

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

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SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
 SECOND REGULAR SESSION
 19th Legislative Day
 Tuesday, March 3, 1992

Senator: EMERSON of Penobscot
 Representatives: NASH of Camden
 LOOK of Jonesboro
 SAVAGE of Union

The House met according to adjournment and was called to order by the Speaker.
 Prayer by Father Francis Kane, Chaplain, Veterans Administration, Togus.
 The Journal of Monday, March 2, 1991, was read and approved.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on **Banking and Insurance** reporting **"Ought Not to Pass"** on Bill "An Act to Provide Consumer Information for Purchasers of Insurance" (S.P. 869) (L.D. 2216)

Report of the Committee on **Banking and Insurance** reporting **"Ought Not to Pass"** on Bill "An Act to Extend Liability Insurance to Specialized Children's Homes" (S.P. 878) (L.D. 2250)

Report of the Committee on **Human Resources** reporting **"Ought Not to Pass"** on Bill "An Act to Provide Community Mental Health Services to Persons with Severe and Persistent Mental Illnesses" (S.P. 808) (L.D. 2007)

Report of the Committee on **Judiciary** reporting **"Ought Not to Pass"** on Bill "An Act Regarding the Terminally Ill" (S.P. 885) (L.D. 2257)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-528) on Bill "An Act to Create a State Municipalities Investment Pool" (S.P. 516) (L.D. 1377)

Signed:

Senators: BERUBE of Androscoggin
 BUSTIN of Kennebec
 Representatives: LARRIVEE of Gorham
 HEESCHEN of Wilton
 KILKELLY of Wiscasset
 WATERMAN of Buxton
 KERR of Old Orchard Beach
 GRAY of Sedgwick
 JOSEPH of Waterville

Minority Report of the same Committee reporting **"Ought Not to Pass"** on same Bill.

Signed:

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill failing of passage to be engrossed as amended by Committee Amendment "A" (S-528)

Reports were read.

Representative Larrivee of Gorham moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to look carefully at what this legislation will do. This is seeking to establish an investment pool through the Maine Municipal Association whereby the municipalities may place their monies which they wish to invest into that pool. This money will not be covered by the FDIC insurance. If we take the monies from the municipalities or if they decide to do this, they will be taking away from the local banks. Remember, it is your local banks that provides the source for borrowed money from your local small businesses particularly. This will take this money away from the local areas in Maine and this money will go outside of the state.

I hope that you will consider all of this because when the municipalities want to borrow money in anticipation of loans or in anticipation of taxes, they go to these banks and get the money. This may not be possible to do this in a large volume.

I hope you will not support the motion before you. Mr. Speaker, I ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Ladies and Gentlemen of the House: Let me explain to you what this bill will do. This bill will allow a voluntary investment pool at the Maine Municipal Bond Bank for municipalities. Municipalities are strongly in favor of this because, in the 25 other states where these pools have been established, they typically pay somewhere between 2 to 3 additional percentage points in interest. This would be a significant advantage to our communities in their investments. In my opinion, it would not be a tremendous detriment to the banks of the state.

The amount of money that rests in those investment vehicles, whether they are in a bank or in this pool, are not invested here in the State of Maine. Although the banks would encourage you to believe that all of their investment is done instate, the reality is that their loaning is done instate but their investments are done in a reasonable and prudent manner all across the country as any other investment vehicle would be.

This bond bank should help the communities that we have hurt so badly in these recent years and I believe that we should consider passing this piece of legislation.

The point that the Representative from Jonesboro brought up regarding the FDIC insurance, the State Treasurer has assured us that the first hundred thousand dollars will be insured. He has made that

pledge to us so it is not that these funds are going to be uninsured.

If you have any questions about this, I would be glad to answer them for you; however, I feel that we have created an excellent vehicle here within what is considered by our municipalities to be a squeaky clean operation and that is the Maine Municipal Bond Bank. Please allow your communities this additional advantage with their investment dollars.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I have served as a selectman and have had to borrow money for a town and I have had to invest money for towns. I also have had the opportunity to talk with a lot of other towns in the midcoast area and I haven't found a town yet in my area that is in favor of this investment pool.

It is true that I may be of smaller towns than larger cities but I find this very one way in my area. Stop and think, and I have witnessed this in my own dealings with the banks — I have gone to banks to borrow money and I think the banks have bent over backwards to give the towns real good rates, exceptionally good rates, in order to borrow operating money.

During the year when you invest your money, I think they have invested it very wisely and have given us the best rate possible. Also, I think we are investing in the local economy when we put that money back into the local area so there is cash available in that bank to make loans and mortgages to the local people so, all in all, I don't think this investment pool works in the best interests for the citizens of the State of Maine.

I urge the defeat of the pending motion.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I wasn't going to rise and speak on this but having been a past selectman of the city of Eastport and also as a present serving member of their financial committee, I would like to offer just a couple of comments on this.

I have the greatest respect for the State Treasurer and he came very close to convincing me that this was a good deal. It may be for some areas of the state but in my area, we are represented mostly by small time banks.

Back in 1979 and 1980, before the present boom in Eastport got under way, there was a very different situation in the city of Eastport then. We were very close to receivership. We contacted many, many banks in this state and out of state and the only bank that would come to our aid to prevent the city of Eastport from going into receivership was a local bank down in our area. They came to our rescue and have been our partners for the past ten years in the economic revival that has been going on down there.

I feel that this is the type of thing that will not hurt a big bank but the small banks who are part of your communities are going to be hurt by this. Even though there are a lot of good points about this plan, for my particular area and for the small banks in my particular area that have stood by us when we needed them, those of us who live in these small town areas that have these small town banks that are trying to survive, I feel that now they need me and so I am going to return the favor. I am going to support my small town bank in my area to try to help

them survive. I would urge that you not accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to comment on the fact that this bill is merely an option for communities. This does not force any community to invest money in the Maine Municipal Bond Bank. It does not force communities to make any changes in what they are currently doing, it merely opens an option for them. It is enabling legislation that gives them more flexibility.

To reiterate what Representative Larrivee said, with all of the difficulties that have been imposed upon communities over the last couple of years with changes that have been made in state funding levels and various things, it seems to me and to the majority of our committee that whatever options we can present to communities, we ought to do. We ought to give them an opportunity to look at that. A community is totally within its ability to make the decision not to invest in the municipal bond bank. That's fine. If there is a community that wants to do that and they feel that it is in their best interest, I believe that we ought to allow them that option so I would urge you to pass the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

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

On the question of insurance, do you mean they will insure a \$100,000 per town or \$100,000 of the total money? Explain the \$100,000 insurance more clearly, please.

The SPEAKER: The Representative from Mexico, Representative Luther, has posed a question through the Chair to anyone 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 money that a municipal would invest in the Maine Municipal Bond Bank Investment Pool would have the same assurances that money invested in the local banks.

I understand why many of you are concerned about this issue and I certainly understand why the banks feel threatened about this issue. I also asked the same questions that you are posing here today. I think it is important for you to realize that this is merely an option for municipalities to invest their money in this Maine Municipal Bond Bank's pool. I believe, as the majority of the committee believes, that this in fact adds competitiveness to those municipalities who wish to shop as to where to invest their monies. So, they will now have that option as to whether to invest in the local banks on Main Street, a larger Maine bank, or if they wish to invest in the Maine Municipal Bond Bank Investment Pool. The money will be as safe in the Maine Municipal Bond Bank Investment Pool as it would be in your local bank. It is a choice for the municipalities in order to get the best return for their monies and they will always have access to that money.

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

Representative MURPHY: Mr. Speaker, Ladies and

Gentlemen of the House: As a former Chairman of the Board, I am not in favor of this bill. I can remember back in the early 1980's when we were going over our TA notes and we were going to local banks. We even went as far away as Portland which is 50 some miles from the town of Berwick. We put everything out to bid and the question we was asked was, if we give you a good interest rate on your TA notes, would you also consider giving us all your other banking business? Because we did say yes wherever we got our TA notes, we would do all our banking business. This was back when the interest rates were high. We could get like a couple of percentages cheaper on our TA notes. Ladies and gentlemen, that is the taxpayers' dollars, it is taxpayers' money, they are working in Maine and they are paying that money into their municipalities. This bill gives municipal officers an option but it doesn't give the local taxpayers an option. I really believe that those local taxpayers out there, if they had that option, would say, let's leave the money in our local banks so that our businesses have the opportunity to borrow that money to buy homes and new cars.

I hope that you reject the "Ought to Pass" Report and vote on the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: Just briefly, I have full confidence in the financial officers in the communities across this state that they will look at the comparative costs of getting to 2 to 3 percent additional money on their investment and whether or not the banks are going to be charging anything additional to run their accounts. They are going to make the best use of those dollars in order to make the additional money. There is no requirement here that municipalities participate, this is purely a voluntary situation.

In my particular community when we asked about investment of tax anticipation dollars, we sent out an RFP to a number of different banks. I had an opportunity to go into my town office and read those RFP's and what the banks want in this day and age is for us to devote \$100,000 to \$160,000 of that money to that bank with no interest before they will begin providing us interest on those investments. The days when you could go in and begin to get interest on your first dollar are over as far the banks are concerned. They are asking for dollars upfront now and I think our municipalities deserve better than that. A competitive bank has nothing to fear from this pool, it is only an option.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be real brief. The bill before you is only an option. However, I think before we enact this, we have to seriously look at what this is going to do to Maine business and Maine jobs.

Currently, the banks, through regulation, have to reinvest some of their deposits into Maine business, Maine jobs. This legislature decided years ago of the importance of keeping the money at home.

One of my small banks in my area has up to 8 percent of their deposits come from these municipal deposits. When you do the multiplying factor and what this enables that bank to serve in my communities, it is quite a figure, so I want you to

think real long and real hard. This is one of those short-term answers or long-term. Before you make your decision, make sure you weigh all the costs.

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 pending question before the House is the motion of the Representative from Gorham, Representative Larrivee, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 321

YEA - Adams, Anthony, Cathcart, Chonko, Coles, Cote, Crowley, Dore, Gean, Goodridge, Gray, Gurney, Gwadosky, Hoglund, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Macomber, Mahany, Manning, Mayo, McHenry, McKeen, Michaud, Mitchell, E.; Nadeau, O'Dea, O'Gara, Oliver, Pfeiffer, Pouliot, Rand, Richardson, Ricker, Rydell, Simonds, Stevens, P.; Swazey, Treat, Waterman, Wentworth.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Bell, Butland, Carleton, Carroll, D.; Carroll, J.; Cashman, Clark, H.; Constantine, Daggett, Donnelly, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Graham, Greenlaw, Hale, Hanley, Hastings, Heino, Hichborn, Hichens, Holt, Hussey, Jacques, Jalbert, Kutasi, Lawrence, Lebowitz, Libby, Look, Lord, Luther, MacBride, Marsano, Marsh, Martin, H.; Melendy, Merrill, Morrison, Murphy, Nash, Norton, Nutting, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pineau, Plourde, Poulin, Powers, Reed, G.; Reed, W.; Richards, Rotondi, Saint Onge, Salisbury, Savage, Sheltra, Skoglund, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Townsend, Tracy, Tupper, Vigue, Whitcomb.

ABSENT - Barth, Bennett, Boutilier, Bowers, Cahill, M.; Clark, M.; DiPietro, Duffy, Duplessis, Farnsworth, Handy, Heeschen, Hepburn, Lipman, Michael, Mitchell, J.; Parent, Pendleton, Pines, Ruhlin, Simpson, Small, The Speaker.

Yes, 46; No, 82; Absent, 23; Paired, 0; Excused, 0.

46 having voted in the affirmative and 82 in the negative with 23 being absent, the motion did not prevail.

Subsequently, the Minority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

Non-Concurrent Matter

Bill "An Act to Establish the Maine Volunteer Firefighters Retirement System" (EMERGENCY) (H.P. 926) (L.D. 1323) on which Report "A" "Ought Not to Pass" of the Committee on Aging, Retirement and Veterans was read and accepted in the House on February 25, 1992.

Came from the Senate with Report "B" "Ought to

Pass" as amended by Committee Amendment "A" (H-935) of the Committee on Aging, Retirement and Veterans read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-935) in non-concurrence.

