The hospital does not lease the catscanner from the doctors so, therefore, that situation would not be covered under either certificate of need bill.

The SPEAKER pro tem: A roll call has been requested. For the Chair to desire a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker and Members of the House: I am not a doctor, I am a farmer. We have a couple of doctors in our area that must be pretty good because I registered them to vote Democratic, so they must be, but we fight all the time. But the point I would like to have somebody clarify that is on the committee when I buy equipment for the farm, I might buy something as time goes on that costs \$100,00. We have programs where we are partially financed by public funds through the government. That could be construed that I might be sometime regulated by some order that I would have to come before somebody to rationalize my reasons for buying that. I guess this is a point that I can't quite understand. Is this just a beginning or is it just opening the door for something? I would like to have somebody clarify that if they can.

The SPEAKER pro tem: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I think the point here is that a tremendous amount, a majority percentage of the cost of health care today is borne by the taxpayer, through us, our allocations to the Department of Human Services and through our payments to Blue Cross-Blue Shield. We don't have the control over the purchase of those health care costs that we do have over the purchase of our food. I can go out and grow my own food, Mr. Hall, but I can't go out and provide my own medical services. Okay?

During the past year, we spent \$8.4 million — we, meaning the state, the taxpayer for physician services under Medicaid; whereas the total bill in 1972 was \$5.5 million. This is state and federal dollars, but we are still paying for it. It is a 52 percent increase attributable to physician changes in Medicaid alone. We estimate that an additional \$20 million is paid in

Medicare to physicians, which are taxpayers' dollars.

I think one of the points that hasn't been brought out very clearly today is in terms of reimbursing for that particular piece of equipment. I am sorry I didn't bring this out sooner. If you go to a hospital and have a catscan and the state pays for that under Medicaid or Medicare, we pay for the service and we pay for the capital expenditure part of the hospital budget that covers that on a depreciating level so that we are only paying for that catscanner once. However, the way that Medicare and Medicaid reimburses physicians on a fee-for-service basis, we could end up paying for that piece of equipment two, three or four times over because we don't take out depreciation for capital expenditures. This is another problem. I am sorry it hasn't been brought up, but I think it is an important fact to remember, that if we reimburse a physician for a particular service for a particular machinery, we can end up paying for that machinery more than once. I think that is important, especially in the future years when you people are here passing on the budget for the Department of Human Services.

Mrs. Kane of Augusta was granted permission to speak a third time.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting up again. Mr. Goodwin keeps making my points for me only in a round-about fashion and I don't think they are quite clear. He is exactly right, that doctors are reimbursed on a per use of the equipment basis. So if they buy a \$100,000 piece of equipment and only three people use it, they are not going to get \$33,000 per person, the hospital is. The hospital is reimbursed the cost of the equipment over the number of people that use it. The doctors are only reimbursed for the people who use it on a fee schedule basis. Therefore, if the equipment cannot possibly be used enough to pay for itself, the doctors would be foolhardy to buy it.

I suppose some might say, well, the doctors could put lots and lots of people through the equipment that don't really need the tests. Well, this would be a problem for under \$75,000 piece of equipment also. If this is a problem of doctors using tests simply to make money and people don't need it, then this is a problem that should be addressed in the medical community. This is not a problem that is going to be solved by certificate of need legislation. If there aren't enough patients that need the equipment, they aren't going to buy it because they are not going to get paid, it is money right out of their pocket, but the hospitals can. They are going to get paid for the equipment if only two people use it.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair thanks the gentleman from Stonington, Mr. Greenlaw, for acting as Speaker pro tem.

Whereupon, Mr. Greenlaw returned to his seat on the floor, amid applause of the House, and Speaker Martin resumed the Chair.

The SPEAKER: The pending question is on the motion of the gentleman from South Berwick, Mr. Goodwin, that the Minority "Ought to Pass" Report be accepted in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEAS — Bagley, Beaulieu, Benoit, Berry, Biron, Boudreau, A.; Brenerman, Brown, K. C.; Bustin, Carroll, Chonko, Clark, Connolly, Cox, Curran, Davies, Diamond, Dow, Elias, Fenlason, Flanagan, Goodwin, H.; Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Jensen, Joyce, Laffin, MacEachern, Mahany, McHenry, McKean, Mitchell, Nadeau, Najarian, Paul, Pearson, Plourde, Post, Prescott, Quinn, Rideout, Spencer, Theri-

ault, Tierney, Tozier, Valentine, Wilfong, Wood, Wyman, The Speaker

NAYS — Aloupis, Ault, Austin, Bachrach, Bennett, Berube, Birt, Blodgett, Boudreau, P.; Brown, K. L.; Bunker, Burns, Carey, Carter, D.; Carter, F.; Churchill, Conners, Cote, Cunningham, Devoe, Dexter, Drinkwater, Dudley, Fowlie, Garsoe, Gill, Gillis, Gould, Gray, Green, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kane, Kany, Kelleher, Kilcoyne, Lewis, Lizotte, Locke, Lougee, Lynch, Mackel, Marshall, Martin, A.; Masterman, Masterton, McBreairey, McPherson, Morton, Nelson, M.; Nelson, N.; Norris, Peltier, Perkins, Peterson, Raymond, Rollins, Sewall, Shute, Smith, Sprowl, Stover, Stubbs, Talbot, Tarr, Teague, Torrey, Trafton, Truman, Twitchell, Violette, Whittemore

ABSENT — Carrier, Durgin, Dutremble, Goodwin, K.; Jacques, Kerry, LaPlante, Littlefield, Lunt, Maxwell, McMahon, Mills, Moody, Palmer, Peakes, Silsby, Strout, Tarbell, Tyndale

Yes, 55; No, 77; Absent, 19.

