

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME V

SECOND REGULAR SESSION
March 20, 1990 to April 14, 1990
Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS
December 7, 1988 to April 14, 1990

(C "A" H-1079)

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

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

ENACTORS

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

An Act Relating to Health Maintenance Organizations

S.P. 926 L.D. 2337
(C "A" S-644)

An Act to Protect the Public from Unsafe Industrial and Commercial Facilities

H.P. 1249 L.D. 1747
(C "B" H-1050)

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

ORDERS OF THE DAY

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Establish the Maine Medical Malpractice Act"

S.P. 289 L.D. 762

Tabled - April 5, 1990, by Senator CLARK of Cumberland.

Pending - CONSIDERATION

(In Senate, April 5, 1990, Reported Pursuant to Joint Rule 13.)

On motion by Senator HOBBS of York, Bill and Accompanying Papers RECOMMITTED to the Committee on JUDICIARY.

Sent down for concurrence.

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

JOINT ORDER - Recalling Bill, "An Act to Promote Responsible Utilization of Ground Water, L.D. 1409, H.P. 1011, and all its accompanying papers, from the legislative files to the Senate.

S.P. 715

Tabled - January 3, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE

(In Senate, January 3, 1990, READ.)

On motion by Senator CLARK of Cumberland, INDEFINITELY POSTPONED.

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

Off Record Remarks

On motion by Senator GAUVREAU of Androscoggin, ADJOURNED until Saturday, April 7, 1990, at 10:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
45th Legislative Day
Saturday, April 7, 1990

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

Prayer by Reverend David Sparks, First Church of the Nazarene, Augusta.

The Journal of Friday, April 6, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:
Maine State Senate
Augusta, Maine 04333

April 6, 1990

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it accepted the Minority Ought To Pass As Amended By Committee Amendment "B" Report on the Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands (H.P. 1779) (L.D. 2446).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333

April 6, 1990

The Honorable John L. Martin
Speaker of the House
114th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following upon the recommendation of the Joint Standing Committee on Education:

Michael W. Aube of Bangor for appointment to the State Board of Education. Michael W. Aube is replacing Joyce Roach.

David T. Flanagan of Freeport for reappointment to the University of Maine Board of Trustees.

Nancy Masterton of Cape Elizabeth for appointment to the University of Maine Board of Trustees.

Nancy Masterton is replacing Thomas Monaghan.

Cheryl A. Tobias of Augusta for appointment as the Student Trustee, University of Maine Board of Trustees. Cheryl A. Tobias is replacing Thomas Dukes.

Owen Wells of Falmouth for appointment to the University of Maine Board of Trustees. Owen Wells is replacing Joseph Hakanson.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333

April 6, 1990

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it Indefinitely Postponed JOINT RESOLUTION - Petitioning the Congress of the United States to Propose an Amendment to the Federal Constitution to Limit the Terms of Members of Congress (H.P. 1790).

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333
April 6, 1990

The Honorable John L. Martin
Speaker of the House
114th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following upon the recommendation of the Joint Standing Committee on Energy and Natural Resources:

Cheryl H. Russell of Lincoln Center for appointment to the Board of Environmental Protection. Cheryl H. Russell is replacing William Blodgett.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Pursuant to Joint Rule 13

From the Committee on Judiciary on Bill "An Act to Establish the Maine Medical Malpractice Act" (S.P. 289) (L.D. 762) (Received by the Secretary of the Senate on April 5, 1990, pursuant to Joint Rule 13)

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Judiciary.

Subsequently, the Bill and accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

Non-Concurrent Matter

An Act to Authorize Franklin County to Acquire a Parcel of Land in Coburn Gore (EMERGENCY) (S.P. 969) (L.D. 2436) (C. "A" S-653) which failed of passage to be enacted in the House on April 6, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-653) and Senate Amendment "A" (S-671) in non-concurrence.

On motion of Representative Mayo of Thomaston, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

An Act Relating to Correctional Policy (H.P. 1814) (L.D. 2486) which was passed to be enacted in the House on April 6, 1990.

Came from the Senate passed to be engrossed as amended by Senate Amendment "B" (S-673) in non-concurrence.

The House voted to recede and concur.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

**ORDERS OF THE DAY
UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1990-91" (EMERGENCY) (H.P. 1771) (L.D. 2441) (C. "A" H-1028)

TABLED - April 5, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and later today assigned.

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act to Authorize the Maine State Lottery to Enter into an Agreement with Other States to Join the Multi-State Lottery Association, Known as Lotto*America, for the Purpose of Operating a Joint Lottery" (H.P. 1711) (L.D. 2362)

-In House, Majority "Ought Not to Pass" Report of the Committee on Legal Affairs was read and accepted on March 27, 1990.

- In Senate, Minority "Ought to Pass" as amended Report of the Committee on Legal Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-972) and Senate Amendments "B" (S-629) and "D" (S-632) in non-concurrence.

TABLED - April 6, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and later today assigned.

The Chair laid before the House the third item of Unfinished Business:

An Act to Provide for Immediate Income Withholding and a Plan for Periodic Review and Adjustment of Child Support Awards in Support Enforcement Cases of the Department of Human Services (H.P. 1732) (L.D. 2391) (C. "A" H-1088)

TABLED - April 6, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the fourth item of Unfinished Business:

Resolve, Creating a Commission on Adult Sentencing (EMERGENCY) (H.P. 1801) (L.D. 2471) (S. "A" S-654)

TABLED - April 6, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Final Passage

On motion of Representative Melendy of Rockland, under suspension of the rules, the House reconsidered its action whereby L.D. 2471 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-654) was adopted.

On further motion of the same Representative, Senate Amendment "A" (S-654) was indefinitely postponed.

The same Representative offered House Amendment "A" (H-1099) and moved its adoption.

House Amendment "A" (H-1099) was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-1099) in non-concurrence and sent up for concurrence.

The Chair laid before the House the fifth item of Unfinished Business:

An Act to Amend Maine's Underground Oil Storage Law (EMERGENCY) (S.P. 632) (L.D. 1725) (H. "A" H-1071 to C. "A" S-633)

TABLED - April 6, 1990 (Till Later Today) by Representative MICHAUD of East Millinocket.

PENDING - Passage to be Enacted. (Roll Call Ordered)

On motion of Representative Gwadosky of Fairleid, retabled pending passage to be enacted and later today assigned. (Roll Call Ordered)

BILLS HELD

An Act to Clarify the Laws on Manslaughter in the Workplace (EMERGENCY) (H.P. 1758) (L.D. 2423) (C. "A" H-1058)

- In House, Passed to be Enacted.

HELD at the request of Representative MARSANO of Belfast.

The SPEAKER: In reference to L.D. 2423, the Bill has been released to the Senate.

The Chair laid before the House the following matter: An Act to Amend Maine's Underground Oil Storage Law (EMERGENCY) (S.P. 632) (L.D. 1725) (H. "A" H-1071 to C. "A" S-633) which was tabled earlier in the day and later today assigned pending passage to be enacted (roll call ordered).

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 236

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Bailey, Begley, Bell, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, Dellert, Dexter, DiPietro, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Hastings, Hepburn, Hichborn, Hickey, Hoglund, Holt, Hutchins, Jackson, Jacques, Joseph, Ketover, Kilkelly, Lawrence, Libby, Lisnik, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McKeen, McSweeney, Melendy, Merrill, Michaud, Mills, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Richards, Ridley, Rolde, Rydell, Sheltra,

Skoglund, Stevens, A.; Stevens, P.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, The Speaker.

NAY - Aikman, Carroll, J.; Clark, H.; Foss, Foster, Garland, Greenlaw, Hanley, Higgins, Hussey, Jalbert, Lebowitz, McCormick, McHenry, McPherson, Moholland, Parent, Pendleton, Reed, Seavey, Smith, Stevenson, Strout, B.; Strout, D.; Webster, M.; Wentworth.

ABSENT - Allen, Boutilier, Donald, Duffy, Heeschen, LaPointe, Larrivee, Look, Marsh, Marston, McGowan, Nutting, Pines, Rotondi, Ruhlin, Sherburne, Simpson, Small, Whitcomb.

Yes, 106; No, 26; Absent, 19; Paired, 0; Excused, 0.

106 having voted in the affirmative, 26 in the negative, with 19 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(At Ease)

The House was called to order by the Speaker.

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

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning Technical Changes to the Tax Laws (S.P. 868) (L.D. 2228) (C. "A" S-668)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 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.

ENACTOR

Emergency Measure

Later Today Assigned

An Act to Establish the Office of Substance Abuse (S.P. 909) (L.D. 2312) (C. "A" S-639)

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

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Members of the House: This bill will undedicate the Alcohol Premium Fund. This House has had some experience this session with what happens when taxes are raised for a specific purpose in this House and then, when the funds are not dedicated, the matters somehow don't get properly funded. I recognize that we do this in the best interests of society but sometimes it seems to me as though this legislature can't be trusted to do what it says it will do for times in the future.

I have made a commitment to my constituents that I would not vote for any bill which undedicates the Alcohol Fund. I would like that opportunity this morning. Accordingly Mr. Speaker, when the vote is taken, I request that it be taken by the yeas and nays and I hope this bill will be defeated.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to speak briefly to this bill which the Committee on State and

Local Government has spent quite a lot of time working on.

Last fall, there was a special subcommittee that dealt with this particular issue. There were a number of people who were involved with it. The problem that came to light was there are a variety of substance abuse services provided by the State of Maine that are divided among a variety of bureaus, The Department of Corrections, the Bureau of Mental Health and Mental Retardation, the Department of Human Services and the Department of Education. Although there was voluntary coordination of these efforts, there was never any single authority that had the responsibility for seeing that the work that the state does for substance abuse was coordinated. There was difficulty getting cooperation and there were a lot of problems with it. For example, there are education services that take place but they are not solely done by the Department of Education. They are done by the Department of Education, by the Department of Public Safety and also by the National Council on Alcoholism. Our public schools have at least three organizations doing education work in them, yet there was no single authority responsible for seeing that this was coordinated.

The same kind of thing was happening in the public relations kinds of efforts. There were several different agencies that had their own media centers. There are a variety of acronyms that deal with these particular agencies. The entire effort by the state was extremely confusing, not only to members of the committee, but also to members of the public. It was difficult for the public to know exactly where to go to find out who does what because so many different agencies were dealing with their own parts of it and there was no coordinated effort going on. That was the origination of the bill. Because it was such a big issue, a year ago the committee had a lot of difficulty getting a handle on it so we turned it into a study committee and spent quite a bit of time.

There are some real problems with contracting. All the different agencies had their own methods of dealing with contracts with the different agencies that provide the service. It created a problem for these agencies and for the state because of the lack of similarity of dealing with the issue. Instead of agencies spending a lot of time trying to deal with a variety of different contract officers, one of the efforts that we made in the committee was to help unify the contracting system and this could be done through a single authority with responsibility for these contracts.

I won't go into all of it but those people that work in the field, people from the Governor's Office as well as those people on the committee, all worked together to bring about what everyone involved with the bill feels is a real significant step forward. In this day and age, when substance abuse is a serious issue for all of the nation, the State of Maine in fact has been very forward looking in its ways of dealing with substance abuse services. This particular bill represents another significant step forward to provide a real overarching responsibility and authority to coordinate all of those services across departmental lines. It is a very special piece of legislation.

There is a part of the bill that does undedicate the Alcohol Premium Fund. However, those people who have been involved in this know that it is a declining source of revenue. They know that the Alcohol Premium Fund simply does not provide enough money to cover what we are now spending on substance abuse services. When it was first established, I

think the dedicated fund did serve a special purpose of calling attention to the relationship between alcohol and the disease but times have changed. We are using a lot more money now and the emphasis is very different. There is still the premium fund, the premium is still there, so the relationship between alcohol and substance abuse is there.

I certainly hope that all of you will be able to support this bill that is supported by those people who deliver the service in our communities.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Let me give you a little bit of history on this bill because I have stood in this body many times to fight against undedicating the Alcohol Premium Fund, having been one of the people responsible for putting in that very innovative law. We were the first in the country to put this type of law onto the books, having fought for it and defended it over the years, but I am going to support this particular measure today. Let me tell you why.

When we put in the Alcohol Premium Fund at that particular time, most of the money that was coming in to deal with the problem of alcoholism in the state was going to treatment entirely. In fact my interest in it was because I was on the Education Committee and there was absolutely no money going into prevention. So, at the time that we put in the dedicated funding under the alcohol premium, it was desperately needed. In fact, we now have the best prevention education program in the entire country.

We also set up a special Select Committee on Alcoholism Services to try and proportion that money out. I happened to have been the House Chair of that committee. That committee lasted through several sessions of the legislature. While we tried to put the system into place, we tried to set up an office that would be a coordinated office to deal with the different agencies that were dealing with alcoholism. We set up a system that really did not work very effectively. It was sort of a middle layer agency, it was not on a department level, it was not on the highest level of the executive department and, as a result, problems of coordination continued. At the same time, there were continued assaults on the idea of dedication. Part of the problem that I foresaw happening was that our programs of alcoholism in the state would be flat-funded, particularly because many members of the Appropriations Committee were very much opposed to the dedication. Therefore, no additional funding would go into alcoholism programs.

I think what has been struck here is a compromise that, first of all, will establish an Office of Alcoholism Services at the highest level, something that we have wanted, a single agency, which is what all of the organizations in the field dealing with alcoholism have wanted to have. That is one aspect of it.

The other, in dealing with the undedication, if someone wants to correct me, that is all right, my understanding is that essentially a floor has been built under the funds that are going into alcoholism. In other words, the alcohol premium would still be there, that money will still be there, it is the same sort of thing that happened with the Department of Inland Fisheries. In other words, they will be assured of at least as much money as they are getting now. Hopefully, they will be getting more.

I do have to say that I have spoken to many of the people that I have worked with over the years in fighting against undedication, they have all agreed

with this particular proposal. Therefore, I am going to support it today myself.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I want to rise this morning to make it clear when I vote for this legislation why I am doing so. I understand the statements made by the good gentleman from Belfast, Representative Marsano. I have fought for the seven years I have been here for this program and for these issues. I have sponsored the tax increase and worked for the tax increase and help bring it out of the Taxation Committee for this fund. I have never been a supporter of dedicated revenues. I have always felt and I think that is my accounting background that we should have one set of books in this state government and everything should be accounted through that set of books. I feel that the financial operation of state government is better served that way. I have always opposed this undedication of this fund because we had other dedicated funds and no one seemed to be interested in changing that. Well, we have started to change that process.

The consumption of alcohol is the only thing that is responsible for the disease of alcoholism, there is a direct link. It is a link that costs this state a lot. Those interests in the lobby and elsewhere who want to undedicate this fund, their motives weren't all that pure in my mind and I fought that in the past, but now I think we have legislation that will lead us in the right direction and will help to solve the problem of delivery of services that will concentrate our effort and that is why I will support it today. It is not because I have lessened my desire or my support for the Alcohol Premium Fund or the services that were provided by it but because I think this is a better way to do it.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I rise today to support this bill before you and would like to say that I think Representative Daggett has done a very good job explaining to you what the bill does. We did work very hard in committee, in our subcommittee. I would like to point out that this is a compromise that the service providers and the Governor's Office and all the groups involved have agreed on this. We did come back with the subcommittee to the main committee and came out with a unanimous report.

On the issue that has been brought before you today, I would like to point out to you that on 2312, which is basically the new bill, the amendment retains the provision of the original bill that undedicates the Alcohol Premium Fund. However, the amendment requires that the Office of Substance Abuse receive appropriation amounts at least equal to the amount collected each year by the State Liquor Commission through the premium fund.

As Representative Rolde has pointed out to you, as a person himself who has been long involved in this, there has seemed to be a quite a lot of agreement on this compromise. I urge and encourage you to vote for this bill.

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

Representative NORTON: Mr. Speaker, Fellow Members of the House: In 1969, the Department of Education got a \$40,000 grant from the federal government to address the problem of alcohol and other drugs in the schools. That was the grant that established the organization within the Department of Education which has gained a number one reputation

throughout this country. I think it has the finest programs of any state department in the country in its field. In 1973, the legislature put \$30,000 -- that was the first state money that went in to support that program. We seem to be very slow in recognizing that we indeed had an educational problem that had its roots in drugs and alcohol and other types of abuse.

In 1977, the legislature removed the last of state funding, the funding from the federal government had already dried up and I was searching frantically to find a source of revenue to keep that program going. We had exactly enough money for one payroll. I had given notice some time before that that this circumstance was ahead of us and our employees were prepared for layoffs. Two of them had already been laid off, we had the director and a secretary left and the problem was growing.

From the Highway Safety Committee, I got a grant of nearly a half a million dollars and the coordinating office stood up and opposed the distribution of that grant to the Department of Education because I feel they wanted us to go out of business. I appeared, was more vocal than anyone in my position had a right to be, I am sure, and the Highway Safety Committee gave us that money and that program was saved at that time. Later the state came back and supplemented that money and the program has gone on.

I do not feel however it is well-planned, well-conceived, I do not believe that it can sustain itself without the revenue set aside and the surety that that gives that program. Therefore, I have pledged myself to those who have asked me that I cannot support undedicating that revenue.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: For several years, I have been involved in the discussion around the delivery of alcohol and drug abuse services in this state versus the member of the National Council on Alcoholism, their board and their public policy committee. Most recently, the Speaker has appointed me to the Governor's Advisory Council on Alcohol and Drug Abuse. In the time that I have been listening to folks tell me what is good and what is bad about the delivery of our services and you have heard some very good things and it is true we have gone a long way, I have also heard the bad. The bad is that it is very, very difficult for service providers to provide treatment, particularly treatment in this field because the services are housed in a number of different departments. We have multiple contracting, multiple requirements, data is both time consuming and difficult for service providers to deal with. So, for as long as I can remember, I have been hearing about the problem of the fact that each department has their own bureau or division that deals with substance abuse. These people have long talked about or dreamed, whatever you want to call it, of a unified agency. This bill puts this before you.

Certainly dedication has been the other issue that has been talked about in the field. It has a history that you have heard about, it has a history that pre-dates me so I won't try to discuss it. However, as this bill has been discussed, people have come to believe, have come to be committed to the fact that the establishment of an office is more important to them than dedication particularly with the floor that is built into this bill.

This bill is supported by every regional council on alcoholism. As recently as Thursday, the

Governor's Advisory Council on Alcoholism and Drug Abuse voted again to support this bill. I know that there are some department heads, some commissioners that are a little uncomfortable about this bill and I understand that. Representative Norton spoke to that issue but I stand before you today to say that this bill, I believe, will go a very long way to solve a number of the problems in the field in terms of delivery.

Remember that this disease really touches all of us. At least ten percent of the population of this state suffers from it. At least one-third of all the families in this state have been affected by it because a member of that family is an addicted person.

So, I stand before you today to urge you to move forward to make the delivery of services, whether they be education or treatment into a unified body so that we can be sure that that money is used to the very best benefit of all of these families that are suffering.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I would support what the good Representative from Winthrop has stated this morning. I think that there may be some problems in coordination but I think there is a danger here, at least the way I perceive it and that is, all of our schools in the State of Maine have a drug problem to some degree. I think that if we are ever going to educate our students the way they need to be educated, we have to remove drugs from our schools. If we are going to accomplish what I feel we need to accomplish, then we are going to have to do this through prevention and it is our kids that we need to start with.

I attended the first institute back in the '70's to attack that very thing. Out of that a lot of good programs have been produced. As I look around the House here, I see a booklet called Project Graduation and that is out of this very program that Project Graduation grew. It went nationwide and it has gone internationally. It is these types of programs that we have got to give to our young people.

I have seen kids and I have gone through the treatment process with kids that were absolutely non-productive in our schools, absolutely non-productive, and go through treatment and come back through this program and be productive students and participate in the whole process. We have also had teachers go through the program, mechanics, bus drivers, the whole thing. What my concern is, will the Education Department still get the proper funding to do this job? That is where I think the danger lies and I would want to make sure before I voted for this legislation that they continue to get the funding that they really need to try to get the drugs out of our schools.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address briefly the issue of the Department of Education's involvement in this particular bill. There was a lot of effort on the part of a lot of people to try to

come to some kind of an agreement of a structure that would satisfy a lot of problems. The one reluctant participant was the Department of Education. One of the reasons why the Department of Education was reluctant was they consider themselves a little bit of a different kind of a performer in this delivery of services mainly because education provides a direct service that is delivered through our school system. They don't contract with other agencies to provide the service, they do it themselves. I think that everyone considers the program which the Department of Education delivers to be an excellent program. There is no question but what the attitudes of our youth are an important part of preventing substance abuse. However, just to repeat a part of what I had said earlier, the Department of Education is simply not the only agency in our school systems. If we want to have a coordinated approach, all of the agencies must be involved. We can't single one out and say, because you do something that perhaps is a bit different than the others, you do not need to be involved, that your budget does not have to be a part of a comprehensive alcohol and drug abuse budget. We cannot single one group out and say it is okay, you may do your own thing.

There are two parts here. One of them is that education is not the only one in our schools and the other one is that a large part of the Department of Education's program involves community members. Those same community members are involved and may be involved in other areas. That is why it is so important that the entire program fall under the Office of Substance Abuse.

After we had finished this bill up and voted it out, it just happened that I got a piece in the mail and I read it when I got home. It came from my son's high school. It talks about the fact that Augusta now has a coordinated program. It talks about day-long awareness programs are now completed by Sophomore, Junior and Senior classes. This is the program from the Department of Education. We call it ADAPT. Fifth and seventh grade teachers are receiving training in "Here is Looking at You 2000." Augusta sixth grade students will be involved in the DARE program by Augusta City Police. There is another program from another group. Grade K to four students continue to be involved in the "Babes" program. There is another program, the National Council on Alcoholism. So, even though Augusta has the coordinated program, we have four different groups providing a service through our school system. The Department of Education is only one of those. It is vital that the state be able to keep track of what is going on and to coordinate that with the community which the Department of Education does with its other services, that is why this bill is so important and that is what is so special about the way this bill deals with these kinds of services. I hope you will be able to support this piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Members of the House: I speak obviously in my capacity as the Representative from Belfast and without regard to anything else.

When I went to the liquor store to buy what the liquor store sells, I met a young lad there who was in charge of it. We got to talking about this problem. He was explaining to me what the problem looks like from somebody's position of selling liquor and his philosophy is with respect to this dedication or undedication of these funds. I was really fascinated by his feeling that, although he was

selling a lawful drug, he knew that at least a portion of what was in the purchase price was committed to the solution and salvation of people who were afflicted by it and he felt good about that. I thought that was an interesting statement to me about the policy that underlies the dedication of this money originally and I have always been in favor of that, as I said earlier.

I support the concept in this bill of providing this office. I recognize that bureaucracies work in fashions which I don't understand and I am happy to leave it to those good people on the committee who do that. I recognize that they have created what I think of as legislative gobbledygook, it is either a dedicated-undicated fund or an undicated-dedicated fund and I am not sure which. It may not be important because it is General Fund and after a while, it will get squirreled away. What I want us to do is figure out some way to keep the good concepts but to continue the dedication simply so the message will always be out there, that when you buy, if you are using alcohol as it can properly be used as a lawful drug in this state by those who don't abuse it, and I hope most people will ultimately through this education come to that position if they use it at all, but nevertheless, there will still be that message that those purveyors of this drug can carry out to the people is that a portion of it is always dedicated by us who deal with this for the purposes of ensuring and recognizing that there is a problem which we intend to deal with even as we continue to sell this drug. I hope that somehow this legislature will resolve that problem and keep that message in place while, at the same time, accomplishing the goals so laudably worked upon and offered to this House as part of the message, but let's keep the real message that we intend to recognize what we do when we sell drugs in this state.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I would just like to address the fact again of what we are saying, that we have come a long way in what we are dedicating and what we are putting in to this type of service. I think that we have shown that we are committed to this, we have already pointed out that it takes a lot more money to run than what we are even getting in the dedicated fund. I am not that worried about that because I sincerely believe that as a state we are dedicated to this and I think we are going to keep services that we know are doing a good job and making an impact.

I do think the things that have been mentioned to you about the coordination and the idea of the contracting being in one place are going to address some of the concerns that people have really had — some of the reasons that the bill was even brought to us in the first place. I think there are some good things in this bill and I encourage you to support it.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: Although a lot has been said about who has bought into this, the people in my area haven't bought into it. I will just take two minutes and tell you my area is the Oxford Hills area. In 1980, I was a senior at Oxford Hills. I was one of those students that worked on Project Graduation and made it a reality.

I am giving up an opportunity this morning to attend a drug summit in my town that 150 people are attending to further look into this problem. We have a group, Oxford Hills Chemical Dependency Service Coalition of the entire community. Along with the

school, we feel that the statement that is made by keeping the alcohol premium dedicated is an important statement for the State of Maine. I just rise to tell you that not everyone has bought into it. There are some communities who are pioneers in this area who are saying this is a statement that should be made, this is a statement that should be kept. I urge you to vote against the enactment of this bill.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to respond to the previous speaker because I was one of those pioneers who worked with his predecessor from South Paris in putting the Alcohol Premium Bill through and fighting to keep it. I think the problem is, if you vote to defeat this bill, you are really going to be hurting the alcoholism programs in the state because they are going to continue to get less and less money.

Let me just explain what the premium fund is because some people are confused. The premium fund is a small (we called it a premium, it is really a tax) tax on every ounce of alcohol that is sold, it goes into a special fund. That is not the only amount of money that goes into fighting alcoholism in the state, in fact it is only about a third.

What has been happening in the years is that the amount of money is going down, the total amount of money is going down that we have to deal with alcoholism. I, too, like very much the idea of saying that a portion of that dangerous substance that is sold will go into dealing with that dangerous substance, I like that idea. I guess what I have had to wrestle with in my own conscience is the idea of, what is more important? Is it more important to have that symbolic idea or is it more important to have the funds that we need to deal with this terrible disease? That is why I have come to the conclusion to support this particular measure as have many of the people, many of the pioneers, many of the people that I fought with over the years to get these programs funded.

There are also some concerns and there has been fighting between education and treatment in the past and I think there are some concerns on the part of education, they may not be treated as well as they are under the present circumstances where they essentially do their own thing. We need a coordinated program, we need a program with higher visibility. That is what this office gives us. So, if you vote against this bill today, you are voting for the status quo which is going to hurt our alcoholism programs.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I understand the reservations that Representative Norton and Representative Bailey have (being educators) with the good work that has gone on, not only with Project Graduation, but all the other programs and education dealing with drug abuse. I think I go along with Representative Begley's idea that this coordinated program is needed.

We have a bill that we have passed this session that dovetails with this bill. It is a bill where the schools can now use expulsion or suspension from school of students caught with drugs and so forth. This bill that we put in this year and have passed is another alternative to the school. They can take this youngster and put him in a treatment or an alternative program, one of these coordinated programs and therefore keep the youngster in school

and maybe deal with the problem rather than just throw him out. So, I think this bill really dovetails with what we did in the Education Committee this year and it will help us put this program in a very collaborative, cooperative program.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I want to point something out, that there is nothing new about the establishment of an office designed to coordinate this effort. The Office of Alcohol and Drug Abuse Prevention was created for that exact purpose. That gives me all the more reason to rise today to say that you better keep the dedicated revenue for the concept that it purports and the fact that I think it will keep the ship on the sea.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Your vote is needed on this piece of legislation. I will remind you that it is an emergency piece of legislation. I will also remind you that this was a unanimous committee vote and it was a compromise on two pieces of legislation brought to the State and Local Government Committee. This compromise was developed with those members of the subcommittee and with the members of the Governor's Office. There were no opponents to this piece of legislation during the testimony at the public hearing. The five regional Councils of Alcohol and Substance Abuse spoke in favor of this bill. Substance abuse providers from other areas of prevention and education also spoke in favor of this bill. All of the issues that you have heard today were discussed within the subcommittee context or with the full committee during the work sessions. None of the educational programs will be lost, they truly will be enhanced.

The Commissioner of Education will be involved with planning, budgeting, evaluation and cooperation with the Substance Abuse Advisory Committee. There will continue to be that input. The commission shall coordinate those programs that presently exist today.

The premium fund has been reduced this year by at least five percent.

May I please remind you that this office will not receive less than what is collected by the Bureau of Alcohol in the premium fund each year. Then they will go to the General Fund for any additional dollars. I ask your support.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I have been listening to the deliberations this morning on this particular bill. For years, I have supported the dedicated funds. I think it is really unfortunate that such a good bill has to be tied in with undedicating these funds. Why these two things cannot come out on their own merits is beyond me.

I am going to support Representative Marsano, Representative Norton and I hope that the rest of you will too. Perhaps this bill could come out in non-concurrence and we could divide what should be divided and deal with the issues the way they should be dealt with. I am hoping that you will support them.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: Before I cast my vote, I need to be clearer on the reason why we are being asked to make a choice between dedicated revenues and this terribly

necessary program and coordination of services, which I see as a possibility of helping our people too. I am still not clear on that, is it simply because the monies have been reduced five percent? Perhaps we are beginning to succeed in our education program about alcoholism but, nevertheless, that point is not clear to me why we are being asked to make this choice.

The SPEAKER: Representative Holt of Bath has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Bath is absolutely correct, the premium fund has been reduced and it takes additional dollars to provide the education, the prevention, and the information for those persons who in fact are addicted to some of these substances that we are discussing here today.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to anybody who could answer it please.

Could someone tell me how much exactly we took in through the premium fund or how much the reduction of five percent constitutes and whether or not we project a continual decline of this particular premium fund or not?

The SPEAKER: Representative Mahany of Easton has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: The fiscal note on the back of the bill provides a lot of illuminating information about that. It seems to me as though it is just a part of the story which realistically was asked by Representative Holt and Representative Mahany and the simple truth to the matter is that this year there doesn't seem to be a whole lot more money, it is just a case of undedicating this and shifting it into the office. Whether it is dedicated revenue or undedicated revenue, if there were to be more revenue it could be raised from the General Fund to support the other parts of this problem after this coalition of positions, it would seem as though the basis of the amendment is for the purposes of undedicating and the figure from what I see, is \$5,832,622 which is a portion of the \$5,732,894 and a carry-forward of some \$545,894.

Representative Rolde of York was granted permission to address the House a third time.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I was also going to answer the question. The premium has generally brought in about \$6 million, so it's five percent of whatever that is.

Part of the problem is -- I was the sponsor in the last session of a bill to double the premium. We were not able to get that passed. I think that again shows the problem. If we keep this dedicated with the word "dedicated" on it, which is all you are doing because you really -- although you are undedicating here, you are putting the same amount of money that comes from the premium into the program. That was the bottom line for me that that money that would be coming in would still go to the program. The problem is that less and less money is going to the program. Because the Appropriations Committee felt so strongly about dedication, they would not put in any additional money. I have tried many times to

get money beyond what came in on the premium fund and we were not able to get that. So, if you would like to keep the premium, then I think you should join in raising it, in doubling it as I tried to do in the last session, but I didn't have the support and that is why I have taken the position I have today.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, I would like to pose a question through the Chair.

One of the provisions in the Statement of Facts says that it also repeals provisions of the law regarding involuntary commitment and I just wondered if someone could justify or explain why it was changed from requiring that commitment be on an involuntary basis and has now been changed to strictly voluntary?

The SPEAKER: The Representative from Westbrook, Representative O'Gara, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I would happily, I did last year and I would again vote to double that premium tax. I think we have to again repeat the message that is being given out there. When we dedicate these funds, it is to everyone who drinks at all, socially or beyond what is social. That message is that money will go to help those who do need treatment. There isn't enough money in there already, Representative Rolde has mentioned that. However, there are more monies that are going to be put in. I think we have to stop and talk about responsibility on the part of the members of the Appropriations Committee too when they are not giving the necessary funds because they want to keep these monies undedicated and it is not fair. Eventually, it is just going to have to happen. I sincerely feel that that message is very urgent.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: I speak for my area and my people have called me and said, "Please do not undedicate this money, we need it, we have one of the finest programs in the state, let's keep it that way."

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I still have not heard Representative O'Gara's answer to the question. If we need to, I would hope that if somebody needs to research it that somebody would table this. I know that we don't want to table it but I think he brought up a good question and I want to hear the answer.

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

Representative JOSEPH: Mr. Speaker, I would like to ask Representative O'Gara to repeat his question, I didn't hear the full question, I did hear the part about involuntary commitment but I did not hear the full question.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Members of the House: I am just curious to know what the justification was. In other words, if I understand it now, if somebody is deemed to be having a problem with alcohol regarding that disease, no longer can that person be ordered into treatment. If I understand it correctly, it now becomes voluntary, I

just wanted to know what is the justification for making it voluntary?

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Ladies and Gentlemen of the House: When we first received this bill last year, looking over the sections in the bill regarding involuntary commitment, everyone's reaction on the committee was and continues to refer to this bill as the "police state bill."

The committee was not very favorably inclined to keeping those sections in the proposed bill. However, it was pointed out that this was in existing law. Since that time, it has come to our attention that there was a report of a commission to study the use of involuntary services for substance abusers, which reported in March of 1988, in which they concluded that this section was greatly in need of changes.

In speaking with members of the substance abuse committee, this is actually a very dangerous section of law in that, if it were to be passed in its current form, that they would be sending a very inappropriate message.

I would like to read into the Record a brief statement from the section in this report on deficiencies of the current law. It says, "At best, the current involuntary treatment law fails to balance accurately the legitimate interest of the state in protecting the health and welfare of its citizens with the rights of individuals to be free from unwarranted interference with their personal liberty. At worst, the emergency commitment law as currently written violates the constitutionally protected rights of due process of law." Therefore, it was the feeling of almost everybody in the committee to take this off and next year the legislature will deal with fixing the involuntary commitment law.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I would just like to say that I am going to support this piece of legislation. It seems to me that we are getting hung up a little bit on the word "dedication" or "undedication." If the programs that deal with alcohol abuse are still receiving the premium and we have the option of increasing that premium by increasing the tax ultimately, then I think that is the way to go.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 237

YEA - Adams, Aliberti, Anthony, Begley, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, DiPietro, Erwin, P.; Farnsworth, Graham, Gurney, Handy, Heesch, Hichborn, Hickey, Higgins, Holt, Jacques, Jalbert, Joseph, Lawrence, Lebowitz, Lisnik, Macomber, Mahany, Manning, Mayo, McCormick, McGowan, McKeen, McSweeney, Michaud, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Dea, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Richard, Richards, Ridley, Rolde, Rotondi, Rydell, Seavey, Sheltra, Simpson, Skoglund, Stevens, P.; Swazey, Townsend, Webster, M.; The Speaker.

NAY - Aikman, Allen, Anderson, Ault, Bailey, Butland, Carroll, J.; Clark, H.; Dellert, Dexter,

Dore, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hanley, Hastings, Hepburn, Hogle, Hussey, Hutchins, Jackson, Ketover, Kilkelly, Libby, Lord, Luther, MacBride, Marsano, Marsh, Martin, H.; McHenry, McPherson, Melendy, Merrill, Mills, Murphy, Norton, O'Gara, Pendleton, Rand, Reed, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tamaro, Tardy, Telow, Tracy, Tupper, Walker, Wentworth, Whitcomb.

ABSENT - Donald, Duffy, LaPointe, Larrivee, Look, Marston, Nutting, Pines, Ruhlin, Sherburne.

Yes, 79; No, 62; Absent, 10; Paired, 0; Excused, 0.

79 having voted in the affirmative and 62 in the negative with 10 being absent, the Bill failed of enactment.

Representative Gwadosky of Fairfield moved that the House reconsider its action whereby L.D. 2312 failed of enactment.

On further motion of the same Representative, tabled pending his motion to reconsider action whereby Bill failed of passage to be enacted and later today assigned.

ENACTOR

**Emergency Measure
Later Today Assigned**

An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991 (H.P. 1776) (L.D. 2444) (C. "A" H-1064)

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

On motion of Representative Carter of Winslow, tabled pending passage to be enacted and later today assigned.

FINALLY PASSED

Emergency Measure

Resolve, to Establish a Select Committee on Comprehensive Tax Reform (S.P. 999) (L.D. 2466) (C. "A" S-667)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Clarify the Role of the Board of Environmental Protection (H.P. 1602) (L.D. 2214) (S. "A" S-665 and H. "A" H-1040 to C. "A" H-950)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

(Reconsidered)

An Act to Correct Errors and Facilitate Implementation of the Solid Waste Laws (H.P. 1705) (L.D. 2354) (C. "A" H-1069)

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

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, I move that we reconsider our action whereby L.D. 2354 was passed to be engrossed.

Ladies and Gentlemen of the House: I rise today in opposition to L.D. 2354, trying to put Amendment "B" on, which will remove the additional deposit that has been enacted by the Solid Waste Law.

What I am interested in removing is only the additional deposit, the 15 cent deposit that is talked about for one gallon or smaller beverage containers and I am not interested in touching what is already on the books as a deposit law.

I asked in a questionnaire recently to my constituents and I will read to you what the question was. It was, "Do you think the state and the municipalities could improve the collection of all bottles in glass packaging with cost saving incentives at the point of collection, i.e., recycling centers, as opposed to what was enacted in the Solid Waste Bill of last year, which only adds beverage containers up to one gallon and exempting dairy products?" Eighty-five percent of the people that responded to this felt that we could do a better job collecting all glass bottles and plastic containers by doing it at the point of collection rather than through an additional redemption process. This splits our efforts, which I believe is counterproductive. I think if we were to take, for instance, two bottles of wine that would be added to this particular program, take them from the store, they get emptied and get taken back to the store, one of them in the process of being saved gets dropped and broken, it gets taken to the local landfill which already as you know have set up many different avenues of recycling all types of glass, plastic and things of that nature. So this broken bottle, perhaps it was a green wine bottle and it will get thrown into the green container. The one that didn't get broken will get returned through the process of delivery and pickup and 15 cent deposit and get back to the distributor. At that point, it will be saved for some undetermined period of time and it will also get taken and destroyed after the 15 cents has been worked around two or three times and it will end up in a green glass container, broken up, and both of these containers, one that comes from the landfill and the one that comes from the supermarket, will end being recycled as they should be and they will be used again to make glass for containers. One of them has had to go around and around robinhood's barn to get there. I think by separating this process, we are just adding costs. In fact, it has been estimated that it will cost \$50 million statewide to institute this, that is extra space for stores and even the state is going to have to do the same with extra space at liquor stores and that type of thing.

The amendment that I have actually saves two positions and deallocates some \$45,000 for the two positions which is only this particular bill. It will save much more money than that in the long run. It will also concentrate our efforts where they belong and that is recycling in the most efficient way. This 25 and 50 percent goals that we are trying to reach are excellent goals and we should not try to derail them. I am not trying to derail them with this amendment.

Another problem that is caused by this amendment is an inadvertent one, I think. We have a number of small cider producers in this state and I happen to have one in my town, probably produces a few thousand bottles a year. There is no way for this gentleman to set up a return process for his plastic bottles that will get the bottles back to him. So he probably will not be able to bottle apple cider,

which is unfortunate doing a small business, when in fact those very bottles that he is now filling and sending out do make it back into the waste stream but they make it back through the landfills. They are taken in, either by the person who uses them or the person who picks it up for them and they are put into these barrels that are either plastic, white, brown or green glass or whatever the container might be.

We have set up a process of exceptions through the dairy industries. These exceptions that we have, which might be a mayonnaise bottle that is not part of this process, is exactly for this purpose to pick up all of the extra glass and packaging. So my amendment is just merely to do away with the duplication and the extra cost that will be involved with that duplication. We throw away approximately 900,000 tons of waste in this state each year, approximately 20 percent of that is bottles of one type or another. This 15 cent incentive, if that is what you want to call it, for people to return a wine bottle or a liquor bottle that probably cost (I don't know how much they cost, I don't buy much) maybe an average of \$7.00 or \$8.00, that 15 cents is roughly 2 percent of the cost. The soda bottles of which I do buy some of that have a 5 percent return deposit and is approximately 7 percent of the cost of the single soda so the incentive to return the soda bottle is perhaps a little bit more because you are talking about 7 percent of its cost. With a wine or liquor bottle, you are only talking about a couple of percent of its costs so I think the incentive isn't there. I am not saying they won't get returned because I think they will. They probably will get returned through the landfills and the people that run the landfills, if they are not broken, will take them out of their waste stream and take them to the recycling centers to get the 15 cents as a good business person might do but I don't think you are going to see the average person on the street returning a wine or liquor bottle that costs anywhere from \$4.00 to \$100 for a 15 cent return.

I think I have taken up enough of your time and I thank you.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I would like to pose a question to the Chair.

Do the rules have to be suspended for the purpose of reconsideration?

The SPEAKER: The Chair would answer in the affirmative, the bill having been passed to be engrossed in this House on April 5th. Today is Saturday, April 7th. Therefore, the motion to reconsider is out of order.

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

Representative WEBSTER: Mr. Speaker, I move that the rules be suspended for the purposes of reconsideration.

The SPEAKER: The Representative from Cape Elizabeth, Representative Webster, moves that the rules be suspended for the purpose of reconsideration.

Representative Michaud of East Millinocket requested a division on the motion to suspend the rules.

The SPEAKER: The pending question before the House is the motion of the Representative from Cape Elizabeth, Representative Webster, that the rules be suspended for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

104 having voted in the affirmative and 28 in the negative, the motion did prevail.

On motion of Representative Hutchins of Penobscot, under suspension of the rules, the House reconsidered its action whereby L.D. 2354 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1069) was adopted.

The same Representative offered House Amendment "B" (H-1089) to Committee Amendment "A" (H-1069) and moved its adoption.

House Amendment "B" (H-1089) to Committee Amendment "A" (H-1069) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Members of the House: I move indefinite postponement of House Amendment "B" to Committee Amendment "A" and I request a roll call.

What House Amendment "B" does is that it removes what the committee had done last year regarding spirits, wine and non-alcoholic beverages — it removes them from the bottle bill. I hope that this body will go along with me and indefinitely postpone House Amendment "B" so we will not gut the solid waste bill that we passed last year.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: With this amendment, I do not intend to gut the solid waste amendment of last year. I believe that it had many good points, this not being one of them. The bottle bill that we now have and deal with is not a recycling law, it is a litter law. The particular items that we have added to the solid waste bill that this amendment is trying to do away with are not the types of bottles and containers that are normally found along side the road. I don't mean to say that there are none because naturally there are. I do believe it is a duplication of effort and to stand here and talk about it any longer would be just beating a dead horse to death.

I do thank you for giving me this opportunity to point out what I think is an inaccurate way of addressing a problem that we have. I believe we are already addressing it through our solid waste facilities with the mandates that we passed last year which are going to require 25 percent and 50 percent reductions over the next few years. Those restrictions alone will take these extra containers out of the waste stream without duplicating efforts.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I voted to allow Representative Hutchins the opportunity to offer his amendment. I will vote against his amendment because I do not want to unravel the solid waste act we passed last session.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: You just heard the contention that the bottle bill is not a recycling bill, it is a litter bill. I would disagree with that. I think the bottle bill is the best recycling bill there is. In fact, Maine achieves 94 percent recycling rate on those bottles that are sold in the state which is far in excess of the recycling rate that is achieved at any place in this country in jurisdictions that don't have the bottle bill. In fact, the best recycling rate in the area without the bottle bill in the United States is some town in New Hampshire that has around 62 to 64 percent. So, we have a very good recycling law and the bottle bill is an intricate, important part of that law. I think that fact ought to be brought out before we vote.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I rise to just correct an error in Representative Hutchins' comments. We did not mandate recycling in that law, we did not mandate recycling -- the editorial papers in this state seem to think we did but it simply means they haven't read the law. They are only incentives to do it and discourages disincentives if you don't but there is no mandation. Any town may follow any course it wishes.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: When I talked about mandating recycling, Representative Coles is right when he says that we don't actually mandate it but any time that we use costs as a way of trying to encourage recycling, that is a kind of a voluntary mandate, I think. I think it is a good way to do it. I think if more of our landfills worked the way perhaps Bowdoinham works which encourages recycling and, if you don't recycle, it costs you more money -- you will find that more people will go to recycling and be much more careful.

I think the fact that we have a 94 percent return rate on the bottle bill that we now have can be attributed to some extent at least to the fact that the education that has come about in the last couple of years with this recycling effort that we are pushing is showing the importance of recycling. They are recycling them that way naturally because it is the way that they are going to get some of their money back. A lot of that comes at the landfill sites where people just take them and throw them away. Then, like I mentioned earlier, take them back through the system by the people that run the landfills.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Michaud of East Millinocket that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 238

YEA - Adams, Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Begley, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, Dellert, DiPietro, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Hognlund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, Lawrence, Lebowitz, Lisnik, Lord, Luther, MacBride, Macomber,

Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McGowan, McHenry, McKeen, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Plourde, Pouliot, Priest, Rand, Reed, Ridley, Rolde, Rotondi, Rydell, Seavey, Sheltra, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Webster, M.; Whitcomb, The Speaker.

NAY - Butland, Dexter, Farren, Gurney, Hutchins, Jackson, Jalbert, Libby, McCormick, Merrill, Paradis, E.; Parent, Stevenson, Strout, B.; Wentworth.

ABSENT - Donald, Duffy, LaPointe, Larrivee, Look, Marston, Nutting, Pines, Richard, Richards, Ruhlin, Sherburne.

Yes, 124; No, 15; Absent, 12; Paired, 0; Excused, 0.

124 having voted in the affirmative, 15 in the negative, with 12 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" (H-1069) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A."

Under suspension of the rules, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide Tax Amnesty and Necessary Administrative Support to the Bureau of Taxation (H.P. 1731) (L.D. 2390) (C. "A" H-1093)

An Act to Provide an Income Tax Credit for the Use of Reclaimed Wood Waste as Fuel (H.P. 1785) (L.D. 2455) (C. "A" H-1091)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 2 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide Funds for the Maine Solid Waste Management Fund (H.P. 1821) (L.D. 2494)

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

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, I would like to pose a question through the Chair to any member of the Taxation Committee.

As far as the one dollar that is going to be retained for the tires for the advanced disposal fee, will this advance disposal fee cover the present disposal fee that is being charged at the transfer stations?

The SPEAKER: Representative Hanley of Paris has posed a question through the Chair to any member on the Taxation Committee who may respond if they so desire.

The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: To answer that question, let me give you a brief description of what this bill is. As you all know, there is a \$15 fee that is going to go into effect July 1st on brown goods and white goods enacted by the last session of the legislature.

This bill is an attempt to try to make a silk purse out of a sow's ear, I guess, and replace that fee with something that would work a little better. The \$1 charge on tires is in the original bill that we passed last year and it remains here.

In direct answer to the gentleman's question, it does not directly replace disposal fees. The long range objective and the objectives, I guess, of this whole department can be better addressed by people on the Energy and Natural Resources Committee. As I understand it, the objective is to provide this money to encourage recycling so that eventually disposal fees won't be the problem that they are now. I think everybody in the House knows that disposal fees don't work well. All you have to do is go into the woods of Maine and see the washing machines and tires and so forth that are being dumped there because they don't want to pay the disposal fee when they are trying to get rid of them.

The objective here is to establish a program of recycling and encourage recycling so that we can avoid that situation in the future. What this bill does is it repeals the \$15 fee on brown goods and white goods and places a \$5 fee on major appliances that are listed in the bill. I think there are eight of them. It doesn't charge any fee on brown goods. The reason for that is because the biggest complaint we heard was that under the original program, you would pay a \$15 fee for a \$10 walkman. We have tried to avoid that situation with this bill.

It also places a \$5 fee on major furniture purchases over \$250. The reason that we chose that was because these are the types of items, washing machines, freezers, that are a problem to dispose of. That is why they are going to be charged a fee. Again, that is a lengthy answer to the gentleman's question, but hopefully in the long range, it will solve the disposal fee problem. I don't think you can expect to see it happen in the next year.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to go on the Record saying that I will be voting for this legislation but I think it is bad policy to tell the people of the State of Maine that we are going to be charging advance disposal fees for their goods and yet, when they go to their transfer station, we are still going to be charging them \$2 to drop off their tires or \$5 or \$15 for their white goods.

The people out there, when we passed the comprehensive solid waste program and when they heard of this advance disposal fee, that was their interpretation of what the action we took would do. There is really no alternative for us at this time but to pass this legislation. It is something that this legislature will have to deal with in the years to come.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: We were assured by Mrs. Huber when we heard this fee bill in committee that \$2 million of this money collected would be going back to the towns in the form of a grant. We haven't got it in black and white but we would hope, and I suggested that the towns keep an invoice on what they are charged for disposing of these major white goods, and that this would be a way that they would get reimbursed. Mrs. Huber thought that this was a pretty good idea but I don't know just what she is going to come up with. It would seem to me, if you are going to do this fairly, you would need some sort of a way of knowing what it is costing the

towns to be able to give them back the money that they need and not just disburse it generally. That is what we are hoping and we are going to be watching very closely to see what happens.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: A question — as I understand it, this up-front fee, perhaps not called an up-front fee anymore although it is what we called it last year and it is probably what the people will call it when they pay for it, is supposed to raise \$5.7 million. The agency already receives something in the neighborhood of \$1.5 million from the \$4 tipping fee and others so we are getting close to \$8 million for the solid waste agency as I understand it. Can anyone break down — Representative Lord, I think, just perhaps addressed some of it when he talked about \$2 million of that fund going to the communities to reduce their costs for disposal. Is there any other way to find out where the other \$6 million is being used to run the agency that is downstreet on the fifth floor?

The SPEAKER: Representative Hutchins of Penobscot has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: The money that is going to the solid waste agency will be used for three purposes. One will be the operating expense of the agency, those are the people who are doing the state's plan, the people who are administering the recycling programs and grants and the people who will be siting landfills.

The second basic purpose for the money is, as Representative Lord mentioned, to provide grants to the towns to run recycling programs.

The third basic purpose for the money is to develop the landfills the towns will need access to in order to dispose of these difficult to dispose of goods.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: Just a point. Last year when we passed this solid waste bill, we talked about the \$15 up-front fee being the cure-all and end-all to help get rid of the problems in our landfills. The reason we were going to do it up-front is so people wouldn't throw them in the woods. Now we are telling the folks that we are going to reduce that to \$5 and, instead of penalizing just appliance dealers, we are going into furniture dealers as well. It probably is a better way than the \$15 up-front fee was, I am not arguing with that and it is probably better than adding one percent to the sales tax. So, I think it probably is the best solution perhaps that we have that we have been forced into from the vote we took last year.

The fact remains the people are going to be charged \$5 for an up-front disposal fee. When they take the refrigerator that they are replacing to the dump or landfill and know that they are going to be charged for a disposal fee at that end also, whether it is direct at that time or whether the town raises tax money, as my town just did to raise \$3,500 to remove a pile of white goods, they are going to see that as a fee at both ends. Then I think you will see it thrown in the woods.

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Amend the Solid Waste Landfill Remediation and Closure Laws Administered by the Department of Environmental Protection (H.P. 1712) (L.D. 2363) (H. "A" H-1092 to C. "A" H-1075)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 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.

PASSED TO BE ENACTED
Emergency Measure

An Act to Establish Fees for Nonferrous Metal Mining (H.P. 1753) (L.D. 2416) (H. "A" H-1094 to C. "A" H-1065)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 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.

PASSED TO BE ENACTED

An Act to Ensure Continuity of Health Insurance Coverage (H.P. 1641) (L.D. 2274) (S. "B" S-675 to C. "A" H-1090)

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

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: L.D. 2274 is now before you at enactment. It is a major step forward for the people of Maine. I want to make a very brief statement on the Record to that effect.

It goes a long way towards bringing back the basic concept of spreading of risk into the health insurance business. I am proud of the work of every member of the Banking and Insurance Committee on this legislation which resulted in a unanimous committee report representing an amalgamation of three bills dealing with insuring continuity of health insurance coverage for the people of Maine.

The Committee Amendment represented complete agreement between committee members, the many individuals and organizations represented in the large coalition of consumers for affordable health care, and the Bureau of Insurance representing the administration and Blue Cross/Blue Shield. The commercial insurance industry, its agents and some business organizations were not completely in agreement with our committee amendment. We continued to work together and yesterday we agreed on an additional amendment that further strengthens the bill for consumers while recognizing that a

reasonable amount of time is needed for insurers to comply.

Now I stand before you and can say that all parties are in complete agreement. That as of October 12, 1990, employers will be able to change insurance carriers and none of their employees will lose coverage because of a preexisting condition, that insured men and women of Maine, as of April 1, 1991 will be able to change employment and move from their previous employer's group coverage to their new employer's group coverage without any exclusion for preexisting conditions. Members of the group who are already employed will no longer have any preexisting condition exclusions. For those covered by individual contracts, preexisting condition exclusions and waiting periods will be reduced as of December 1, 1990. Disabled people will not be able to be dropped from coverage. L.D. 2274 goes a long way to encouraging a health insurance system that is for all of us, a health insurance system that promotes wellness and fairness and seeks to be inclusive rather than exclusive. We intend to go further and we have established a task force of all interested parties that will work through the summer and fall to recommend additional changes.

Men and women of the House, we in Maine can all be proud of voting for this landmark legislation for our constituents and really for everyone else in the nation because, once again, Maine is in the forefront of health care legislation and business people, insurers and legislators all over the nation will be looking at this legislation and will probably be introducing their own versions in coming legislative sessions.

So, I want to thank you all for voting for this legislation.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Provide for Immediate Income Withholding and a Plan for Periodic Review and Adjustment of Child Support Awards in Support Enforcement Cases of the Department of Human Services (H.P. 1732) (L.D. 2391) (C. "A" H-1088) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Anthony of South Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 2391 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1088) was adopted.

The same Representative offered House Amendment "A" (H-1100) to Committee Amendment "A" (H-1088) and moved its adoption.

House Amendment "A" (H-1100) to Committee Amendment "A" (H-1088) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

At this point, the Speaker announced the death of Representative Weston Sherburne of Dexter and the members stood in a moment of silence in his memory.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1484)
 Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1990 (EMERGENCY) (H.P. 1824) (L.D. 2497) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was read the second time, passed to be engrossed and sent up for concurrence.

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1990 (H.P. 1822) (L.D. 2495)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Emergency Measure

Resolve, Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (S.P. 561) (L.D. 1564) (H. "A" H-1096 to C. "B" S-593 and H. "A" H-1021)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Increase the Penalty for Vehicular Manslaughter and to Remove the Habitual Drunk Driver Offender from the Highways (H.P. 1672) (L.D. 2314) (H. "A" H-1097 to C. "A" H-1061)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Establish the Maine Medical Malpractice Act" (S.P. 289) (L.D. 762) on which the Bill and accompanying papers were indefinitely postponed in the House on April 7, 1990.

Came from the Senate with that Body having insisted on its former action whereby the Bill and accompanying papers were recommitted to the Committee on Judiciary in non-concurrence.

On motion of Representative Mayo of Thomaston, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Resolve, Creating a Commission on Adult Sentencing (EMERGENCY) (H.P. 1801) (L.D. 2471) which was passed to be engrossed as amended by House Amendment "A" (H-1099) in the House on April 7, 1990.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-654) and Senate Amendment "B" (S-676) in non-concurrence.

The House voted to recede and concur.

The Chair laid before the House the following matter: An Act to Authorize Franklin County to Acquire a Parcel of Land in Coburn Gore (EMERGENCY) (S.P. 969) (L.D. 2436) (C. "A" S-653) (failed passage to be enacted in the House on April 6, 1990); came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-653) and Senate Amendment "A" (S-671) in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.
 Representative PRIEST: I move that the House adhere.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.
 Representative DEXTER: I move that the House recede and concur.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: This bill has been debated and discussed and talked about for some time. I think it is important that the House understand what the present posture of this bill is. The bill is now before you without its emergency clause. The Senate Amendment which was proposed would remove that emergency clause. The bill would not take effect on May 1st in any situation. At best, the transfer, if it were to even be authorized, would take place later in the summer.

For reasons that I will talk to you shortly about, I would ask that the House vote against the motion to recede and concur.

This bill has been a difficult bill to deal with because it appears to authorize a simple transfer of land within Franklin County. I looked at this bill and looked at this bill and tried to figure out what

I was not able to get across. Then I finally realized what this bill in fact is. This bill is essentially a bill which deals with suits against Franklin County. The bill essentially talks about how suits against Franklin County involving one landfill ought to be handled. Once I realized that, the bill became a lot simpler to look at and to discuss. If you look at the wording of what the bill does, it says that the Commissioners of Franklin County can enter into a transfer agreement, sale agreement, provided that the agreement waives the sovereign immunity of Franklin to suit and releases, indemnifies, defends and holds harmless the Coburn Gore Partnership from all liabilities or damages of any type whatsoever. There is no cap, men and women of the House, on the amount of damages that the county would have to indemnify. In fact, this bill does not allow the negotiation of such a cap by the County Commissioners.

My next question is, if there is no cap on the amount of potential liability, what suits could be brought? What the bill says is that the suit can be brought for anything that accrues as result of the establishment, construction, operation, maintenance, management, closure, post-closure maintenance or any other aspect of the landfill. That is an extremely broad, broad definition of what the county's liability must be under this bill if in fact the transfer takes place.

I compared this bill with the normal types of bills that the Legal Affairs Committee has recommended to this legislature when this state decides to remove its possible defenses under the Maine Tort Claims Act. I can assure you that one of the main points of debate when we authorize suits against the state is the amount of damages which we allow. I cannot recall a suit which has ever been recommended to this legislature which allows unlimited damages against the state. We always have had some damage limitation. I can also assure you that we have been very careful to specify as to what suits can take place and under what conditions they can take place and have not said anything like "or any other aspect of the landfill." We have always limited what type of suit can be brought.

It is because this bill is so broad, and authorizes such a limited liability, that I think it ought not to be enacted at this time. I especially feel it ought not to be enacted by the legislature because at this point, if we were to adopt the recede and concur motion, the bill could not take place in an emergency fashion. The best it could take place is sometime late in the summer or in the fall. That changes the posture of the bill, I think, considerably.

You should be aware that the Legal Affairs Committee will undoubtedly be studying the issue of landfill closure and liability for landfill closure during the first regular session of the next legislature. This is a serious issue. The issue in Franklin County can be dealt with, it seems to me, in the same fashion as other landfill closures throughout this state in a more general fashion.

I think this bill, as it is currently postured, is not going to result in something which the people of Franklin County would be happy with after a period of time. It is not immediately necessary because it is no longer an emergency bill. For those reasons, I would urge you to vote against the recede and concur motion.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: In case some of you don't know,

I have just been preceded by a good friend of mine, a good Representative, he is a lawyer. I guess you could tell by the way he spoke. As far as taking the Emergency off, I have been here a day or two and you have to face political reality when you are less than 101 votes, naturally you have got to take the Emergency off.

As far as the landfill, I have talked with the owners and they have intimated to me that they would be willing to be a good Samaritan in the future and extend the lease.

My good Representative is a tough one to take on. I remember 14 years ago I came here and I used to seek him out to draft my bills. To tell you how good he is, if I had been successful in reaching the 101 votes, then he would have got up and challenged it because you can't put an Emergency on a land transfer. So, sometimes when you lose, you win.

We are straying away from the facts here, ladies and gentlemen, this is merely enabling legislation. You can read into it most anything that you want to but it is enabling legislation. Franklin County has legal advice. That is all we are asking for and I am just amazed that we have read so much into this and caused so much trouble to someone who has tried to be helpful at no cost whatsoever to the county. They did this free, didn't even charge a penny.

I guess that is about all I can say, we have hashed this over quite a while so I will sit down.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: As you have just heard, this is just an enabling piece of legislation. It just gives them the authority to do this. I believe this is a local matter. I really don't think that we are so much more intelligent or smarter than the county commissioners in Franklin County that we should be telling them exactly what they can or cannot do. I feel as though they are intelligent enough to find out what is in that dump before they go ahead and acquire a parcel of land that is going to cost them a fortune. I really believe they are responsible anyway, the way the lease is written (I am certainly not a lawyer and don't pretend to be) but I feel this is fair and just local control and we should give that county the power to have local control and to acquire that land if they want to. In all fairness, the agreement they made with this person who donated this land or let them use it, I think is a question of fairness and local control. I urge you to support this piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, I request permission to address a question through the Chair to the Chair of the Franklin County Delegation. I have two questions.

First of all, have the County Commissioners taken a formal vote on this legislation? Second of all, has he polled the Franklin County Delegation on this issue and what was the vote of that poll if he did take one?

The SPEAKER: Representative Mayo of Thomaston has posed two questions through the Chair to Representative Tracy of Rome who may respond if he so desires.

The Chair recognizes that Representative.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to your first question, I do not have the answer if there was an actual meeting of the County Commissioners to vote on that. I have polled the eight members of the Franklin County Legislative Delegation and five of us

still have problems with the sovereign immunity. The other three, Representative Bailey, Representative Dexter and Senator Webster would still like to go with this.

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: It has been twice mentioned that this is simply enabling legislation and that is true in that it doesn't bind the County Commissioners to a decision of yes or no. It is also handcuffing legislation because it is an all or nothing situation, either the County Commissioners take all the liability as is written in this bill or they take nothing at all, so it leaves them no room to negotiate with the landowners over how to accept this liability.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: On the lighter side, I think some good came out of this. Two years ago, the Town of Kennebunkport became famous because of George and Barbara Bush, now the town of Coburn Gore became famous because of Representative Dexter in the 114th Legislature. They both have a dump, Kennebunkport had a dump and Coburn Gore has one. What will probably happen now is that on Monday morning land values will probably go up in Coburn Gore. Everybody knows where it is now. I think Representative Dexter ought to open up a real estate office and everybody in this body will probably want to go to Coburn Gore next summer. Representative Dexter has already approached me about opening up a restaurant or something up there. So, I think some good will come of this. I think it is late in the afternoon, hope you all have a good weekend and we all enjoy it.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Members of the House: I wanted to say that Representative Dexter is getting the short end of this legal argument, the sovereign immunity thing. The reason for that is something that is probably not going to be debated on the floor this year which is the Doctrine of Joint and Several Liability. The way in which the Doctrine of Joint and Several Liability works with respect to matters of this sort would simply mean that, in the event that the indemnification agreement were not going to be written as the enabling legislation would authorize the town to do, it would mean that any after introduced materials, which were of similar substance and would create the same kind of problem that might have miniscule portions already there, would mean that under the Doctrine of Joint and Several Liability, each of the parties would be liable. For that reason, a complete indemnification agreement would seem to be suggested.

The comments from the Representative from Rome suggest to me that this Doctrine of Sovereign Immunity -- and I had the opportunity to speak with Representative Priest last night about it -- that is just a kind of encapsulated use of phrases which mean that the Tort Claims Act can't be introduced because, with the people who presently own it, there could be this application of immunity. Therefore, a large recovery even though the major part of the problem might lie at the hands of those individuals who were dumping with license from the immunity -- I can see everybody rushing out of the House and I don't mean to overlawyer this thing because I know how uninteresting it is for you -- but I didn't want the Representative from Kingfield to think that all

lawyers were immune to the kinds of problems that ordinary well-intentioned individuals like himself have. There is another side to this story and it seems wise to me to pass this bill and let these fancy lawyers that are going to get paid handsomely to straighten it out for the Representative's people if they want to do it.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: I have heard enough lawyers talk now so I am confused. I would like to pose a question through the Chair.

If a serious toxic waste were found today in the dump in question, who would be liable for its cleanup and removal?

The SPEAKER: Representative Marsh of West Gardiner has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Members of the House: Unfortunately, the answer to that question is so often, if you talk to lawyers, "it depends." It is conceivable that the county could be responsible but they would at least be able to put a cap of \$300,000 on their liability. This bill would, by enabling indemnification, effectively remove that liability. Liability in the county might be as much as could be conceivable.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Members of the House: Because normally this type of bill comes to our State Government Committee, I talked for over an hour yesterday with people who are involved in administrating the Unorganized Territory. It was my understanding that, at the present time, if the county or the township did not own it and had to close it which would have to be done in not too long from now, they would be held responsible for the entire project of closing it down. If they owned it, they could get a grant to help them from the state.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I have been saying that I was going to say this all year so I am going to. I have been thinking long and hard on this particular issue and it is a very difficult situation that we find ourselves in. At least I do, being from Franklin County and representing Franklin County.

How do we get to where we are today and into this situation? We have had some discussions about it. First off, a lot of us from Franklin County were caught off guard by the bill even being here and we didn't realize it was here until the day of the hearing. We went over this the other day and the reason for that, as was explained, was that it came in at the last minute and it had to be hurriedly done. You heard that, at the last minute, we were able to get Senator Webster and Representative Dexter to sign the bill to get it here. It was in their districts and that is why the rest of the Delegation also was on the bill. I can understand that too because of the time frame and everything else. The point of the matter is, if this bill passes, it affects all of the towns in the county and, therefore, it is very important to the rest of us who represent the county, not just the people who have the area of the dump currently. Pierce, Atwood, after the hearing came up to me because they were lobbying on this bill and explained to me that they

were sorry about the fact the way it worked and that they hadn't gotten a chance to talk to us and I can understand that also. That can happen, as we all know.

Another thing brought up was that the county commissioners support this. I talked to one of the county commissioners and they told me that they don't support this bill and they would like to have us work it out beyond this so there is a lot of confusion here. It makes it very difficult for any of us who are representing towns in Franklin County to be put in a position like this. I guess the biggest thing that bothers me about this, even though it is enabling legislation, it does enable and when you say enabling, that means somebody is allowed or could enter into an agreement that would give sovereign immunity. The question is, do we want, as a body, to allow that to happen? It may not happen, as has been mentioned, but the point is, it could happen. I don't feel comfortable as somebody who represents other towns in that county to know that what I am passing today could enable those towns, if later on something is found in that dump, to have to pay for it.

A lot of people have mentioned here that small amounts of people use that dump and we know that. Everybody here can tell you, yes, those people do dump there but the point is, nobody can guarantee that those are the only people who have dumped there. Anybody that I have talked to about this bill has said that they can't guarantee that. The only way to guarantee that is to have somebody go in there and try to find out about it. I don't feel comfortable voting on something that I don't know about and making somebody, taxpayers in the county, liable for. I don't know. That is the biggest thing, I think.

The point that has been made here today, and I think it is understandable and I think we all understand how emergencies and when we don't have emergencies, the point of the matter is, if we pass this now, we recede and concur, that this bill will not take effect before May anyway. I think that is an important fact to make here.

It has been said that the people who have allowed the leasing of this land, who own the land, have been good people and have allowed these people to use it. I feel comfortable that, since they are good people, that they will feel comfortable in allowing those people to continue to lease it for a short time more so we can go back, get the people together, the delegation together, and get this thing solved so we can all feel comfortable with it. I don't feel comfortable voting for a bill like this that could have dire consequences for towns that I represent without knowing the full facts. That is why I feel that we shouldn't enact now, we should get the groups together, meet on it, and get it cleared up so we can all feel comfortable with it. I feel that that is the best thing to do and that is why I am voting against this motion.

The SPEAKER: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, I would like to pose a question through the Chair.

As I understand it, if that dump up in Coburn Gore, should they find something in there that was a pollutant, wouldn't the county be responsible for it regardless of whether this bill went through or not?

The SPEAKER: The Representative from Shapleigh, Representative Ridley, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I think the town might be responsible but they would be able to take advantage of the provision of the Maine Tort Claims Act, which limits the county's liability to \$300,000. They would be responsible up to that point if, in fact, the responsibility would be shown to be the county's but they would have a limitation and that, I think, is important.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, I would like to pose a question through the Chair.

Is it my understanding that the people who own the land on which the dump is located have been allowing this county or the town as an unorganized town to simply use this without any consideration for many years?

The SPEAKER: The Representative from Fryeburg, Representative Hastings, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: That is true, they have received no compensation whatsoever. The county, right now, (I did check with some legal people, not the gentleman in this body) is liable. The county is also liable for closure as Representative Wentworth said. If they own it, they will get 75 percent of the grant. I was caught off guard, I knew about it the same time as the rest of this body. It was regretful. Believe me, I interviewed the person responsible and I just can't believe this has gone on so long, it just boggles my mind. As far being polled, yes, I was polled twenty minutes ago. My Chairman knew about this I guess probably a month or two ago -- twenty minutes ago, suddenly I get polled.

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

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: The hearing for this bill was held at the Energy and Natural Resources Committee and then it was re-referred to the Legal Affairs Committee. When we had a public hearing, Mr. VanVleck from the family that owns the land was there and he was asked if they charged any money for the lease of the land. As I understand, if my memory serves me right, he said that initially they did not charge any lease fee for the land but, in the early 1970's, there were a period of years when they did charge some money for using the landfill and then they stopped doing that and they started letting the county use it for free again. So, for a period of time, if my memory serves me correct, they were not charged but for a period of time, the county was charged with a small fee by the family that owns the land.

The SPEAKER: The pending question before the House is the motion of Representative Dexter of Kingfield that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 239

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Butland, Carroil, J.; Curran, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Hepburn, Hickey, Higgins, Hussey, Hutchins, Jackson, Jacques, Jalbert, Lebowitz, Libby, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Michaud, Murphy, Norton, O'Gara, Paradis, E.; Parent, Paul, Pendleton, Reed, Richards, Ridley, Seavey, Simpson, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth; Graham, Gurney, Gwadosky, Handy, Heeschen, Hoglund, Holt, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Mills, Mitchell, Moholland, Nadeau, G. R.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Rotondi, Ruhlin, Rydell, Sheltra, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Townsend, Tracy.

ABSENT - Cote, Donald, Hale, Hichborn, LaPointe, Larrivee, Look, Marston, McGowan, Nadeau, G. G.; Nutting, Pines, Richard, Rolde, The Speaker.

Yes, 60; No, 75; Absent, 15; Vacant, 1; Paired, 0; Excused, 0.

60 having voted in the affirmative and 75 in the negative with 15 being absent and 1 vacant, the motion did not prevail.

Subsequently, the House voted to adhere.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Reduce Toxics Use, Toxics Release and Hazardous Waste Generation (H.P. 1583) (L.D. 2192) (C. "A" H-1082)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 6 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Non-Concurrent Matter

An Act to Enhance the Ability of the State to Respond to Oil Spills (EMERGENCY) (H.P. 1691) (L.D. 2341) (C. "A" H-1056) which was passed to be enacted in the House on April 6, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1056) as amended by Senate Amendment "A" (S-679) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Resolve, to Study the Feasibility of Establishing a Piscataqua River Basin Compact between Maine and New Hampshire (EMERGENCY) (S.P. 496) (L.D. 1370) (C. "B" S-522) which was finally passed in the House on March 16, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "B" (S-522) as amended by Senate Amendment "A" (S-678) thereto in non-concurrence.

The House voted to recede and concur.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 9 was taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(S.P. 1003) (L.D. 2491) Resolve, to Authorize the Director of the Bureau of Public Lands to Sell a Parcel of Land to the Warren Sanitary District Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-680)

There being no objections, under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act Concerning the State Minimum Wage" (H.P. 1646) (L.D. 2279) have had the same under consideration and ask leave to report:

That they are unable to agree

(Signed) Representative MCHENRY of Madawaska, Representative RUHLIN of Brewer, Representative PARENT of Benton.

Senator BUSTIN of Kennebec, Senator DUTREMBLE of York, Senator WHITMORE of Androscoggin.

Subsequently, the Committee of Conference Report was read and accepted. Sent up for concurrence.

(Off Record Remarks)

On motion of Representative Handy of Lewiston, Adjourned until Monday, April 9, 1990, at four o'clock in the afternoon.