On motion of Representative Jalbert of Lisbon, the House voted to Adhere.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative ANTHONY from the Joint Select Committee on Corrections on Bill "An Act to Reinstate a System of Parole" (H.P. 1577) (L.D. 2224) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 920) (L.D. 2359) Bill "An Act Regarding the Charter for Kennebunk, Kennebunkport and Wells Water District" Committee on Utilities reporting "Ought to Pass"

(H.P. 1472) (L.D. 2084) Bill "An Act Concerning Penobscot Nation Trust Land Designation" Committee on Judiciary reporting "Ought to Pass"

(H.P. 1687) (L.D. 2367) Bill "An Act to Create the Searsmont Village Water District" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1009)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed in concurrence and the House Papers were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

CONSENT CALENDAR

Second Day

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

(S.P. 801) (L.D. 2000) Bill "An Act to Amend the Laws Relating to Certification to Promote the Issuance of Professional Certificates to Experienced Out-of-state Teachers" (C. "A" S-558)

(S.P. 805) (L.D. 2004) Bill "An Act to Divert

Juvenile Offenders from Secure Detention" (C. "A" S-556)

(S.P. 821) (L.D. 2115) Bill "An Act to Establish the School Construction Debt Service Limit for Fiscal Year 1994-95" (C. "A" S-557)

(H.P. 1470) (L.D. 2082) Bill "An Act Pertaining to Pole Attachment Rate Disputes" (C. "A" H-991)

(H.P. 1469) (L.D. 2081) Bill "An Act Concerning Passamaquoddy Indian Territory"

(H.P. 1597) (L.D. 2259) Bill "An Act to Modify the Medical Examiner Act to Limit Liability of Medical Record Providers"

(H.P. 1623) (L.D. 2286) Bill "An Act to Expand the Membership of the Maine Committee for Global Education" (C. "A" H-996)

(H.P. 1554) (L.D. 2192) Bill "An Act Related to Ordinary Death Benefits under the Maine State Retirement System as It Affects Terminally Ill Members" (C. "A" H-998)

(H.P. 1667) (L.D. 2343) Bill "An Act to Amend the Charter of the Dexter Utility District" (C. "A" H-999)

(H.P. 1631) (L.D. 2295) Bill "An Act to Amend the Laws Governing Respiratory Care Practitioners" (EMERGENCY) (C. "A" H-1001)

(H.P. 1649) (L.D. 2312) Bill "An Act Concerning the Use of Alternative Coding Systems for Plastic Containers" (C. "A" H-1000)

(H.P. 1668) (L.D. 2344) Bill "An Act to Amend the Charter of the Portland Water District" (EMERGENCY) (C. "A" H-1002)

(H.P. 1614) (L.D. 2275) Resolve, Concerning the Removal of Residential Underground Oil Tanks (EMERGENCY) (C. "A" H-1003)

(H.P. 1558) (L.D. 2196) Bill "An Act to Strengthen the Maine Weights and Measures Law" (C. "A" H-1004)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

SECOND READER

Tabled and Assigned

Bill "An Act to Institute a Pheasant Stamp Program for Cumberland and York Counties" (H.P. 1555) (L.D. 2193)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Representative Jacques of Waterville, tabled pending passage to be engrossed

and specially assigned for Wednesday, March 4, 1992.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Modify Various Licensing and Registration Laws and to Address Budgetary Constraints" (EMERGENCY) (H.P. 1592) (L.D. 2246) (C. "A" H-990)

Bill "An Act Requiring the Provision of Information to Victims of Gross Sexual Assault" (H.P. 359) (L.D. 513) (C. "A" H-963)

Bill "An Act to Revise the Maine Horticultural Laws" (H.P. 1498) (L.D. 2110) (C. "A" H-986)

Were reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

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 Regulate Incineration Plants" (H.P. 1059) (L.D. 1548)
 - In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-879) on February 6, 1992.
 - In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-879) as amended by Senate Amendment "A" (S-562) thereto in non-concurrence.
 TABLED - March 2, 1992 (Till Later Today) by Representative CLARK of Millinocket.
 PENDING - Further Consideration.

On motion of Representative Clark of Millinocket, the House voted to recede and concur.

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

An Act Regarding Contracts for the Duplication of Works of Art (H.P. 1011) (L.D. 1479) (C. "A" H-921)
 TABLED - March 2, 1992 (Till Later Today) by Representative MAYO of Thomaston.
 PENDING - Passage to be Enacted.

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

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

Bill "An Act to Prohibit the Sale and Distribution of Certain Milk Products" (H.P. 1163) (L.D. 1704) (C. "A" H-897)
 TABLED - March 2, 1992 (Till Later Today) by Representative MAYO of Thomaston.
 PENDING - Passage to be Engrossed.

On motion of Representative Nutting of Leeds, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-897) was adopted.

The same Representative offered House Amendment "D" (H-992) to Committee Amendment "A" (H-897) and moved its adoption.

House Amendment "D" (H-992) to Committee Amendment "A" (H-897) was read by the Clerk and adopted.

Committee Amendment "A" (H-897) as amended by House Amendment "D" (H-992) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-897) as amended by House Amendment "D" (H-992) thereto and sent up for concurrence.

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

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO AUTHORIZE TRANSFER OF SAVINGS IN FEDERAL MILITARY ACCOUNTS TO THE DOMESTIC BUDGET (H.P. 1689)
 TABLED - March 2, 1992 (Till Later Today) by Representative MAYO of Thomaston.
 PENDING - Adoption.

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

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

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" pursuant to Joint Order (H.P. 1705) - Minority (3) "Ought Not to Pass" pursuant to Joint Order (H.P. 1705) - Committee on Housing and Economic Development on Bill "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens" (H.P. 1707) (L.D. 2388)
 TABLED - March 2, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
 PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" pursuant to Joint Order (H.P. 1705) - Minority (3) "Ought Not to Pass" pursuant to Joint Order (H.P. 1705) - Committee on Housing and Economic Development on Bill "An Act to Implement the Jobs Creation Bond Package" (EMERGENCY) (H.P. 1708) (L.D. 2389)

TABLED - March 2, 1992 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

TABLED AND TODAY ASSIGNED

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

An Act Relating to the Division of a Member's Rights and Benefits under the Maine State Retirement System Pursuant to a Qualified Domestic Relations Order (EMERGENCY) (H.P. 711) (L.D. 1016) (C. "A" H-924)

TABLED - March 2, 1992 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 second tabled and today assigned matter:

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "B" (S-527) - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities (S.P. 42) (L.D. 66)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Resolution passed to be engrossed as amended by Committee Amendment "B" (S-527) as amended by Senate Amendment "A" (S-535) thereto and Senate Amendment "B" (S-555)

TABLED - March 2, 1992 by Representative JOSEPH of Waterville.

PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-957) - Minority (4) "Ought Not to Pass" - Committee on Energy and Natural Resources on Bill "An Act to

Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission" (H.P. 1514) (L.D. 2126)

TABLED - March 2, 1992 by Representative JACQUES of Waterville.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Jacques of Waterville that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

JOINT RESOLUTION SUPPORTING CREATION OF THE WOLFE NECK INSTITUTE (H.P. 1676)

TABLED - March 2, 1992 by Representative MAYO of Thomaston.

PENDING - Adoption.

Subsequently, Representative Melendy of Rockland withdrew the Joint Resolution.

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

Bill "An Act to Facilitate Criminal Enforcement of the Environmental Laws" (H.P. 1129) (L.D. 1654)

TABLED - March 2, 1992 by Representative TRACY of Rome.

PENDING - Motion of same Representative to reconsider acceptance of the Minority "Ought Not to Pass" Report.

Subsequently, on motion of Representative Tracy of Rome, the House reconsidered its action whereby the House accepted the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I still believe that it makes good sense to accept the "Ought to Pass" Report.

This bill does not criminalize anything that is not already criminal. It does increase the penalty to a felony. From my point of view, the reason for that is because, unless you do that, you can't extradite out-of-staters. It is that simple.

Nothing in this bill has a criminal penalty to what is not already criminalized. It does increase the penalties up to felonies for a number of offenses and that is the only way that we can deal with out-of-state polluters so I would encourage voting against acceptance of the Minority "Ought Not to Pass" Report so we can accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: Thank you so much for letting us reconsider this piece of legislation. I felt that it was important that we have another opportunity to

discuss it because many issues were raised during the first debate which I believe put a lot of confusion into the matter and I think can be clarified. If they haven't been clarified to you in person, they can be clarified during this debate right now.

I am having distributed to you a fact sheet which I don't believe has made it all the way around the House. This addresses several of the questions that were debated in the last debate. I am not going to read it to you, you can read it for yourselves but I would like to draw attention to a couple of the issues that it does address.

One of the them is whether a sewage treatment plant which discharges in excess of its license limit due to a substantial rain storm would be criminally liable under this bill.

The second concerns whether there would be plant shutdowns as a result of criminal liability.

The third is whether new violations are created by this bill and the fourth was the question of whether agencies have the authority to set penalties.

Just very briefly on that latter point, that is not correct, the penalties are set in the law and as in any case the judge makes the decision about what the appropriate penalty is based on arguments in court.

As has been noted, it does not create new violations, it simply establishes the level of crime of penalty to be set for various violations and they are very specifically limited to those that are blatant, knowing and significant. They don't even include land use violations, pesticide violations, clear cutting, forestry violations and things of that type.

The one that I would just like to go into a little detail about is the waste water treatment one because I know that people had particular concerns about that. I would just like to read to the House the following response that was written by the Attorney General's Office concerning whether excess discharge based on too much rainfall would cause criminal liability. What they said was, "Under the standard conditions of licenses issued by the Water Bureau, the state permits emergency bypasses of treatment facilities under certain circumstances including substantial rainfall." To the extent the plant is routinely discharging in excess of its license limit, due to the combined effect of storm water runoff and other conditions, the state has been working with those municipalities to establish a compliance schedule to correct those problems over time. As long as the facility is working in good faith to comply with that sort of remedial plan, it would not be intentionally or knowingly violating the law, which as you recall, is a prerequisite to having a criminal violation under this bill.

As I stated before, I believe that this is really a good business bill, it is not a bad business bill because it only focuses on those individuals or businesses that are blatantly and knowingly violating the law and are getting away with it to a financial advantage over those companies that are in fact complying with the law.

I hope that this fact sheet clarifies any concerns. I am here to answer any questions you have and so are the other sponsors of the legislation.

Please vote against the pending motion so we can go ahead to accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the

Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: You will recall when I spoke on this the other day that I said I wanted the Record to clearly show that I was not the token Republican on this bill that I felt strongly about and I urged its passage. I want to thank the Republicans who voted with me and hope that they will continue to vote today.

The lead editorial in today's Kennebec Journal endorses this legislation but it also lists me as a Democrat. Now, what this means I will leave up to you to decide but the fact remains that I feel it is a very good bill and is a pro-business bill as well as a pro-environmental bill.

The facts that I would like to leave with you is that it is strongly backed by the Attorney General of the State of Maine. He is the head law enforcement agent in Maine. The Attorney General backs it saying clearly that penalty does not match the long-term seriousness of the crime. Further, the editorial states that we have one lone Assistant Attorney General who has a six month penalty to work with and, if you weigh that penalty against the long-term seriousness and the money that is involved, really we are not giving her much to fight the battle with.

I urge that when we reconsider that you vote for the passage of this.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: Representative Anthony is correct that everything that is a violation now is a crime and that is a Class E crime. What this statute or piece of legislation does is elevate some to a Class D and Class C crime. There are also areas in the law dealing with hazardous waste that are already Class E crimes and I guess we are still having problems prosecuting despite that.

There was an article in Insight in the Maine Sunday Telegram on February 23rd and it gave an issue statement by business versus environment. George Campbell, I believe, was the spokesman for business; Everett Carson was the spokesman for the environment. What is interesting to note here is that when asked a question (there were a series of questions and I will just go through one) question number one, "Do we have too many environmental regulations or too few and how could we administer these regulations better?" Mr. Campbell said, "The focus clearly has to be on improving the entire environmental regulatory system that has evolved most often without design. The system is fraught with overlapping and redundant jurisdictions between the state and its municipalities, between the state and the federal government and between the state and agencies. Furthermore, Maine's environmental regulations often exceed federal standards, we have stricter environmental laws here in Maine than some of the federal laws."

He had several suggestions on how we should deal with that. Mr. Carson indicated that the first question was a wrong one. The most appropriate question is, "Do Maine's environmental laws and regulations adequately protect the environment and public health and deal with the damage, the link between air pollution and human health and again what we could do?" The both agreed that we could streamline the regulatory process and do a better job

in the state agencies.

Both of these people gave very healthy views for the State of Maine as to what we should be doing with the environment and what we should be looking at when we deal with the environment as it links with business and what is best for the State of Maine in order for it to make sense.

Part of the problem and my objection all along with this piece of legislation is that this is one part of the debate and you had it here before because the other part of the debate dealing with business and what has made sense and what was responsible never really occurred. My major objection is that this bill does have good pieces to it and it also has bad pieces to it. The bad pieces are unknown because currently, dealing with Title 38 which deals with water and navigation, we have on the books 2,312 laws, some of which would have volatory type sanctions that are scattered throughout.

I spent a little bit of time trying to go through the statute (about 45 minutes yesterday and a half hour last night) and it is a long statute. Just to give you an example, cleaning agents that are used containing phosphate for cleaning dairy products and food processing equipment, industrial equipment, these three entities can use high phosphorous detergents and they are exempt from civil penalties under the current civil law because of the necessity of cleaning these things and disinfecting them properly for proper health. Well, this bill doesn't deal with that. The fact of it is that that could be criminally liable if you were to use these things because they are not exempted.

You might say it is a red herring or a smoke screen and so forth because the AG will not prosecute. My point is, when we pass legislation, it should be by design, it should not evolve, we should not be coming back and say, whoops, looks like we have to clean it up. We are going to be cleaning up this legislation for the next ten years if we pass this legislation to make it a better bill. My concern is that the energy should be put into this bill now, perhaps it should be recommitted back to the Energy and Natural Resources that understand that statute much more than we did in Judiciary for the time that we had to deal with it. Then we can deal with the sanctions and share that responsibility. I don't know whether we can do that between now and March 27th but my concern is that we have to have responsible legislation. We can't have business looking over their shoulder on everything they do to find out whether an instruction, a rule, given out by the DEP says to do this, it is negligently done, but they come back and say that the consequences, even though were negligent, you intentionally misread or knowingly misread this instruction, therefore it is a Class E felony. These are the things that have to be discussed, they weren't discussed and these are things that make a good bill. This bill is not ripened at the point that I think we need to pass it. I think there are some good things but there are some very dangerous things.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I believe that we need to vote against the pending motion, that we need to toughen up our environmental laws. What we are talking about are some egregious instances that are occurring and the penalties aren't

high enough. I would urge you to support the bill and vote against the motion.

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

Representative SIMONDS: Mr. Speaker, Men and Women of the House: The question was raised, legitimate question I think, whether or not the cases cited in the editorials we have had passed to our desks, were current or historic. The information from the Attorney General's Office is that all but one of these cases are current. For example, in the first cited, sentencing has just taken place, a \$15,000 fine only, the judge indicating that had the legislature indicated they wanted these treated more seriously, he would have sentenced more harshly.

The second case is now under investigation and the third case has just been filed. Only the last is historic. Clearly, what actions have been taken in the past, what redress we have sought have not worked, it is still a problem.

I urge you to reject the Minority "Ought Not to Pass" Report.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: I would like to direct your attention to the handout that Representative Marsh and Treat passed out, the question and answer section and to a point that Representative Treat had made regarding the last question, "Does this bill delegate to administrative agency the authority to create criminal penalties by rulemaking?" I was hoping the Representative from Palmyra would stand again and so eloquently put forth what exactly this bill would do.

The answer to that question was that the Attorney General's Office, not the DEP, has the authority to initiate criminal action. I don't disagree with that point. For any of you that have been involved with businesses or permitting with the department does realize that the department does use criminal sanctions as a hammer held over the business or the permittee, that is true. Although the question is factual, the point that the AG has the authority to initiate is true, but the department uses the AG's authority in their authorization of permits.

A point that Representative Richards made regarding the expansiveness of this bill, I think can also be looked at by the question and answer sheet passed out. The second question, "Would this bill require a plan to shut down to avoid criminal liability?" The first sentence and the answer is, it is not the intent of the Attorney General. That sentence says it all because this bill is expansive enough to allow the Attorney General to shut down businesses to create felonies in the permitting process. Although it is not the intent of the AG to prosecute those, it is available.

I want every one to know exactly what they are doing this morning if they vote in favor of the Majority Report. The Judiciary Committee spent a month on this bill, a month on an issue that took Congress, the federal government, over two decades to properly get under control. I guess for those of you who don't have any loggers in your area, who don't have any lakes, who don't have to worry about people putting in docks or raking their beach or having loggers have consultation through brooks and stuff, then go ahead. This bill won't have any impact on your people but if you do have lakes in your area, if

you do have a lot of loggers, you want to seriously take a look at this bill before we pass it through. There are some good portions of the bill, admittedly, and there are some very, very bad portions of the bill. I just hope you take that into consideration this morning when you vote.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I hope you vote against the Majority Report for just one reason, I think it is spelled out very clearly and very sharply in the handout from the Maine Chamber of Commerce and Industry. I will read it to you. "L.D. 1654 in its inability to distinguish between a serious violation of law deserving a severe punishment and the less serious infraction does not merit Class C felony treatment." It is right there, black and white. If you go ahead and pass the Majority Report, there's a lot of people that are going to suffer that really don't need to and I hope you vote against the Majority Report.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Some of you have asked what the Energy and Natural Resources Committee's feelings were on this bill and it was quite hard last week to tell you what our feelings were since we were not involved in any of the negotiations and work sessions on the bill. Last week this House killed a citizen suit bill and I think appropriately so because we were told, and we believed, that the mechanisms are there to protect your constituents and mine. Unfortunately, if a bill like this is not passed responsibly in the very near future, citizen suit will indeed be back because the crimes that you are talking about in here are serious crimes. Let me make that clear to you. They did a Special on 20/20 a couple of weeks ago about dumping of hazardous materials and leaving them in other states and it is such a lucrative enterprise that organized crime has entered into it. When you pay a \$1,000 fine and you are paid \$100,000 to bring something into another state and drop it off, that's pretty lucrative.

It is unfortunate that the Judiciary Committee could not spend the time that apparently was needed, although I am told they spent an awful lot of time on this bill to clear this out, because it is extremely important because, ultimately, your constituents and mine end up paying the price because it is such a small penalty for some of these crimes that it is a cost of doing business to allow it to happen. It will be too bad if this bill dies because I was told by the Attorney General's office that, because we didn't clearly spell out in our statutes that we intend these crimes to be considered as serious and the punishment to be considered as serious, the judges have a tendency to give more of a slap on the wrist and tell us because the legislature didn't say that this is a serious crime versus this other type of crime, we really don't feel comfortable doing it. I have a friend that is a judge and he has told me and I have given the lecture to the committee before, he says, if the legislature wants to say something, say it. I, too, have a problem with giving discretionary authority on whether or not someone could or couldn't prosecute.

Clearly, it seems that this has become a referendum on the DEP and is indeed a fact that, as

was stated, the DEP does use penalty provision as a hammer to get compliance to DEP laws. It is unfortunate that the Committee on Judiciary could not spell this out because clearly this is a very serious problem. Maine has been singled out because it is an area where there is a gap in our laws so, if someone from Massachusetts or New York or Rhode Island has a problem, has some waste that they could not even put into a licensed hazardous wastesite, they say, ship it to Maine. The people in Maine are ten years behind the time, ship it to Maine. If you get caught, the fine is small; if you don't get caught, it ends up on somebody's woodlot, somebody's farm and your constituents and mine end up holding the bag. The cost, believe me, of cleaning this mess up could be directly proportioned to the innocent landowner who had nothing to do with it.

Maybe the Judiciary Committee should take another look at it. I can tell you that Energy and Natural Resources, quite frankly, doesn't have the time to do it, we are still getting bills referred to us right now but killing this bill is not the responsible thing to do. Maybe passing it in its present form isn't responsible either, but killing it is not responsible.

I would certainly like to see someone try to make the changes in this law that are necessary because there are violations that should be dealt with harshly that are not. I certainly understand industry's concerns because I think industry has been given mixed signals by DEP, discretionary authority is something they worry about. Clearly they have had a lot of bad experiences.

I read the Maine Chamber's letter but I also read in that letter that Maine Chamber is willing to sit down with whatever committee has the bill and the department and do what is right on this bill. I think that avenue should be pursued before you slight-of-hand reject this whole issue because, ultimately, your constituents are going to pay the price. You don't want citizen suit, I don't want citizen suit, but if you are going to vote against citizen suit, you have to give the prosecutor in our state, which is the Attorney General's Office, not only the ability, but the punishment should fit the crime.

I am kind of at an impasse as what to do here. I don't want you to pass the bill as it is worded but I don't want you to kill the bill as it is worded either and I think the only thing we can do is keep the bill alive and hopefully somebody will work on it. The other suggestion is to recommit it to Judiciary. I haven't talked to anybody on that committee but maybe that is something we should do. I really have reservations about just killing this bill automatically because it is a serious, serious matter. It is not being addressed in the State of Maine and the people are sending it up here because they think that we are so backward and so easy and basically so dull witted that we don't recognize the situation and do something about it.

I am going to vote against the motion to accept the Minority "Ought Not to Pass" with some strong reservations but I think it would be irresponsible to do anything different.

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

Representative LORD: Mr. Speaker, would a motion be in order to refer this back to the Judiciary Committee?

The SPEAKER: The Chair would answer in the affirmative.

Representative Lord of Waterboro moved that the bill be recommitted to the Committee on Judiciary.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I think that I will not support that motion at all and hope that you vote against the motion.

This bill was printed on the 24th of April in the year of our Lord, 1991. It was heard in May before the Judiciary Committee, we then voted to carry the bill over to the Second Regular Session. For one month, the month of January of this year, we worked on this bill. The original bill that I kept hearing referred to this morning or rather to this report that I have heard of this morning by some Representatives who in fact are cosponsors of the bill that there are problems with the amendment that we have. The amendment is the bill and is less stringent than the original bill. If we were to accept the bill, we would have to go even further in regulation and law than what the amendment is proposing. We have gone down in environmental penalty, it is a more reasoned approach, one that makes more sense to the members of the committee. I can't understand how recommitting the bill to the committee is going to make any sense. We worked and compromised, those of us who support the Majority Report. We have made concessions, real concessions, and now I hear it said that it ought to be recommitted. The same people who are against the bill now are going to be against it a month from now when we get ready to sine die. Please vote against the motion to recommit.

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

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: I suppose I am going to get in the middle. I am going to be between the Chairman of the Committee of which I serve and the Chairman of the Judiciary Committee of which I often go before and whom I have a lot of respect for.

I urge that we not put it back to committee, that we pass it and put it out to the citizens. If you read the Chamber of Commerce's letter, they use exercising prosecutorial discretion. That is what drives the system here in the State of Maine. Who are the prosecutors? The prosecutors are the voice of the public, they come to be prosecutors through the ballot box and, if the citizenry of the state feels that we are overacting as a legislature in passing this or that prosecutors are not using proper discretion taking into account the social values of the State of Maine, that is what the ballot box is for and they can change things next November or whenever.

The second thing, I do respect Representative Hanley. I hope that you don't (as a group) be taken in by the raking of the beach. That is the most absurd argument that can be brought out here. As far as I know, it is still a violation of law to break a stamp on a cigarette package and I don't remember the last time someone was prosecuted. I looked on the upholstery that my wife has just purchased and I see the tag is still there that says you can't take it off by penalty of law. I don't know of anyone that was prosecuted or has been prosecuted.

I do know that this tool should be available though. I have loggers in my district, in fact I have two people in my employ right now who are logging for me today. I own two beaches in the State of Maine, I don't feel peril at all with this.

We have heard a lot about floods and sewage treatment plants and whatever. In 1987, there was a flood on the Kennebec River and they pulled the plug on every sewage treatment plant from Bingham to Bath. Certainly no one was prosecuted and it wasn't even considered. By the same token, in another flood a little bit further north a few years before that, there was an employer who had many barrels of toxic waste, very highly toxic by any standard. During the flood, he told employees who were working for minimum pay to go downstairs and dump the barrels into the river and the employees wanted to keep their job, did so. This was during flood time, flood stage and one of the employees whose conscience just couldn't stand it reported it and these harmful chemicals were found in the drinking water of towns down river. Now, this is the type of thing that this legislation is being designed for and aimed at. I hope when you push your button you think of these things and not raking beaches.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I just want to pose a question through the Chair to anyone who might have the answer.

When we read in the editorials about some of the infractions, I could go along with this bill if it just pertained to those infractions. I think anyone that is coming into the state and illegally dumping waste or discharging sewer directly into the rivers should be prosecuted and maybe even at a higher penalty than the one that's listed. I guess the problem that I have is, how far does this law go and the possibility of prosecution of people who probably are not committing as egregious crime?

My question that I want to pose is, not would the Attorney General, but could the Attorney General prosecute someone for the discharge of gray water, water from showers, washing machines, from a private home that goes directly onto the ground and bypasses the septic tank, could that be considered a Class C felony under this bill or is that something that is totally out of context?

The SPEAKER: Representative Small 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 Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: Yes, that person could be convicted of a Class E crime. The likelihood of that happening in deference to our current AG, that probably would not occur. However, it would probably be used as leverage to be able to get some kind of a consent decree to be able to clean up in a short period of time. Whether economics or whether somebody can spend a conventional cost of \$4,000 for a septic system versus a special system because the soils aren't right and spent \$20,000 may or may not be taken into consideration. The fact of it is that there is a zealous approach to clean up streams. They are currently dealing with consent decrees right now with the leverage of the Class E crime.

Mr. Speaker, if I could just go beyond answering

the question and respond to a couple of other things.

Representative Simonds also raised the memorandum by the AG and I would just point out that, out of the five examples on this green sheet, one, two and five would clearly be of federal jurisdiction. Another one of the cases in the committee hearing, I had asked the AG had they requested federal jurisdiction in one of these particular cases dealing with the oily waste and their answer was no. Three and four, three possibly may be federal jurisdiction; four would certainly be only state jurisdiction as I understand the law.

A motion was made earlier to recommit and that is the motion I would support. I support that because, despite this bill being printed last year and being carried over to this year, we had a total of three work sessions. One of those work sessions was basically delegated out to the interested parties which were working with Representative Treat and the business community in which Mr. Bob Cleaves was a federal prosecutor under environmental laws and is now working with corporations and which I understand has a lot of credibility before Energy and Natural Resources and Judiciary. They were at an impasse because of the fact that there wasn't enough time to deal with all the issues.

I don't know how everybody is going to feel or how everybody is going to argue when we are back here on the 27th of March potentially in dealing with this bill again but I think that I, or one on the committee am committed to try to work out some of the bugs on this thing and pledge as many hours as I possibly can to make it a cleaner bill. I feel serious about this bill. I think that we should do something about environmental crime but I also think we ought to do it right.

I disagree respectfully with my colleague, Representative Marsh, with respect to, put this out and give it to the people. The fact of it is that the people have elected us to come down here and govern for them and I think a responsible way to govern for them would be to recommit this bill and try to do as much as possible from now to the 27th.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I hope that you will not support the pending motion. The reason why is that this is a bill that actually has had a great deal of attention paid to it over the past two years. It was initially discussed with a very extensive hearing last year. It was carried over and people worked on it over the summer to make it a better bill. There were, as the Representative from Hampden, Representative Richards said, several work sessions on this bill. The work sessions involved the Chamber of Commerce, the Maine Department of Transportation, the Motor Transport Association and others who had come forward and stated that they had concerns about the initial bill. Their concerns as stated at the hearing were addressed, despite what may be said today during this debate. Their concerns were that this bill, as initially written, basically applied to "reckless behavior." That provision was taken out of the bill and what was substituted for it was a very strict standard of "knowing or intentional."

By the way, the current law, as written, which will remain written that way if this bill does not pass does not have any state of mind. It has the same state of mind as for a civil offense in the

law. This will actually make it harder to prosecute these crimes in the sense that it will establish for the first time a strict state of mind that has to be proved before anyone could be convicted of one of these crimes as listed in the bill.

Secondly, the Judiciary Committee worked very hard to narrow the scope of the bill. The bill does not apply to many crimes that we have right now. It only applies to certain hazardous waste, water pollution, air pollution and solid waste crimes. The solid waste, for example, only applies to dumping of over 500 pounds of solid waste. This is not basically a broad bill that applies to everything.

The other thing that the committee did was to apply this bill only to what they call material violations, violations of the law that are of particular note, significant violations, and that word is written throughout this piece of legislation.

I am just concerned that sending this to the committee, which has already worked very hard on this and gone over all these issues, is simply not intended to make this a better bill but to get rid of it. This is a very important bill, it is a very good bill and it is something that many other states did years ago. It is not like it is innovative new legislation, it is simply bringing our laws up to the standard that they should be in terms of the ability to prosecute crimes.

I hope that you will not support the pending motion.

I do ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: When I vote for the pending motion to recommit this, it is not because I want to kill the bill. It is because I think there are problems with it, others have mentioned those problems and I would like to see it cleaned up because I would like to go on and pass this bill in a stronger, better form for the people of Maine.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: If you do recommit this bill to Judiciary, I will certainly work very hard as everybody in Judiciary will, but I am going to vote against it and I am asking you to vote against it because I think we have worked very hard.

I understand that people have fears about this bill. If you do have fears about this bill like the question that Representative Small has, which I thought was a good question, those questions apply to the current laws we have now and it seems to me the answers should derive from the current laws as well. In other words, if there is a fear about prosecution of somebody for a certain kind of discharge, it can happen now as a Class E.

I think that the people who are concerned for the loggers and other people are not hearing what has been done in Judiciary Committee in the amendment. The amendment makes it so strict with this "knowing" and "intentional" that when I asked the Attorney General's Office about what that meant, the answer that I got was that you have to have practically have been personally warned or subject to a Consent Decree in the past or extensively heard by other people who will testify that you have been effectively bragging about the fact that you know you are violating the

law and you intend to do that. I think that that is a very different kind of situation than what we have under the current law, it is much narrower.

As Representative Jacques pointed out, this is an extremely serious issue, this business of people polluting for-profit in this state. I think that we have to look at a bigger picture and we have to look at protecting the interests of this state. We can't have our laws be archaic and they are at the moment.

I urge you to vote against recommitting so we can go on to pass this bill.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I sat here listening to the debate as I did before when I voted at that time for the Minority "Ought to Pass" Report. I will continue to hold that position but I did hear things this morning that concern me regarding this bill. The things that concern me are those types of civil actions that are civil responsibilities and civil penalties that may attach which now, although they were exempted from those under Title 38, now may become a crime under this new law, that is, they were exempted from the civil responsibility because of things such as phosphate cleansers used by farmers. Those were exempt but now I hear that they may be criminally responsible. That is the difficulty I see in this very, very difficult and complicated law. The intent of this law is clearly what Maine needs. I do not disagree with that at all. Were it sent back to the committee, I would support strongly it being returned to us and again would support the bill. However, I do think that somebody other than on this floor ought to look at some of the nuances that are going to be covered by the new elevation of crimes under the penalty portion of this bill. For that reason, I will support its recommitment to the Judiciary.

I don't expect them to rewrite the entire bill but I think there have been enough issues raised here that they ought to come back to us and say, we have looked at this, this and this and we are not concerned or we have addressed them. I think most people want this type of law on the books, we are concerned for our environment, it doesn't relate to party, it doesn't really relate to business because every good businessman I know wants good laws, wants everybody to comply with them because it affects their business, their reputation. But, if we simply pass this with the fractious type of debate that we are having today, those saying that it is half ripe and half unripe, if we have those saying, take the chances of prosecutorial discretion, which as a lawyer I am well aware of and well know that is generally a sound practice, but I still think that we ought to be a little bit more deliberate. We have another week or two that this could go back to the committee, the committee could at least come back to us and say yes or no on certain items.

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 pending question before the

House is the motion of Representative Lord of Waterboro that L.D. 1654 be recommitted to the Committee on Judiciary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 322

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Carleton, Carroll, D.; Chonko, Clark, H.; Cote, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farren, Foss, Garland, Gould, R. A.; Graham, Greenlaw, Hale, Hanley, Hastings, Heino, Hichborn, Hoglund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kutasi, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Mahany, Martin, H.; McKeen, Melendy, Merrill, Morrison, Murphy, Nutting, O'Gara, Ott, Paradis, J.; Pendexter, Pendleton, Pines, Plourde, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Simonds, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamarro, Tardy, Townsend, Tracy, Tupper, Vigue, Waterman, 23itcomb.

NAY - Adams, Aliberti, Anthony, Cahill, M.; Carroll, J.; Cashman, Cathcart, Clark, M.; Coles, Constantine, Crowley, Daggett, Farnsworth, Farnum, Gean, Goodridge, Gray, Gurney, Gwadosky, Handy, Heeschen, Hichens, Holt, Ketterer, Kilkelly, Kontos, Lawrence, Lemke, Lipman, Luther, Manning, Marsano, Marsh, Mayo, McHenry, Michael, Michaud, Mitchell, E.; Nash, Norton, O'Dea, Oliver, Paradis, P.; Paul, Pfeiffer, Pineau, Powers, Richardson, Sheltra, Simpson, Skoglund, Treat, Wentworth.

ABSENT - Bowers, DiPietro, Hepburn, Mitchell, J.; Nadeau, Parent, Ruhlin, The Speaker.

Yes, 90; No, 53; Absent, 8; Paired, 0; Excused, 0.

90 having voted in the affirmative and 53 in the negative with 8 absent, L.D. 1654 was recommitted to the Committee on Judiciary and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease to the Gong)

The House was called to order by the Speaker.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Making Supplemental Appropriations for Fiscal Year 1991-92" (EMERGENCY) (H.P. 1699) (L.D. 2379) which was passed to be engrossed as amended by House Amendment "B" (H-981) in the House on February 25, 1992.

Came from the Senate passed to be engrossed as

amended by House Amendment "B" (H-981) as amended by Senate Amendment "A" (S-569) thereto in non-concurrence.

Representative Chonko of Topsham moved that the House recede and concur.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: I hope you will not vote to recede and concur and I want to tell you why we hold that position.

This proposal before you still contains House Amendment "B" which is a \$65 million sweetheart deal with Blue Cross/Blue Shield in exchange for a million dollar kickback in this fiscal year. That eliminates any competitive bids as required by law. It is not an extension of the contract, it is a conversion of the contract to a minimum premium payment which gives us an exposure and adverse claims payments next year with the potential of \$5 million to \$7 million. It is bad public policy to give a \$65 million state contract under the table with no negotiations.

This proposal also guarantees that we will not find our savings in the health insurance area next year.

The SPEAKER: The Chair would advise the Representative that she refer her remarks to the Senate Amendment that was adopted in the Senate.

Representative FOSS: Mr. Speaker, may I pose a question to the Chair?

It is my understanding that this motion moves to recede and concur which includes House Amendment "B."

The SPEAKER: The Chair would advise the Representative that that debate has already taken place in this House. The pending question is on recede and concur with the Senate Amendment and no other difference than when it left the House.

Representative FOSS: Mr. Speaker, I ask for a roll call. I hope you vote against the recede and concur motion because it still includes that agreement on the Blue Cross/Blue Shield and I hope you will oppose it so we can move to recede and offer another amendment which addresses our concerns.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

I would ask the chairman of the committee to explain to us what Senate Amendment "A" does to the bill.

The SPEAKER: Representative Whitcomb of Waldo has posed a question through the Chair to the Representative from Topsham, Representative Chonko, who may respond if she so desires.

The Chair recognizes that Representative.

Representative CHONKO: Mr. Speaker, Men and Women of the House: The amendment is a technical correction to the drug rebate language proposed in Part L of the bill and provides a supplemental appropriation for the Secretary of State's Office which needs to pay their bill in order to get ballots printed. The supplemental budget is 90 percent monies that we owe and this is the way we are going to be paying it. That's all it is.

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 Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, am I correct that the matter is Senate Amendment S-569? Am I looking at the right document?

The SPEAKER: The Chair would answer in the affirmative. If you look at Supplement No. 2, it carries the number of the amendment.

Representative MARSANO: Mr. Speaker, I appreciate that admonition. I will do that. I do have S-569 in my hand and there is language which I understand is an addition which the Chairwoman from the Committee on Appropriations did not direct her attention to. I would ask that she tell us what is meant by the phrase (which I understand is an addition if I understand it correctly) "hire a mutually agreed-upon independent auditor to verify the pharmaceutical manufacturer's calculation. If a discrepancy is still found, the ' ', then nothing else appears. Then there is a huge number of figures which are given to us here which I would like to have her explain as well if she would?

The SPEAKER: Representative Marsano of Belfast has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: I am not sure I heard all of the question but the part that I did hear which refers to the hiring of a mutually agreed-upon independent auditor refers to a necessary change in language. In the supplemental budget, there is included language which was agreed upon and which actually was presented by the Department of Human Services in order to make it possible for the State of Maine to receive rebates from pharmaceutical companies in our low-cost drug program that we have in our state for elderly persons. This particular technical amendment is to make the wording be correct according to the factors that the Department of Human Services says are necessary to implement that drug rebate program.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I think I heard the rest of the question from the Representative from Belfast as to the large amount of numbers that follow in the rest of the amendment. That is the change in the fiscal note that is necessitated by the additional \$119,000 that of course throws the bottom line out of each account and each line item has to be recalculated. It corrects the fiscal note to include that \$119,000.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: The second page of the Senate Amendment which is before the House contains a large number of debits, as I understand it, between Part A and Part R. Some of them are in the millions of dollars. I understand that the pay raise, the merit pay raise for state employees, is still in that unless it is taken out by those debits. I would ask the Chairwoman from that committee to tell me whether or not the merit pay raise for state employees (which

becomes effective in April and takes place in April, May and June) is or is not debited by any of those debit figures that appear, if she would please?

The SPEAKER: Representative Marsano of Belfast has posed a question through the Chair to Representative Chonko of Topsham, who may respond if she so desires.

The Chair recognizes that Representative.

Representative Chonko: Mr. Speaker, Men and Women of the House: The amendment that you have before you now was put on to the Majority Report of this committee. It does not, as you well know, consist of the merit increases.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I feel that there is a great deal of confusion here in the House today on this particular amendment. I am sorry that is the case. I will try to clarify things and maybe give a broader view of what is going on with this particular amendment.

Most of this amendment is simply recalculating or correcting the addition in the original report. The fiscal note is changed because there is an addition of \$119,000 to pay for expenses associated with the referendum questions of last November. There is a bill that is outstanding and needs to be paid to a printer and that is the \$119,000. When you add that in the debits and credits, as the good Representative from Belfast is referring to, it must be adjusted.

Merit pay is something that is confusing to a lot of people, it is something that is certainly confusing to my local radio station because this morning I heard a story on the eight o'clock news that said that there was a partisan issue brewing in the legislature because the democrats wanted to not freeze merit pay and the republicans wanted to freeze merit pay. Then, at eight-thirty, a half hour later, the same radio station with the same newscaster, there was a story about how state employees were furious that the legislature had frozen merit pay. Kind of confusing to say the least.

Let me remind everybody what the issue is with merit pay — there is no additional appropriation being provided in this budget for merit pay. There is no extra money being put in through the supplemental budget, the question is whether or not it was deducted out.

The Attorney General issued an opinion that told the Appropriations Committee that it would be inappropriate for them to freeze merit pay in the middle of the fiscal year, in the middle of the contract on April 1st, but that it could choose to do so on July 1st if it chose a separate issue completely. The Appropriations Committee voted in a tentative vote this past weekend on Saturday to freeze salaries on July 1st, the first day of the fiscal year, outside of the contract — after the contract has in fact expired, a totally separate issue and we shouldn't try to confuse it. Don't be confused by those who want to confuse this issue, they are totally separate, completely separate. This budget document is silent on the issue of merit pay. It does not add a single penny in to give additional merit pay to anybody. It does not add a nickel in to give additional pay to anybody.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I defer as I have so often to

the learned Representative from Thomaston, because I do respect his abilities.

The changes that he is talking about, as I understand it, are in the basic document 2379. He is suggesting that the fiscal note that appears on the pages are the same, which means that the debits that appear there are debits that occurred in the original bill. It was my understanding that there was a change in the bill with respect to Blue Cross/Blue Shield that Representative Foss referred to as the sweetheart deal for Blue Cross. I don't know why that wouldn't have appeared if there had been a House Amendment that changed that at the time this House originally acted on the budget. Accordingly, I don't understand why the figures wouldn't reflect that as they appear in Senate Amendment "A" and I would appreciate it if the gentleman from Thomaston could explain where the sweetheart deal for Blue Cross is in the figures in Senate Amendment "A" if he would?

The SPEAKER: Representative Marsano of Belfast has posed a question through the Chair to Representative Mayo of Thomaston who may respond if he so desires.

The Chair recognizes that Representative.

Representative MAYO: Mr. Speaker, Men and Women of the House: I appreciate the fact the gentleman has asked the question — I don't know where in this particular fiscal note those particular figures lie. I did not stay up last night and study every line of the budget, I assure you. I have great faith in the people that produce fiscal notes. Fiscal notes are produced by the Office of Fiscal and Program Review. They are not produced by bureaucrats, they are not produced by legislators, they are produced by the professionals that staff that committee. I am sure that if we added a House Amendment that added money to this budget or brought in additional revenues that it is probably reflected in the fiscal note in this amendment. This amendment simply corrects a fiscal note in the bill and, as we all know, fiscal notes don't go into the statutes, the budget will go into the statute.

The answer has just come to us by telephone, it is line three on page four.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: The Representative from Yarmouth, Representative Foss, has an amendment which she was hoping to have an opportunity to offer so I would move that the House recede.

Subsequently, the House voted to recede.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, I move that this be tabled until later in today's session.

Representative Chonko of Topsham requested a Division on the tabling motion.

The SPEAKER: The pending question before the House is the motion of Representative Foss of Yarmouth that L.D. 2379 be tabled until later in today's session. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

49 having voted in the affirmative and 59 in the negative, the motion to table did not prevail.

On motion of Representative Martin of Eagle Lake, the House reconsidered its action whereby the House voted to recede.

The SPEAKER: A roll call has been ordered. The

pending question before the House is the motion of Representative Chonko of Topsham that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 323

YEA - Adams, Aliberti, Anthony, Ault, Bell, Boutilier, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Daggett, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hohlund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Simonds, Skoglund, Stevens, P.; Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Bailey, R.; Barth, Bennett, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hichens, Lebowitz, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Murphy, Nash, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Richards, Savage, Small, Spear, Stevenson, Tupper, Whitcomb.

ABSENT - Bailey, H.; Bowers, Cahill, M.; Crowley, DiPietro, Hepburn, Kutasi, Libby, Mitchell, J.; Reed, W.; Ruhlin, Sheltra, Simpson, Stevens, A.; Vigue.

Yes, 94; No, 42; Absent, 15; Paired, 0; Excused, 0.

94 having voted in the affirmative and 42 in the negative with 15 absent, the motion to recede and concur did prevail.

By unanimous consent, was ordered sent forthwith to engrossing.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1007) on Bill "An Act to Provide Community Rating of Health Insurance Providers" (H.P. 507) (L.D. 701)

Signed:

Senators: McCORMICK of Kennebec
KANY of Kennebec

Representatives: MITCHELL of Vassalboro
ERWIN of Rumford
TRACY of Rome
KETOVER of Portland
RAND of Portland

PINEAU of Jay
JOSEPH of Waterville

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-1008) on same Bill.

Signed:

Senator: BRAUN of Knox

Representatives: GARLAND of Bangor
HASTINGS of Fryeburg
CARLETON of Wells

Reports were read.

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

Representative MITCHELL: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: On the issue before you today, the good news is that members of both parties and members of our committee all support the concept of community rating. What you have before you, the two reports, both support community rating. The difference is how.

If I may take just a few moments to explain to you why this issue should never be partisan and I hope you will never think of it as partisan. Both President Bush, Senator Bill Cohen and even Governor McKernan and his Task Force for the National Governor's Association believe that community rating is absolutely necessary to reform insurance in the small group market. In the State of Vermont, which has enacted community rating, the charge was led by a Republican Senator and certainly this issue is not partisan. Affordable health insurance is too important to be partisan.

The Banking and Insurance Committee worked long and hard on this bill. You notice by its number 701 that it is a carryover from last session. As I mentioned to many of my colleagues earlier when I first heard of this, I thought, oh no, just a fight between insurance giants, Blue Cross/Blue Shield versus the commercial carriers. But for two years now, I have listened and I have begun to understand the process called skimming and creaming of those very low-risk people, male, young, healthy individuals who, if they work for an industry that is exclusively geared to that type of employment, can benefit from some pretty inexpensive insurance rates. That is called experienced rating. If you have only the young and the healthy not likely to become sick, you can offer a pretty good rate because your insurance company is not taking very much risk.

Blue Cross/Blue Shield, however, and I think this is an extremely important point for you to think about, insures 80 percent of the small groups in this state, 26,000 of the 32,000 are already insured by Blue Cross/Blue Shield which community rates. This means they put everybody in the pool, women, the disabled, the elderly, everybody is in the pool and the risk is spread over a large number of people making insurance affordable for everybody. The private insurers who are the primary supporters of Report B, 11.1 percent, that is all they cover. As I mentioned earlier, they cream, they cover only the

healthy and the low-risk group.

The other shocking number, which I am very concerned about and I put it on the table now for you to think about, 40.7 percent of these small groups are uninsured. If we take no action to require community rating, that piece of the pie is going to continue to grow because the rates will continue to go up and the Blue Cross/Blue Shield which takes everybody is going to be forced to look at competing with the private carriers by experience rating also.

You also know that this legislature passed some landmark legislation saying that insurers could not refuse you coverage based on previous medical history, that is called the continuity of health care. I see the report before you as closing a major loophole in the law. It says that you can't drop groups either because a member of the group happens to get old or happens to be female of childbearing age or happens to have any kind of health problem, but it also expands this prohibition to groups.

Both of us support this common practice but the difference, and if you have a moment and you can find your amendment, is that the Majority Report begins to phase in community rating now, beginning in July, in a very responsible way. As a matter of fact, after months and months of deliberations, I thought most of the committee frankly was going to be in agreement on this because the Majority Report is based very much on what the Bureau of Insurance initially told us would not be too disruptive to the insurance market or to the small businesses who try to purchase insurance so it is a gradual phasing in. This is the distinctive difference in the bill when we began to have insurance companies moving toward community rating. If you look at our amendment, a carrier may not vary your rate due to the health status, claims experience or policy duration of the eligible group. They may vary the rate due to family status, smoking status, participation and wellness, allowing insurance companies to encourage preventive programs which lead to lower health costs. But, here comes the key part — in the Majority Report, any small group policy — and we are talking 25 and under — beginning July 1 of 1993 going through a full year to 1994, you cannot deviate on (and these are the key issues) age, gender, occupation or industry and geographic area except within a band of deviation. In the Majority Report, we start out at 33 percent which means you can go 33 percent above or 33 percent below, so it is a reasonable band.

The Minority Report goes to 60 percent and my contention is, though there is an effort to do something, it is so wide that absolutely nothing will happen and the commercial market will continue to cream the top of the band, forcing people by price to go to Blue Cross/Blue Shield, which is always community rating.

In the following year from 1994 to 1995, we move down to 20 percent; 1995 to 1996, we move to 10 percent and by 1995, you cannot discriminate based on age or sex. It is very hard to say we have to phase in non-discrimination. That is a very tough concept for a lot of people to follow. If it is discriminatory, let's stop it now, it is not fair.

We were trying to be responsible with this compromise report saying that that is too sudden, it is different from practices in the commercial market and we want to give everybody a chance to stay in this market and be competitive. Quite frankly, the Majority Report is the one that focuses true

competition, that the companies whether they are Aetna, Travelers or Blue Cross/Blue Shield are going to be competing, not based on who can cream and who is stuck with all the high risk members of our state but who has the best service and the quality and rates within this band. That is what true competition really is about.

The Minority Report sunsets everything in a year. I really don't believe you are going to get very much experience in a year's time so I really believe the Minority Report, though well-intentioned, is nothing but a fig leaf, that if you vote for the Minority Report, you are against community rating. If you want to do something and do something now, and goodness knows the health system is so broken we can't afford to wait, the Majority Report is really our only choice. I hope that you will look at those issues because all of your constituents are very much concerned about this issue.

I would like to address, those of you who may have received some concerns from your small businesses saying, if this happens, I won't be able to afford my premiums — the long-range view if this doesn't happen, they won't be able to afford their premiums because if that happens, your rates are going to go up within this huge band and creaming will continue to occur. If the range is so wide that it is meaningless, creaming will continue to occur. This is an extraordinarily important issue, it is important for the long-run health, not only of our people, but of our small businesses in our state. I encourage your support of the Majority "Ought to Pass" Report.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: Presently, Blue Cross offers all small businesses a community rate and this bill will increase access to health insurance with no new tax dollars. This will give true competition to small groups in the health insurance market.

I have served on the Task Force which studied the continuity of health insurance for the people with preexisting conditions. I am also on the Health Access Subcommittee, I am also the cosponsor of this bill. The committee has worked on the issue since last year and you can see that this has had a long haul to get here today. It has been looked at and looked at and looked at. This is not one that we have had a matter of weeks to work on. This is how complicated and how important this piece of legislation is.

This is a conservative measure, a compromise to keep insurance rates from getting out of control. Community rating can end discrimination, that is denying so many people health insurance. It will stimulate real competition among insurers which will help to hold down prices and give consumers more choices and greater access to health care for workers and families. It is a step toward solving the problems in the small group health insurance market. It will promote competition ensuring that small businesses and their employees get the coverage at a stable price. If we do not do community ratings, there will soon be no community rating at all. This could end the discrimination that is denying so many workers health insurance, that it can bring competition and hold down prices and give consumers choices to provide greater access to health care for the workers and their families.

The majority of businesses in this state employs fewer than 20 people and there are many small entrepreneurs in the State of Maine who came to us and said they need this. You know you represent many of those small businesses. This will ensure any small group without regard to medical history, age, sex, marital status, geographic locations or occupational of group members by skimming of the best risk and refusing to cover the higher risks, commercial insurers guarantee themselves lower claim costs.

Blue Cross still has 80 percent or 26,000 of the 32,000 of the same small group workers in Maine. We are talking about firms with 1 and 25 workers but for-profit insurers typically do seek out firms with younger and healthier employees and offer bargain rates. The rates aren't guaranteed, ladies and gentlemen. One large claim for hospitalization can send next year's rates soaring. Blue Cross offers community rating which will be the same for all employees. An example, a company couldn't get health insurance for its employees from any commercial insurance company because two of its employees had been through the alcoholic rehabilitation program, a firm with a single employee, six could be forced to drop health insurance for the rest of the small companies. They could be charged prohibitive rates.

We tried to work out a compromise but some members wanted 50 percent leeway in rates, a 3 to 1 spread. Small businesses could be at \$120 per month or \$1440 per year. Insurance with a base rate of \$120 could charge a group of little as \$60 per employee per month or as much as a \$180.

Community rating is the fairest and least costly means to increase access to health care for working people and their families. It prohibits raising health insurance premium rates on the basis of the claims experienced of a specific group or individual and it prohibits variations of rates on the basis of age, gender, family status, occupation of industry and the geographic area.

The United States is the only country in the world and I am quoting this from a piece of paper that I got. "It sets higher rates for those who use medical coverage or who are older or are women. We all get older and we all get sick, I guarantee. What good is insurance if you can't afford it when you need it? Young and healthy get low premiums only if they remain young and healthy but when they get sick or have a child with cerebral palsy, they can't afford the rates.

As you know, we are following the State of Vermont which will have a year's experience to review and evaluate and they are at a 20 percent variation but we have opted for 50 percent. You heard my good Chair say that President Bush, Senator George Mitchell and Senator Bill Cohen are supporting the concept and I want to quote what Senator Cohen wrote. "I am pleased to go on the Record in support of the concept of community rating in the small group market. Further, I do not believe that the State Legislature should postpone consideration of this issue and associated matters in the anticipation that Congress and the President will resolve them in the near future."

This is a solution that will impact reform which will begin in July of 1993 with a four year phase-in and it is so very needed until we get a universal health care system in this country. This is so important for the small businesses in this state. We

heard from many as I said before and we really need this, especially women. We have many older people in our state and people with preexisting conditions. It is important for us to do something to help the business people of the State of Maine and I would urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: The Majority Report is a compromise between the Bureau of Insurance and consumers. This bill represents a compromise reached by the committee in competing proposals. Consumers in small businesses wanted to prohibit all rate discrimination. The Bureau of Insurance wanted to allow insurers to discriminate against women, the elderly and workers in certain jobs by charging them up to three times more than young people in a group. We decided on the majority on a middle ground between no discrimination and a 3 to 1 difference.

We decided to gradually stop discrimination in rates over four years going from rates two times higher in 1993 to 1.5 times in 1994 to 1.2 times in 1995, then to no variation in 1996.

I would urge your support of this bill.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Garland.

Representative GARLAND: Mr. Speaker, Ladies and Gentlemen of the House: This bill is making major reforms in the practice of health insurers. This report jumps headlong into drastic, radical change, the consequences of which are unknown. The most probable results will be a large increase in the price of insurance to many accompanied by an exodus of health insurance companies doing business making for a monopolistic, uncompetitive system. Why would we want to jeopardize the affordability and availability of health insurance for small business?

We must take a more careful, prudent course on this matter. We do not have a great deal of success in dealing with insurers in this state as evidenced by that fire storm, which we call Workers' Compensation. I fear this legislation before us now will be the match that ignites the health care crisis.

I hope this House will reject the Majority Report that takes us into unchartered territories with disastrous results. I hope this House will go along in a prudent manner and watch what happens in the State of Vermont, which has instituted limited community ratings. Let's watch the results of that state before we launch ourselves off this cliff like a lemming with little thought and disastrous results.

I hope this body will vote against the Majority Report so we can move on to accept the Minority Report.

Mr. Speaker, I request a roll call.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: It certainly wouldn't be a good Banking and Insurance Committee debate if Representative Garland and I didn't get to trade some exchanges and, though we worked very hard on this issue together, I must correct two things.

Please, whatever you do, do not confuse all the anger and the animosity surrounding the Workers' Compensation debate with something as important as health care. That is not the issue before us today and that is why I have urged you, do not think in

partisan terms.

The Senator from Vermont who was a Republican told us the one thing that convinced him that our report was the right way to go was, if we didn't do something like this, it was going to be the taxpayers who would have to subsidize people who couldn't afford anything as opposed to the payers, the people who buy insurance as they share in the risk. It seems to me, frankly, to be a very Republican principle and I know that Representative Garland's heart of hearts could be comfortable with that business of user pay if he thought about it.

I also would like to remind you that we are not jumping off any cliff — this is extraordinarily, slowly phased in, our band starts at 33, Vermont has 20 right now as we speak. I think it is important that you understand that. This is a compromise, maybe we ended up compromising with ourselves in the false hope that we could have a unanimous report but this is not a radical piece of legislation in terms of jumping off the cliff. We still have an opportunity to see what happens in Vermont. We can always return to this issue, but if we don't put something meaningful on the books today, you will be voting for the status quo and the status quo is unacceptable.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I, too, wrestled with this bill as a member of the B&I Committee and I would agree that there was significant agreement between all factions on that committee as to where we would go and how we would get there. There are, if you will, just two changes, two what I consider very significant changes, between the two reports.

Everybody sitting around the table in B&I agreed that we should not allow people to run in and skim. That is going on right now. We don't want insurance companies going in and taking a company for one year and then having a bad experience, disappearing the next. This is going on, it is a problem in Maine, but the difficulty is that we are entering uncharted waters while everyone conceptually says that this is the way to go. We have heard from every faction in this wide state giving us different answers and they are not harmonious and they are all with their own self-interest involved. Because of that, the basic substance of the bill is identical. Both Committee Amendment "A" and Committee Amendment "B," the Majority versus the Minority, which incidentally for me was not on a party issue but was on a philosophy issue, of how are we going to try something in the State of Maine?

Vermont, after all, has led the nation in this issue. They have put in a law which goes into effect July 1st that says everyone will start toward community rating (they call these bands, don't ask me to explain them, it is much too complicated for even my little mind) and these bands start at 20 and they ratchet down so that in the near future, they will be zero and we will have true community rating.

The Majority, if you will, Committee Amendment "A" starts at 33 and they ratchet down in a total of three years starting July 1, 1993.

The Minority, if you will, Committee Amendment "B" simply ratchets down in four years starting at the same date July 1, 1993 and ending one year later, still at zero. Everybody's law works towards zero. However, nobody knows what is going to happen in this

state to the insurance business. We have been told that this is going to drive companies out of the state and we may end up with only Blue Cross/Blue Shield. Blue Cross/Blue Shield says, "So what, what if we are the only provider for health care in the state?" Well, there are so many unknowns as to where we are going. The one key factor I felt was terribly important was the bands, how far, how fast were we going to go and we did start further apart between the two but there is only one year difference when it gets down to the same results — 1996 versus 1997.

The key issue though is that this bill has no automatic review to it. This bill says, fine, we will put it in and if this legislature finds or feels that there is no reason to go forward or nobody decides for them to go forward, we won't have to even look at it again. It is all in the process, it is going to go forward regardless of what happens.

The difference is that I would urge you to consider the Minority Report if in fact you do not vote for the present motion, only because it has one major factor. It says that Vermont's is going into effect July 1, 1992, so we can look and see until July 1, 1993 what is going to happen. It makes a lot of sense. Why should we become the laboratory for the United States on this issue?

Both bills put their ratcheting into effect starting July 1, 1993 — fine, we will have another year to test it. However, by July 15, 1994, this legislature has to again revisit this area and see just where they stand. Is it a good law? Does it need revision or should we simply pass it on again? That is the major issue. It is a ho-hum piece of legislation in many ways, it doesn't take effect until 1993 and maybe it will work out just fine but then again, maybe it won't. I say that because of the Majority "Ought to Pass" Report simply forever locks us into a goose step down to community rating of zero as of 1996, we should go one year slower to 1997 and we should automatically look at this law prior to July 15, 1994. That gives us one year on Vermont, one year in Maine. That is all the difference of the two reports.

I strongly urge you to oppose this motion so that we could go on to the Minority Report.

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

Representative RAND: Mr. Speaker, Men and Women of the House: I hope that you will accept the Majority "Ought to Pass" as amended Report.

Community rating is not a new thing, it is not something that Blue Cross/Blue Shield thought up on its own. Up until the early 1970's, all health insurers practiced community rating and they did so until they decided that you could make more profit by insuring just the healthy low-risk people. So, community rating is not experimental, there is really no need to have a sunset on a piece of legislation like this. We know that it can be done, it was done and it was done quite profitably by all concerned. The problems arose when the for-profit insurers decided that it only made good business sense to insure young, healthy males, males simply because they are not the ones who get pregnant. It is more profitable if you have somebody paying premiums and you never have to pay out anything.

The problem that we have run into is that Blue Cross/Blue Shield is what's known as the "insurer of last resort." They are now running into a situation where, because they community rate, do not

discriminate small groups like the for-profits do, they are picking up all of the people that have had either a bad experience, personal experience — they have diabetes, they have a child who is born with a birth defect, so Blue Cross/Blue Shield is now picking up the majority of these people, those who will actually have to use their health care insurance.

Please accept the Majority "Ought to Pass" Report. It is the right thing to do for your constituents, it is the right thing to do to insure more access to health care in this state.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: It is extremely difficult to rise because I feel that what is being presented is really not accurate. I feel that the real issue out there is to get into the health care system. Both reports do that. It guarantees the opportunity for the employer and the employee and dependents to get into the health care system.

The accusations as far as the past is concerned, as far as I am concerned what this bill is doing is past, it's history. We are looking now of a new program and it is saying that everybody will have access to health care. Seeing we answered that question on both reports, the difference is affordability. Really the simple question is, do you want one carrier or do you want more than one carrier to participate in this program? That really is the question.

The Majority Report limits that participation. It is even indicated on House Amendment "A" (H-1014) that the fiscal note on the Majority Report was in error because they are anticipating that insurers will pull out. The real issue is, do we want to have insurance companies to participate in this new program? That is what the Minority Report attempts to do, to allow more participants to have access to health care.

I urge you to support the Minority Report.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: It has been a pleasure to work in the Banking and Insurance Committee with all the members there. We have had long and good discussions about L.D. 701 and other bills that have come before the committee.

I would agree with Representative Mitchell that this is not a partisan matter. It represents some differences, perhaps philosophically and perhaps some differences in how cautious we are going to be in enacting new legislation which would go further than Vermont will have, further than any other state is going to have eventually.

I would like to address just two or three things and they are as follows: will the bill increase access to health insurance and will the Majority Report do it? The answer is no. There was some statements made here that it would increase access but I would only repeat the language on the fiscal note which says, "Community rating system proposed in this bill will result in some insurers leaving the small group health insurance market and, consequently, some individuals becoming uninsured. This will not increase the number of people who are insured in the small business market, it will decrease the number of people who are insured in the small business market because it is going to increase

the average cost to them.

The second point I would like to make is that the small businesses that I have talked with about this bill are not in favor of the Majority Report. I went down, a couple of weeks ago, gathered together about 15 small business people in my district, got them into my office, sat down with them and went through the process of trying to explain community rating and what it would mean. Believe me, it is a difficult process to go through because it is difficult to understand what the implications are. The result of that meeting was that small businesses are very concerned about the rate shock that will occur if you go to a 33 1/3 percent spread from the present system. I would like to point out that the present spread of insurance rates is much larger than that and the Minority Report would bring it down to 60 and then ratchet it down.

I would like to read to you something from the report of the Maine Health Care Demonstration Program that is dated April, 1991. Footnote 7, which tells what the present rating practices are and it says: "Currently, private insurance rates between businesses with similar case characteristics, that is, age and sex mix of employees can vary as much as one-thousand percent based on medical underwriting criteria, claims experience and type of business." Both bills, the Majority and Minority Report will reduce that one-thousand percent difference significantly and the question is, do you want to go over the cliff with Vermont before you see how they land in their experiment or do you want to be more cautious?

I urge acceptance of the Minority Report. I urge you to reject the Majority Report.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: It was not my intention to get into this debate today. I agonized over this issue and the Chairwoman of Banking and Insurance described it accurately when she stated that, in some ways we were compromising with ourselves and in some ways we were negotiating with ourselves. I admire the leadership on that committee because their efforts were to get a unanimous report on this piece of legislation. Truly, it would have been my preference to vote out the original bill and the reason I felt that way was because I am a woman and because I am older, I felt there was no discrimination in the original piece of legislation. However, if you are concerned about discrimination because you are a woman or because of your age or for any other reason, the best report would be the Majority Report because there is less discrimination in that report.

As far as the sunset is concerned, it could be easy to support that sunset but on the other hand, this legislature or another legislature will be meeting if there is massive withdrawal from the market. In the State of Vermont or if in any other state because of community rating there is withdrawal from the market, another legislature can address that issue.

Blue Cross/Blue Shield has been community rating (in my estimation) for over 50 years. Someone else has mentioned whether in fact small employers would jump at the chance to purchase group insurance for their employees — they may, they may not, there is no guarantee. However, those employers who don't have this monolithic work force, and I am not sure

there are any in this state, then in fact will now know that because they have a varied work force will be paying a nominal rate.

If you support community rating and apparently you all do because we have heard testimony that the Congressional Delegation, the Governor, and a multitude of people do, then you will be voting for the Majority Report because we will learn from Vermont and because there is less discrimination in the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, I would like to pose a series of questions through the Chair.

Three questions. I am interested in the band of percentages on either side and I have a question about that. What is the difference between the Majority and Minority in that regard?

Also, are there sunset provisions in both of the reports? If so, what are they? If not, tell me what the one is in the Majority Report.

The last question is, I understand that eventually the Majority Report would get to a zero percent — how long would that be? Is there one in the Minority and how long would that be?

The SPEAKER: The Representative from Lewiston, Representative Boutilier, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Thank you very much because there were some things that I wanted to add which goes right to the point of your questions.

First, let me talk about the band for a minute and Representative Hastings is right, they drive you crazy but I will try to simplify it as best I can. It is important that you understand them because that is the heart of the difference of the two reports, the bands and what you will accept and what you want.

I am going to give you an example. Let's assume that the community rate of Blue Cross/Blue Shield of Maine for a small group employer is a \$120, that's their average rate. Commercial insurer A also has the average rate of \$120, but within this band, and I am using 50 percent now, that is more conservative than the 60 percent that the Minority Report says, for their low-risk folks. For the young, healthy males, they can charge \$60; for the high-risk folks, the old, people like me, an old woman who is still in the childbearing I suppose by some of their standards which is really hard to believe, but at any rate, they can charge me or my group (because Representative Daggett is in there with me) \$180. Up until this bill passes, frankly Aetna can say, "I'm really not interested in you, you women go somewhere else, I will just take the automobile dealers because they are young and they are male and they are healthy." Under both of these versions, they can't do that anymore. But if I am a business person, am I going to pay \$180 at commercial insurance A or go on over to poor old Blue Cross/Blue Shield and take that \$120? I think the answer is pretty obvious. That's the problem with a band and why the Majority Report started at a meaningful price, 33 percent. We ratchet down at the same speed except the Minority Report sunsets in a year. You are not going to know very much on what to base your sunset. Ours does not

have a sunset but everything we enact in this body has a sunset, that's why legislatures keep coming back to analyze. Half of what we do this session is correcting things that we thought were right last session so everything has a sunset but the difference is you have to act affirmatively to get this thing back on the books under the Minority Report. It absolutely disappears in a year unless you get everybody ready to reenact it. Frankly, you don't have enough experience, you are not going to know a whole lot so those are the two things that you asked about.