The SPEAKER: Fifty-five having voted in the affirmative and seventy-seven in the negative, with nineteen being absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted and in concurrence the New Draft read once. Senate Amendment "B" (S-433) was read by the Clerk and adopted in concurrence and the New Draft assigned for second reading tomorrow.

The Chair laid before the House the following tabled and later today assigned assigned matter:

Bill "An Act Relating to Type of Notice under the Exceptional Children Statutes" (H. P. 1868) (L. D. 1918)

Pending: Passage to Be Engrossed

Mr. Wyman of Pittsfield offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-962) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, a parliamentary inquiry. The amendment that is being offered is exactly the same as the committee report that was defeated in the legislature yesterday, is it germane?

The SPEAKER: The Chair would make the following ruling pursuant to the request of the gentleman from Livermore Falls, Mr. Lynch. The Chair would rule that House Amendment "A" and Committee Amendment "A" that was defeated yesterday are not identical amendments; therefore, the Chair would rule that House Amendment "A" is germane.

The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mr. Speaker, Ladies and Gentlemen of the House: Yesterday, I raised a question pertaining to the committee amendment. The committee amendment was defeated and I am going to raise the same question now about this House amendment. This amendment says, "when the administrative unit has reasonable cause to believe the notice was not received" — I would still say, what constitutes reasonable cause? How could any administrative unit know whether or not the notice was in fact delivered? It doesn't say "return receipt requested" or anything like that. I did suggest yesterday that maybe it could be tightened. I don't consider that this is tightened when there still isn't any way that the administrative unit can be sure, at least not from this amendment, that the person has received notice.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I wasn't privileged to take part in the discussion on this matter yesterday, but I had originally supported the ap-

proach that this legislation endeavored to do, which is to get Augusta off the backs of our local people. I feel that this amendment goes a long way towards doing that. I still have a nagging little feeling that we haven't completely taken ourselves off their backs, but if we say to the local professionals that when you have made good faith attempts to contact the parents of these children and you find that you have reasonable cause to believe, then to the gentlelady from Auburn, Mrs. Lewis, these people have every reason to know when these people have or have not been contacted. These are the parents of their own students, and it is in a rare case that I think we will find where repeated attempts to contact by telephone or by sending notes home or by whatever other device they might exercise, there are very minor number of cases that they are going to run into, and I think this is a reasonable device to finally nail down, really for the protection of the school system itself, the fact that they will take some sort of official action that will be a record of their attempts to notify the parents. So I hope we can push this thing right along.

The SPEAKER: The Chair will order a vote. The pending question is on the adoption of House Amendment "A". The pending question is on the adoption of House Amendment "A". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 37 having voted in the negative, the motion did prevail.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the following tabled and later today assigned matter:

Bill "An Act to Amend the Appeal Procedures in the Employment Security Law" (L. D. 1960) (C. "A" S-429)

Pending: Passage to Be Engrossed as Amended in concurrence.

Mr. Laffin of Westbrook offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-960) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: All my amendment does is define in Section 1081, subsection 3, to be sure that when a quorum is required both management and labor are present, that is all. There is nothing more to it than that. It is just to assure that fair play is represented by both parties.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

The Chair laid before the House the following tabled and today assigned matter:

An Act to Increase the Limits of Authorized Indebtedness of the Brunswick Sewer District (S. P. 618) (L. D. 1906)

Pending — Passage to be enacted.

On motion of Mr. Kelleher of Bangor, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same gentleman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-963) was read by the Clerk and adopted in non-concurrence.

The Bill was passed to be engrossed as amended by House Amendment "A" in concurrence and sent up for concurrence.

From the Senate:

Bill "An Act to Encourage the Formation of Small Business Investment Companies" (S. P. 675) (L. D. 2083)

Came from the Senate, referred to the Committee on Business Legislation and ordered printed.

In the House, referred to the Committee on Business Legislation in concurrence.

Bill "An Act Relating to the Importation of Drugs" (S. P. 674) (L. D. 2082)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, referred to the Committee on Judiciary in concurrence.

Passed to Be Enacted Emergency Measure

An Act to Authorize Magalloway Plantation to Raise Funds for Secondary School Board for the 1977-78 School Year in Excess of Statutory Maximums (H. P. 1865) (L. D. 1915)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an Emergency measure and a two-thirds vote of all the members elected to the House necessary, a total was taken. 112 voted in favor of the same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(Off Record Remarks)

On motion of Mrs. Gill of South Portland, Adjourned until 9:30 tomorrow morning.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent: