

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Fifteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

House of Representatives  
March 10, 1992 to March 31, 1992

Senate  
January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE  
 SECOND REGULAR SESSION  
 34th Legislative Day  
 Friday, March 27, 1992

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

Prayer by Reverend Calvin O. Dame, All Souls Unitarian Universalist Church, Augusta.

The Journal of Thursday, March 26, 1992, was read and approved.

SENATE PAPER

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Establish Economic Recovery Tax Credits" (EMERGENCY) (S.P. 960) (L.D. 2430)

Signed:

Senators: BOST of Penobscot  
 ESTY of Cumberland

Representatives: CASHMAN of Old Town  
 NADEAU of Saco  
 DiPIETRO of South Portland  
 DORE of Auburn  
 DUFFY of Bangor  
 TARDY of Palmyra  
 MAHANY of Easton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-713) on same Bill.

Signed:

Senator: COLLINS of Aroostook

Representatives: HEPBURN of Skowhegan  
 BUTLAND of Cumberland  
 MURPHY of Berwick

Came from the Senate with the Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-713).

Reports were read.

On motion of Representative Cashman of Old Town, the Minority "Ought to Pass" Report was accepted and the bill read once.

Committee Amendment "A" (S-713) was read by the Clerk.

Representative Cashman of Old Town moved that Committee Amendment "A" (S-713) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we would vote against the indefinite postponement of Committee Amendment "A" because it simply adds some technical corrections to the bill and I think since we passed

the "Ought to Pass" Report, we ought to go ahead with the Committee Amendment.

Representative Marsano of Belfast requested a roll call 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 Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: As I think the House knows from looking at the report, the matter which is before us is the Minority Report which was accepted in the other body. The proposal would delete the action in order to, I assume, replace it with what is not yet before us but could be which is House Amendment "A" (H-1299).

The matter of investment tax credits has been one which has been before this legislature on a number of occasions and as I see it, the way in which we can move forward with an investment tax credit, an idea which first came to my attention back in 1960 when the then President of the United States, John Kennedy, proposed it, is to move forward by defeating the motion to indefinitely postpone Committee Amendment "A." I hope the House will vote to leave the bill in the position in which it presently is and will vote to defeat the present pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Cashman of Old Town that Committee Amendment "A" (S-713) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 400

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Holt, Hussey, Jaibert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Macomber, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Morrison, Nadeau, O'Dea, O'Gara, Oliver, Paradis, J.; Paul, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Sheltra, Simonds, Skoglund, Stevens, P.; Swazey, Tammaro, Tardy, Townsend, Treat, Vigue, Waterman, Wentworth.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Mayo, Michael, Murphy, Nash, Norton, Nutting, Ott, Parent, Pendexter, Pendleton, Pfeiffer, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Tracy, Tupper, Whitcomb.

ABSENT - Anderson, Bowers, Cathcart, Coles, Duffy, Farnum, Gould, R. A.; Hichborn, Hogle, Lund,

Jacques, Lord, Luther, Marsh, Merrill, Mitchell, J.; Paradis, P.; Pines, Ruhlin, Simpson, The Speaker.

Yes, 79; No, 52; Absent, 20; Paired, 0; Excused, 0.

79 having voted in the affirmative and 52 in the negative with 20 absent, the motion to indefinitely postpone Committee Amendment "A" (S-713) did prevail.

Under suspension of the rules, the bill was read a second time.

Representative Cashman of Old Town offered House Amendment "A" (H-1299) and moved its adoption.

House Amendment "A" (H-1299) was read by the Clerk.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I hope you will vote with me today to adopt House Amendment "A." What it says very simply is that the Taxation Committee, under statute, is required this spring and summer to review tax expenditures, including investment tax credits that are already a matter of Maine law. What this amendment does is it replaces this bill and includes the proposals that are in this bill in the study that the Taxation Committee is already required to do. The Taxation Committee will report a bill back to this legislature either at the next special session or at next year's regular session.

The reason that I am making this proposal is this investment tax credit bill came to the Taxation Committee a week ago yesterday. It is a rather complex issue. It isn't something that ought to be rammed through here in a week's time.

I have served in this House for ten years and I have supported investment tax credits. I think you all know I sponsored the original investment tax credit. I have no problem with investment tax credits, I think they are very useful and I think they are very effective. I do have a problem with a bill being brought in here with this short of a notice that is this complex. There are many questions about this proposal that have not been answered. There is much time that needs to be put into this proposal by the Taxation Committee and I think to expect this legislature to pass this in this short period of time is preposterous.

I really don't think that the Administration in putting this bill in expected the legislature to deal with it in a week. I think the Administration knows better than that and I think the intent of this bill being put in was just purely political. The Administration knew we didn't have time to deal with it and they intend fully to beat us over the head for not passing it if we don't. Well, I am not going to be threatened by that and I am not going to be forced into voting for a bill for political reasons that should not be passed without a lot more consideration than it has been given.

I hope the House will support the amendment, give us some time to review this matter and deal with it in a proper fashion. I hope you will adopt House Amendment "A."

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I request permission to pose a question to the Chair.

The gentleman from Old Town made reference to the fact that the Joint Standing Committee would review this and would somehow make a report to a special

session of the legislature. I would ask as a matter of parliamentary procedure if that would become impossible in the event we adjourn this session sine die?

The SPEAKER: The Chair would advise the Representative that under normal circumstances he would be correct but the Governor has already indicated he will be calling a special session, so in fact, there will be one.

Representative MARSANO: Mr. Speaker, Men and Women of the House: But will not the authority of the committee to make a report die with our adjournment?

The SPEAKER: The Chair would answer in the negative.

The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I want to talk a little bit about the bill right now. I understand that the hour is late and the hours of the session are late but we have much business yet before us still and many, many weighty issues yet to go so I suppose in the entire context of the state budget and Workers' Compensation not yet solved, a tax credit issue is probably not the most stunning issue that we will deal with this spring.

I hope that we don't adopt House Amendment "A" and that we stick with the bill from the Committee Report that we just accepted a few moments ago.

I want to talk just a little bit about the genesis of this investment tax credit bill. It came as a recommendation from the Jobs Commission which issued its final report on February 14th. I don't know if there was anything in the stars as to why it came out on February 14th but it did. As many of you know, Dana Connors chaired that commission and it had a number of notable individuals from around the state including Jim Mackey, Greg Nadeau, Roland Sutton, Robert Moore — a bipartisan commission looking at what we could do to do something to encourage the development of private sector jobs.

I just want to quote briefly from the report here. It says, "The Commission recommends that Maine establish a range of business incentive programs more in line with those available in other states." It goes on to recommend several specific recommendations and those are included in this bill. Specifically those would allow an investment tax credit of one and half percent for ten years for qualified machinery and equipment and also for depreciable telemarketing personal property, personal property only. This proposed expansion of the investment tax credit (we already have an investment tax credit) would be an expansion of something we already have. It is tailored to incremental investment only but could be taken into conjunction with the current ITC. It would also give a one-time credit of up to 20 percent for qualified machinery and equipment purchased by the taxpayer. Now, this is a one-time thing for the coming year that is intended to spur investment now to get people working and to create jobs. That is very much like the bond issue that we passed yesterday except that these would be jobs that would last over the long-term. It would not just be short-term construction jobs like the highway bond that we passed, these would be long-term jobs over the next decade and into the next century.

A couple other aspects of this is that there would be a job training tax credit of up to 50

percent of the cost for employee training or for a maximum of \$1,000 per employee. So, 50 percent of the cost of training new employees for the new high tech jobs, higher paying jobs that we would be creating, would be creditable against their income tax. Also, there would be \$1,000 jobs credit on income tax for every new job created. These credits can be taken by small businesses as well as larger businesses.

There are also some caps because I know there are some concerns that these credits would create too large a fiscal impact in future years but there are some limits that will apply. Credits claimed beginning on July 1, 1992 can't be collected until after July 1, 1993. The total combined credit can't be more than 50 percent of the taxpayer total liability nor in any case may it exceed \$250,000. A minimum investment of \$100,000 is required to qualify for the ITC portion of the bill, but the limitation doesn't apply to the job training credit.

As you can see, there are several different aspects of this bill. It is a taxation bill but it kind of expands on the investment tax credits that we currently have.

Like I said, we have been working to find ways to put people back to work in this economy. Probably we ought to go ahead and move forward with this bill. The Jobs Commission looked at these credits and thought they were a good idea. I think we really need to enact this as soon as we can to get these credits out there so we can get people back to work and put this technology in place.

I would hope that we could indefinitely postpone House Amendment "A."

Mr. Speaker, I move the indefinite postponement of House Amendment "A" and ask for a roll call.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't argue with Representative Hepburn on the case that he makes that investment tax credits can spur the economy, can create jobs and can do a lot of economic good. My whole point in offering this amendment, however, is not whether investment tax credits work or not. The question is, has this particular proposal been given a proper review by the committee of jurisdiction? As the chair of that committee, my contention is that it has not.

Let me pose a couple of questions through the Chair to anybody that wants to answer them, just to illustrate my point. For example, the current investment tax credit that is currently in Maine law can be applied against the new law that we passed last year on the alternative minimum tax. Does this bill change that?

Secondly, you talk about jobs credits, are they incremental jobs? Can \$1,000 only be applied to new jobs or if a paper company puts in a new machine that creates 300 jobs and shuts down an old machine and loses 400 jobs, can they take the credit against the 300? I know the answers to those questions but I am not sure anybody else does in this House. That is why this bill needs to be studied.

I hope you will oppose the indefinite postponement of House Amendment "A" so that this bill can be given the proper attention that it deserves.

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 Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: It has been estimated that this bill would generate up to \$50 million of new private investment over the next two years. Folks, we really really need to look very, very carefully at this soon. I understand that it is always a good idea to look as carefully as possible at these things. I certainly respect the Representative from Old Town's worries in this regard but in our area, we just lost a couple of hundred jobs from people who were working at S.D. Warren and it really, really hurts. I think we have really got to move as quickly as possible to put these credits on the books to encourage this type of investment for jobs. I really think it is important, so I hope we can go ahead and indefinitely postpone this amendment and pass the bill.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I, too, have looked at this bill and it is appalling to me that the chairperson of the committee who apparently has reviewed this quite carefully hasn't had the opportunity to either express those opinions here or to his committee. To me, this particular bill, if you wait two or three years down the line to get it in place, loses part of the effectiveness of what you are trying to do here today. We have been screaming to one another as to whether or not we should have a bond bill on the basis that we will buy our way out of this recession. If ever you want to get your way out of recessions, you want business to create jobs. A major portion of this bill is in fact to create jobs. I understand the deficiency of the bill that allows one to create new jobs and yet to take away other jobs. That could have been addressed at the committee level, it was not.

I do think that you are dealing with something that, if you adopt the Committee Amendment, it is the age-old problem in Maine, we are a dollar short and a day late, we do everything after everybody else as far as when it creates jobs, when it does something that says to the people of Maine, we want our businesses to be healthy, to stay here, to work in Maine. This is an item that does it.

I voted for the bond package, that is an item that may do it. But, if we sit here and rap our businesses and cut their toes off with more taxes, it is just the antiphrasis of what business wants to hear in this state. This is not the perfect bill but it certainly goes a long way towards giving a business an incentive to expand themselves and to do it without being crucified by the high taxes of this state. It does give them a break on that, will you accept that? That is part of the cost of making them healthy.

I urge you to vote for the indefinite postponement of the present amendment which simply delays any implementation, if at all, of any credit along this line.

The SPEAKER: The Chair recognizes the

Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: I would like to remind the members of this House that the toes that were being cut off by increased taxes that were proposed, if you look at every newspaper from a year ago, those massive new taxes, were proposed by our Governor. Please don't lay this on anyone else's doorstep because that is where it lies. That is not me, that is the press, and that is because that's the proposal. In fact, I believe the Governor's bill was sponsored by Representative Marsano. In terms of taxes that cut people's toes off, that is where they lie.

I would like to talk to you about a couple of matters with this bill. You want to know why the committee didn't pass out a current investment tax credit. It is no secret I have never liked investment tax credits but I have learned that I have lost that war and next year the battle will be, can we please tie them to jobs in Maine because our current investment tax credit doesn't even require that when you are putting in equipment you use Maine employees. I am hoping that in the future we can improve it so that it will result in at least Maine people getting those jobs putting in that new equipment. I believe that the bodies that will be here next year will go along with tying it to jobs for Maine people because Maine people certainly need jobs.

We are talking now about a different, new and expanded investment tax credit. I would hope that you would back the Chair's amendment and I will tell you why. There wasn't a single member of the other side of the body in the committee hearings where we discussed the investment tax credits. The Senator from the other party was there but no House member, not the House member who stood here and gave you a ten minute speech on how brilliant it was nor any other House member. I am sorry to have to be partisan about this but you are all turning on your lights in a very partisan fashion without realizing what this bill doesn't have in it, what this bill doesn't do, that it is technically not in any order. You are doing it so you can go out to the press and shame us for not being pro-business enough and it is ridiculous because it doesn't meet the technical needs. If your committee members had been there, maybe they could have gotten it to the point, Representative Hastings, where it would meet some measure.

I would also like to point out to you that this wasn't in front of our committee until a week ago, that we have only had two meetings on this, it is a very complex matter, it requires a lot of detail. Representative Hepburn failed to answer the two questions posed to him by Representative Cashman because I think he also knows the answers to those questions, the bill isn't adequate.

We would like to be able to do something with investment tax credits but it is going to take some study because you can't put this together in three days.

I understand that Mr. Silkman made this proposal to the media a month ago but the bill wasn't in front of our committee until (I believe) March 20th. We have had two meetings at which it was discussed, I can't vouch for the first one entirely because I come and go at the end of a session for meetings as everyone does. I can tell you at the second one, the only member of your party present was the Senator and

he was laughing when he said he was going to sign it out because he knew it wasn't in order, it was a comedy, he was doing it to accommodate a political agenda. He knew that it wasn't in any form that could be used at this time. So, if you want to do that, to use it in a partisan fashion so you can say you are for an investment tax credit and say we opposed one because we want to study it, go ahead and do that but you are really making a mockery of the process because it isn't a fit piece of legislation yet. Yes, I can vote for an investment tax credit finally. I know when I have been beaten. I can vote for an investment tax credit when it is tied to Maine jobs, when it is the result of stimulating the economy but not in this form. We could all vote for it today, it wouldn't mean anything.

The SPEAKER: The Chair would ask you all to turn your attention to House Amendment "A" (H-1299). What you have before you is House Amendment "A" and that is the only thing before this body at this time to be debated. It is the motion at the present to indefinitely postpone House Amendment "A."

The Chair recognizes the Representative from Belfast, Representative Marsano, on a point of personal privilege.

Representative MARSANO: Mr. Speaker, the Representative from Auburn, Representative Dore, made reference to a bill which she said generated some of this discussion tonight and I agree that a lot of it is irrelevant. I would like to point out to the Representative that I was never given the courtesy of presenting the bill, which I think she alludes to, before the committee, there was never a public hearing on it and that bill also contained the largest tax repeal in the history of the State of Maine.

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

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

Considering that small business, anything less than 50 employees or even lower than that, is about 95 percent of the backbone of Maine economy and big business being three of four percent of the backbone, my question is, which group of business in the State of Maine does this tax break help?

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

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

Representative CASHMAN: Mr. Speaker and Members of the House: I am not sure that the question addresses the amendment but I will address the amendment as I answer the question. The reason for the amendment is that that question is very difficult to answer given the amount of time the Taxation Committee (to this point) has been able to spend on this particular bill. That is precisely the reason that this amendment needs to pass.