If I may, two quick things and I hope I haven't left out one of your questions, I am sure you will remind me if I did — it is imperative that we help our business people take a long view instead of a short view. You may have the good rates now but if someone gets sick, too bad for you. Legislators must be educators and if you have gotten a lot of letters from misinformed business people, it is very important that you become an educator and tell them the real facts behind this bill.

I must mention the fiscal note, we have to get this adopted before we can even offer it. If you read the fiscal note on the Majority Report, the initial fiscal note had a great loss of revenue to the General Fund and there is an assumption on there which says that all the commercial carriers are going to leave Maine or a large part of them if we enact this bill. Well frankly, it doesn't even become effective until next year so I became a little suspicious of that fiscal note. I called the Bureau of Insurance and said I would like to see your working papers and I would like to know what you base this assumption on because I assume that our office of Fiscal Analysis based their fiscal note on what the Bureau of Insurance, who does not like the Majority Report, gave to them. Upon reflection, they admitted that Vermont had not had the experience of everybody walking out, nobody knows how many will walk and, frankly, I am more concerned about Blue Cross/Blue Shield, which insures 80 percent of these businesses than the 11 percent covered by these commercial carriers. Nobody knows so you really can't put a fiscal note based on the hypothetical about how many carriers are going to leave. Guess what? I now have been authorized to offer an amendment which takes that off because we don't know what the impact is going to be and people are very honest when pressed that that fiscal note is going to come off. So, the fiscal note on both of these reports is absolutely identical and I think that is very important and I am sorry I had to talk about that out of school but two members of the opposition have already mentioned the fiscal note and I want you to know all the facts before you vote.

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 Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: I have listened very carefully to this debate because it was I who brought

this bill to the legislature last year. I did not bring it on behalf of Blue Cross, I did not bring it on behalf of commercial insurers. I worked on this bill together with small businesses, consumers, individuals, groups, insurers and Blue Cross. I worked on this bill and I felt that it was very important because we had reached a crossroad. Were we going to go forward with our reform packages in this state, a continuation of the reform that we had started through several pilot projects and through our continuity of coverage bill? When we passed that law, we were threatened with withdrawal by commercial insurers, they haven't left yet. When we passed our pilot project, particularly our Maine Care Project, and I believe Representative Carleton read from the last report of that project, we started experiments with community ratings in the Bath/Brunswick area and in the Somerset County area. It has been very successful, we have brought in businesses that commercial insurers had flagged as high risk and which they wouldn't insure, everything from beauty shops to child care operators to automotive dealers and many, many others. We have brought them in and we have community rated them and our experience has been very, very good. They are not sicker, they are not flagrant users of medical care that they don't need and we have had, as I said, a very, very good experience with that.

The Majority Report today asks you to take the next step to say that we want to begin to extend to every small business in our state what some small businesses already have. The majority have it because they do purchase their insurance through Blue Cross/Blue Shield but other businesses have it because they are able to belong to organizations or trade associations which offer them a community rated product. Many of you may have received letters from the Grocers Association or the Merchants Association or others — they didn't send me their letters and I assume it was because they didn't expect me to be on their side. However, I was able to get copies of those letters. Now why would these organizations oppose a community rated product that they are already able to offer through their trade organizations? Why wouldn't they want this to be extended to others? The only reason I could think of is that they are more interested in organization preservation than they are in extending this kind of a concept which they support and which they use to all of our small businesses.

We want to create a level playing field over a period of time, allowing for market adjustments, allowing for insurers to adjust the kind of market they want to serve in our state and believe me, each commercial insurer, while they may have businesses from a variety of different parts of the state and a variety of different types of businesses, they do target their business to a particular part of the market. They will have a full year to adjust that market. Nothing in this bill goes into effect before July of 1993 so they have a full year to make adjustments. Then there is a provision of guaranteed issue and guaranteed renewability, but along with that, has to be included the rating band that is reasonable that does not place an unfair burden on those businesses who consider it in their best interest because of the type of workers that they need, to hire women or to hire older workers.

We also have to consider that the cost of health insurance is as high as it is because so many people

are outside of the market. Many of those people are our older workers. Any band that includes age will continue to do that. In fact, some of the older constituents in my district, some of the organizations representing older people, were not at first very happy with the Majority Report. They wanted that age band to be left or they wanted ago not to be allowed to be banded at all. We worked very hard to convince them that, for the market as a whole, the fact that we were moving back to where we never should have left, that it was going to take time to get back to community rating, a pure community rating, and it would take a few years of adjustment. We have the State of Hawaii, which has had community rating all the time and which has a very successful health insurance market. They have some other factors that make it helpful to them to keep that market healthy.

We have in our state those factors coming in, we have the increase in availability of managed care and health maintenance organizations, we have our continuity of coverage bill and now we have a chance to add a next step at a reasonable move towards community rating. How long must women and the older workers and the people who work in high risk industries and in the Majority Report, that band, that 33 1/3 percent which starts next year does allow occupations as well as geography, age and gender to be included. Each insurer can decide which factor or factors that insurer considers to be the most important so there will be difference among the insurers. Some of them will choose to make age more important; others occupation. They can make that choice, they can try it, they can decide in the course of this next year, they can have all their high-priced actuaries work it out and they can adjust their market in the course of that year.

Of course the commercial health insurers could afford to agree not to use health status or to agree to guaranteed issuing and guaranteed renewability but with a caveat and a very important caveat. They are not willing to agree unless they get that very, very wide band that Representative Mitchell talked about which means that that one company with the older worker, with the more high-risk job occupations could find itself at 50 percent or up to 100 percent or more in that first year under anything but the Majority Report. Yes, we want to stop what is going on now at one thousand percent, we have to bring it down and bring it down quickly in order to get more by businesses able to afford coverage.

The fiscal note disturbed me greatly and I am really glad that we were able to talk about it because this attempt to scare us into thinking that we will not have a commercial insurance market, I think is nothing but that. There are some very good insurers out there who want to be in Maine and who I believe will work with us. There is a non-profit insurer, Blue Cross, that we know will work with us because they are based in Maine, they are only in Maine. While they are affiliated with a national organization, they are an independent organization who works here with us and for us in this state. We have health source, another HMO, that is Maine based and will remain here.

We will also have experience from the State of Washington because they now have a bill introduced by their Governor that will bring community rating to the State of Washington.

I ask you to vote for the Majority Report so that

we can move on in a slow and deliberate fashion and believe me, it will be reviewed every year I am sure by the Banking and Insurance Committee so that we can move within four years to a truly fair system of community rating for all of our small businesses in this state.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Vassalboro, Representative Mitchell, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 324

YEA - Adams, Aliberti, Anthony, Bailey, R.; Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, M.; Constantine, Cote, Crowley, Daggett, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Heino, Hichborn, Hichens, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lord, Luther, Macomber, Mahany, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Morrison, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Simonds, Skoglund, Spear, Stevens, P.; Swazey, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Barth, Bennett, Butland, Carleton, Carroll, J.; Clark, H.; Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Hussey, Kerr, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Merrill, Michael, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Stevens, A.; Stevenson, Tamaro, Tardy, Tupper, Whitcomb.

ABSENT - Bowers, Coles, DiPietro, Dore, Hepburn, Kutasi, Manning, Mitchell, J.; Nadeau, Ruhlin, Sheltra, Simpson, Strout.

Yes, 87; No, 51; Absent, 13; Paired, 0; Excused, 0.

87 having voted in the affirmative and 51 in the negative with 13 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-1007) was read by the Clerk.

Representative Mitchell of Vassalboro offered House Amendment "A" (H-1014) to Committee Amendment "A" (H-1007) and moved its adoption.

House Amendment "A" (H-1014) to Committee Amendment "A" (H-1007) was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This is simply a correction of the fiscal note.

Subsequently, House Amendment "A" (H-1014) to Committee Amendment "A" (H-1007) was adopted.

Committee Amendment "A" (H-1007) as amended by House Amendment "A" (H-1014) thereto was adopted and the bill assigned for second reading Wednesday, March 4, 1992.

On motion of Representative Clark of Millinocket, the House reconsidered its action whereby (H.P. 1668) (L.D. 2344) Bill "An Act to Amend the Charter of the Portland Water District" (EMERGENCY) (C. "A" H-1002) was passed to be engrossed.

Subsequently, the Committee Report was read and accepted, the bill read once.

Committee Amendment "A" (H-1002) was read by the Clerk and adopted and the bill assigned for second reading Wednesday, March 4, 1992.

(At Ease to 5:00 p.m.)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act Regarding Contracts for the Duplication of Works of Art (H.P. 1011) (L.D. 1479) (C. "A" H-921) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Lawrence of Kittery, under suspension of the rules, the House reconsidered its action whereby L.D. 1479 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-921) was adopted.

The same Representative offered House Amendment "A" (H-1013) to Committee Amendment "A" (H-921) and moved its adoption.

House Amendment "A" (H-1013) to Committee Amendment "A" (H-921) was read by the Clerk and adopted.

Committee Amendment "A" (H-921) as amended by House Amendment "A" (H-1013) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-921) as amended by House Amendment "A" (H-1013) thereto in non-concurrence and sent up for concurrence.

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

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" pursuant to Joint Order (H.P. 1705) - Minority (3) "Ought Not to Pass" pursuant to Joint Order (H.P. 1705) - Committee on Housing and Economic Development on Bill "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens" (H.P. 1707) (L.D. 2388) which was tabled earlier in the day and later today assigned pending acceptance of either report.

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

Representative MELENDY: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: I am sure, for many of you, that this information is not new but for those of you who have been too busy with other things, I would just like to tell you why and how this bill comes before you today.

Approximately two weeks ago, the Chairs and lead people of the Committees of Appropriations, Transportation, Housing and Economic Development were invited to the Governor's cabinet room for a meeting with the Governor, the Speaker of the House and the President of the Senate. We were asked to create a bipartisan bond package to create immediate jobs to jumpstart the economy. We were given a list of potential bond projects to include in the bond package and the list was created by a bipartisan committee made up of two people from the Administration and two people from the leadership office.

We were given a list of approximately \$180 million dollars worth of issues that gave us just a ballpark area that we should be working with. Of course, if they had really dug into it, that amount could really have been \$500 million or even above that because there is certainly a lot of things to be done.

It was agreed that day that the bond issues should be divided into two committees, one dealing with the bond issues with the Transportation aspect of it so when our committee started dealing with it, one of the first things we said is that we would agree not to touch anything that came out of the Transportation Committee. Whatever they submitted to us, we did not want to have a fight between committees so whatever they presented was going to be accepted and put into the package. The next thing we agreed to do was to exclude any projects that had been voted down by the public in the past. We wanted to address the geographic distribution projects so that municipalities across the state could be competitive and we wanted to be sure that every county had some monies. Of course, these projects are going to be picked on, depending on the labor intensity and the projects revenues of local match and local labor. We also included in the package a portion for FAME of \$7 million which would help finance and assist small distressed businesses that are in recall as well as others that cannot borrow money because of what is happening with the banks right now. We wanted to help save jobs as well, those that in jeopardy of being lost.

We also knew that we had to create something that could be supported by Maine Municipal Association, Chamber of Commerce and labor. They are all supporting this package. You know, just a little bit of gravy or icing on the cake is a fact that even editors of many of the newspapers are also coming out in support of it.

I urge you to vote yes and to give the jobless in our state a ray of hope and help our municipal infrastructure that desperately needs building and repair and doing it at a time when the borrowing rates are at the lowest for many, many years.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and

Women of the House: I would like to present the counterpoint to what the good Representative from Rockland has just said.

I was one of the three signers "Ought Not to Pass" for two reasons. I think that \$106 million is too much money for the citizens of this state to accept and the second reason is that I thought the part that my committee, Housing and Economic Development worked on, contained too many items, including some as small as \$700,000 in this bond package. I thought that that was a little too much to be expecting people to familiarize themselves with.

I hope no one misunderstands, I am not against the concept of borrowing money at this time in order to create jobs in Maine. I simply disagree with the amount that is presented in this bill. I have a feeling that there may be an amount of a lesser degree that we might be able to agree on at some point. Therefore, I urge you to vote "Ought Not to Pass" on this bill.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This bond issue of \$106 million is a lot of money. The question that I have not had answered here today or any other time is, how are we going to pay this back? The taxpayers out there are going to have to pay back \$106 million. A lot of those same taxpayers are out of work and I haven't heard a word mentioned — are we going to sit down with businesses and give them incentives to stay in this state? Are we going to do anything for industry to bring jobs back into this state? In my opinion, that is the other half of that equation, we have got to do something for the business world out there and the industry, not just spending tax dollars of the people of this state. Therefore, I just can't support this until I hear some answers on how we are going to pay back the money.

To me, this is the same as a tax increase on my people because the state has got to pay interest and pay back these bonds. We are doing nothing for the other side and that is for our businesses and our industry in helping them create more jobs in this state. We've got Workers' Compensation, we have environmental problems, we've got health issues that are all costly and there are no answers to those. Those are the things that I need answered before I can vote for this. So, I hope you will agree with me and vote it down until we can get some answers.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: Before you vote on this, I think some details on what is in (at least) the Transportation portion. Then I want to respond to Representative Murphy's comments.

On the infrastructure bond in terms of highway improvements on a lot of projects, you can look at the generalization of that in the question but some key issues are in there. One, as many of you know, the federal government has passed a public works program which in terms of Maine, we are going to get about \$119 million per year for about six years and we need to match those dollars with dollars from the state. In order for the state to raise the amount we need, there is \$5 million in this bond package which will encumber about \$20 million of federal dollars which we would not get if we didn't have this in the

bond package.

We also have \$3 million in there for an environmental issue, that is the sand and salt storage sheds, most of you have heard about it, it has been on most bond questions over the past few years, and most of them have passed, I think all of them, and this would pay for the remaining 28 in the state that need to be finished and deal with that problem, once and for all.

There is approximately \$4 million in there, \$2 million of which will go to the Amtrak project to get passenger rail service reinstated in Maine and it certainly goes a ways to provide that kind of job creation and environmental sort of a quality of life issue for Maine that we need. Another \$2 million approximately will go to upgrade and purchase other rail lines in the state that need to be worked on to allow for commercial and passenger rail service as well as some dollars to upgrade the state's responsibility in terms of the Augusta Airport.

There is also approximately \$13.5 million to go to small pier repairs and major infrastructure in terms of the harbors and the ferry terminals that we have in the state. That's needed, as well as approximately \$25 million, \$10 million of which would go to the local road assistance program and \$15 million that would go, again, to the seven transportation divisions within the state. So, in my opinion, these issues, all of which have met three crucial criteria, they are permitted and ready to go. They create immediate jobs in Maine in the next 12 months, they bring into the economy those dollars immediately in Maine's economy in the next 12 months as I think Representative Melendy has already talked about the portion that they dealt with in Economic and Community Development and those dollars would also be expended in Maine in the next 12 months, so I think it is important. On the transportation side, approximately 50 jobs for every \$1 million in this bond package would be created.

Some people are going to talk about the interest payments and the principal payments and so forth so let's be right upfront of what that is. In terms of transportation side, which I have spent some time researching — in the first year, we would pay about \$1 million and each subsequent year after that for the remaining nine years of the bond, we would pay about \$5 million in principal and interest.

On the other portion of the bond, the municipal infrastructure bond, we would pay around \$1.6 million in interest for each year and I think the payment in principal and interest is very similar to the infrastructure side of the transportation portion.

At a time when our bonded indebtedness of the state is low, in fact one of the lowest in the country, and at a time when interest rates are low, it actually pays us to bond for these viable projects. If the projects are truly long-term and they are truly infrastructure and at a size that is adequate and appropriate for bonds, I think that is the debate we are beginning tonight.

I said I wanted to comment on Representative Murphy's statement because I think she is just flatly wrong. The highway infrastructure portion of this, and that is what I am going to speak to right now and Representative Melendy can speak to the municipal infrastructure, absolutely helps in job creation. In fact, what is more important right now is job retention. We have firms out there right now who cannot find work or do not have sufficient work to

remain viable over the next 12 months — these dollars that we would help to jumpstart the economy from the state would do that. They would keep some businesses viable for the next 12 months to, hopefully, get them past what is going to be (hopefully) the end of this economic downturn at maybe the third or fourth quarter of this year and certainly would create other jobs in the state. I don't think there is any dispute of that by anybody. So the question is, is it appropriate to bond for job creation and job retention at a time when the economy is down and at a time when it is fiscally prudent for us to bond for these types of projects? I think the answer to both of those is yes, so I would hope you would go on and pass this. If we cannot get two-thirds in order to deal with this issue, then we need to revisit this issue but right now is the first vote, it is the beginning of the debate in the process and I would hope you would keep this issue alive.

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

Representative PFEIFFER: Mr. Speaker, Members of the House: I think there are two short answers to Representative Murphy's question. One just been mentioned is the fact that by creating jobs, we are going to be bringing in income tax and sales tax revenues and that is the way that this is going to be paid for eventually.

I think the more immediate answer is that the Maine Chamber of Commerce and industry is enthusiastically supporting these bipartisan initiatives. According to the Chamber President, Jack Dexter, this is clearly an excellent time for the state to do countercyclical investment. Interest rates are low and we would be creating private sector construction jobs now, while providing an infrastructure more adequate for business needs. The Maine Chamber calls for infrastructure improvement and we enthusiastically support these bipartisan initiatives. It seems to me that this legislature can do nothing less.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Being one of the old codgers in this House, I can remember back in the Great Depression. Most of the people who have spoken before me are much too young to remember that including the charming lady from Berwick, but I was a young man in the early 1930's and if you think the recession is bad now, at that time the unemployment rate in this country was 25 percent. In my hometown, I saw the Cotton Mill close and people were taking bobbins home from the mill for firewood. Men who had worked as foremen in the mill were down to nothing. We had a small potato farm with my folks coming out of Aroostook and he allowed some of those people to come in in the Fall after we had picked all the potatoes in the first rain to pick the potatoes that we had missed.

The only thing that saved this country back then was massive public works projects, the WPA and the CCC. It was a massive infusion of public works. I remember in my hometown they put in sewer lines, built streets, even had some of the ladies work above the firehouse to make clothes for the poor. That is the only thing that is going to save us right now when they talk about jumpstarting the economy. We

can't sit back and say that it is going to get better. I remember as a little boy hearing that from one of the candidates for President, who fortunately found himself outside of the White House after it was over with. He said that prosperity is right around the corner.

I have known what it is for my mother to go down to where the ladies were sewing and pick up clothes. The pride of the people — I saw men who had families who needed to do something so they went to work on the WPA at \$3 a day, three days a week but that is what they lived on and that is what kept everything going. Those are the things that will save the economy at this time and that is with the massive infusion of public works. I say, let's vote this in. Anybody who votes this down is casting a blind eye to what is going on. I am asking you as a little boy who went through this thing and I saw it come back up and mind you, it is going to be a hard job because it didn't get better overnight. It was not until the late 1930's when they came out and finally the depression started to work out of it.

Please vote for this, get this thing going, jumpstart the economy before we really go down the drain for good.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Lebowitz.

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I just want to call your attention to the fact that this bill has a noble purpose. It is to try to get the economy going and one of the things we worked on in the bill was to make sure that the money goes to as many places as possible and not all in one locale.

The other thing I would like to call your attention to is that these bonds will be issued for a ten year period. That will save half of the money that it would normally take to fund them. If they were twenty year bonds, it would be twice as much and I just thought you might want to know that at the same time.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I listened to the good gentleman from Lisbon tell about creating jobs and getting this bond issue out there. Let me tell you where I come from tonight — there is nobody in this House that wants to create jobs anymore than I do and there is nobody from the municipal level that wants to try to get some projects out there but I am telling you right now the reason I am going to oppose this \$106 million dollars is that you are going to spend \$627,000 in the election process next month and it is going to be defeated. It is the taxpayers money that you are going to throw down the tubes. There is no way that you are going to get a \$106 million dollar bond issue passed in the next 30 or 45 days. It is not going to happen.

Maybe the Chamber of Commerce is in favor of this, maybe the leaders of some of your municipalities are in favor of this, but I will tell you that the citizens of this state are not going to support a \$106 million dollars.

If you want to do what is right, tear this down where we can put a bond issue out that will pass and I will support it but you can't pass a \$106 million. I don't know how many of you people have talked to the people back home but if you talk to them on the streets, they will tell you that it is too much. I

am not going to support just for the highways, I think we ought to do something in the infrastructure in the neighborhood of \$35 to \$40 million and I also think you ought to be in the area of \$35 to \$40 million in the highway program.

People are going to tell you that you've got to keep this \$106 million alive. You don't have to vote that way, you can vote no and I can tell you that a bill will come back somehow, some way, some form.

Mr. Speaker, when the vote is taken, I would ask for a roll call.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: Of course this will go down to defeat if we go into it with a defeatist attitude. In fact, that is the only way it can be defeated. If we decide we are going to run from investing in our infrastructure to the amount that we need to, this bond issue will have a difficult time succeeding. I think we have got to make it very clear that there should be no confusion between borrowing to spend on current activities which is truly reprehensible and not fiscally sound. Borrowing through long-term investment in our infrastructure, these are major repairs and improvements in our infrastructure, both highway, bridges, municipalities and buildings. We need to make it clear that there are very few people that pay cash for their cars or their homes. We will not be increasing our long-term debt by bonding for infrastructure improvements because all these improvements will need to be done sooner or later and they will all be paid with bonding. The longer we wait with some of these repairs, the worst the conditions will get and the more we will end up paying in the end.

There are a number of things aside from the terrible state of the economy right now that make this a good time to do this and a good time to do \$106 million dollars. We have a very low ratio bonded indebtedness, it is not the lowest it has ever been but it is almost there. We have seen the lowest interest rates in years, we are seeing the highest numbers of hungry contractors out there willing to bid on these projects.

As was mentioned by a couple of other speakers, this will be reaching a wide range of different sizes and types of contractors and I will speak particular to the non-transportation part of it. There will be roofers, plumbers, carpenters and other contractors who will be put to work in a lot of different sizes and in a lot of different locations all over this state. This is going to work to create a lot of jobs and there will be a lot of local input into the economy and I urge us to take a bold step now to face real problems in our economy.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I think we have to stop for a moment and think hard about what it is we are trying to do. We are trying to stir this economy, we are trying to get some jobs out there and I want to tell you that a precedence has already been set for this. Back during the Curtis administration when the House and Senate with a majority of Republicans, a jobs package went out for this very thing. If you turn around and ask who is going to vote for this particular bill, I will tell you it is the jobless, those who want some hope out there. I look around at

all of you and ask you, do you know of someone who is unemployed because of the way the economy is today? These are the people that we want to be able to reach out and help. There is no better way than to provide jobs for them.

You don't think it is costing us to have the unemployment rolls continue to escalate and General Assistance and so forth? We are spending money already — let's spend money the way the workers want us to spend it and that is to allow them to go back to work. The spin-off that will be created by them bringing in an income and going out and purchasing things is going to help the businesses that we are all concerned with. Everyone is hurting out there but until the money begins to flow, it can't happen.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Drastic times demand drastic measures. Do we realize how many people out there are unemployed, people with pride? I had one good friend of mine approach me the other night and this man has pride, he was a worker in one of the factories and was laid off. He drew unemployment and when he came to file his income tax, he found out that he had to cough up some money because there were no taxes taken out of his unemployment, which is taxable. He said, "I got up one morning and I was so destitute and despondent that I felt like going out and start picking up bottles along the highway." There are people out there who want to work and this isn't a question of whether or not it is too much money, we have got to plug the hole in the dam before it gets out of hand or we will have a flood.

I plead with you tonight, let's do something to find jobs for these people. The question is, jobs, jobs, jobs. We have got to do something to put these people to work.

One of the questions that came up here (not this session but a previous session) about Workers' Compensation, one of my good friends in here from the Labor Committee who is in a heavy union town had to change his vote and vote on the new package of Workers' Compensation. He said, "The question is jobs, jobs, jobs." This is what we need in this state, we have got to get jobs for these people so they can go to work. This is the only way that you are going to do it.

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 pending question before the House is the motion of the Representative from Rockland, Representative Melendy, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 325

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Butland, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Gray,

Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lebowitz, Lemke, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, Melendy, Michael, Michaud, Mitchell, E.; Morrison, Nadeau, Norton, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Stevenson, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Vigue, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Carleton, Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Graham, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Hussey, Kerr, Kutasi, Lawrence, Libby, Lipman, Look, Lord, Luther, MacBride, Marsano, Merrill, Murphy, Nash, Ott, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Salisbury, Savage, Small, Spear, Stevens, A.; Strout, Tupper, Waterman, Whitcomb.

ABSENT - Bowers, Carroll, J.; DiPietro, Dutremble, L.; Holt, McKeen, Mitchell, J.; Nutting, Parent, Rand, Richards.

Yes, 90; No, 50; Absent, 11; Paired, 0; Excused, 0.

90 having voted in the affirmative and 50 in the negative with 11 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Undersuspension of the rules, the bill was read a second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" pursuant to Joint Order (H.P. 1705) - Minority (3) "Ought Not to Pass" pursuant to Joint Order (H.P. 1705) - Committee on Housing and Economic Development on Bill "An Act to Implement the Jobs Creation Bond Package" (EMERGENCY) (H.P. 1708) (L.D. 2389) which was tabled earlier in the day and later today assigned pending acceptance of either report.

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

Representative MELENDY: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

Mr. Speaker, Ladies and Gentlemen of the House: This is just the accompanying legislation necessary to implement the Bond Issue.

Representative Whitcomb of Waldo requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Rockland, Representative Melendy, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 40 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Under suspension of the rules, the bill was read a second time, passed to be engrossed and sent up for

concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-957) - Minority (4) "Ought Not to Pass" - Committee on Energy and Natural Resources on Bill "An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission" (H.P. 1514) (L.D. 2126) which was tabled earlier in the day and later today assigned pending the motion of the Representative from Waterville, Representative Jacques, that the House accept the Majority "Ought to Pass" as amended Report.

Representative Hanley of Paris requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Waterville, Representative Jacques, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

74 having voted in the affirmative and 31 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-957) was read by the Clerk and adopted and the bill assigned for second reading Wednesday, March 4, 1992.

(Off Record Remarks)

On motion of Representative Hogle of Portland,
Adjourned at 6:25 p.m. until Wednesday, March 4,
1992, at ten o'clock in the morning.