While I am on my feet, I would point out that I never got an answer to the question of whether this bill, as proposed — I am sorry Mr. Speaker, I rule myself out of order but I didn't get an answer to my question.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to clear

up one piece of information that was given here today. I certainly resent the fact that I was told that I was not at that meeting. No, I was not. I was on Audit and Program Review because we had to have a public hearing and get our bill out. I sat there all day but I have sat in Taxation many, many days. One day in particular, Senator Bost and myself were the only two in there and I never got up and left that meeting. I really believe that my chair of that meeting, Representative Cashman, will certainly tell you that I am not a person who does not attend meetings. If I am not in one committee, I am in the other one.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I am sorry that this debate has lingered or, if you will, fallen into the morass of R's and D's. I think the issue before us is whether or not something should be done now. This particular amendment simply draws it off to a future date. This is not a political issue, at least in my area. It is an issue of whether or not this state, through its government, now wants to do something for jobs and the health of their business or whether we simply want to talk about it and do nothing about it.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Hepburn of Skowhegan that House Amendment "A" (H-1299) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 401

YEA - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Michael, Murphy, Nash, Nutting, Parent, Pendexter, Pendleton, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tracy, Tupper, Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Holt, Hussey, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Nadeau, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Sheltra, Simonds, Skoglund, Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Treat, Vigue, Waterman, Wentworth.

ABSENT - Anderson, Bowers, Coles, Duffy, Farnsworth, Gean, Gould, R. A.; Hoglund, Jacques, Lord, Luther, Marsh, Merrill, Mitchell, J.; Morrison, Norton, Paradis, P.; Pines, Ruhlin, Simpson, The Speaker.

Yes, 48; No, 82; Absent, 21; Paired, 0; Excused, 0.

48 having voted in the affirmative and 82 in the negative with 21 being absent, the motion did not prevail.

Subsequently, House Amendment "A" (H-1299) was

adopted.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I would like to address three questions through the Chair to the Chairman of the Taxation Committee. I will do them all at once so he may answer them quickly.

Is it correct that if there is not affirmative action taken by the Taxation Committee and this body and the other body at a special session that there will be no tax credit? Do we need affirmative action to do that?

Secondly, if this body in a future special session passes a tax credit, will the revenue, the dollars, to pay the benefits to those companies that gain whatever tax credit that is passed come from the General Fund, thereby increasing the burden in the General Fund and, ultimately, taxation on the public-at-large and businesses-at-large?

Third, why not oppose the bill now as amended and start fresh with a new bill? Would you please explain the procedural reasons for taking the stand that you have taken?

The SPEAKER: Representative Richardson of Portland has posed a series of questions to Representative Cashman of Old Town who may respond if he so desires.

The Chair recognizes that Representative.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: In answer to the first question, yes, it would take a positive action from the legislature to establish any change of this magnitude in tax policy.

I believe the second question was where the money would come from and it would be from the General Fund.

Third, the reason that I have suggested that this bill be amended and passed is because I think that the original bill has enough merit that it deserves to have some attention paid to it by the Taxation Committee but it is not in a posture or a position where it deserves to be passed at this time.

Subsequently, L.D. 2430 was passed to be engrossed as amended by House Amendment "A" (H-1299) in non-concurrence and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Later Today Assigned

Representative NADEAU from the Committee on Taxation on Bill "An Act to Amend and Clarify the Law Enabling State Tax Increment Financing" (H.P. 1697) (L.D. 2377) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1286)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1286) was read by the Clerk.

On motion of Representative Gwadosky of Fairfield, tabled pending adoption of Committee Amendment "A" (H-1286) and later today assigned.

## SECOND READER

## Later Today Assigned

Bill "An Act to Provide Skills Training for Unemployed Workers" (H.P. 1772) (L.D. 2454)

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

Representative Kontos of Windham offered House Amendment "A" (H-1300) and moved its adoption.

House Amendment "A" (H-1300) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: We didn't have a chance to talk with you the other day when L.D. 2454 went through first reading which (as many of you will see) was an act that reflects the proposals by the technical college system to create as many as 4,000 jobs by opening up more slots in the technical college system for unemployed workers. This report from the technical college system has received fairly wide distribution. I am sure many of you have chambers of commerce and rotaries and a variety of educators who have taken a real interest in what the technical college has proposed.

The original bill, L.D. 2454, was endorsed unanimously out of the Housing and Economic Development Committee. However, we could not find a funding source for the proposal. So, I received the dubious task of trying to find some available money to fund their proposal. I went to work and with the assistance of a variety of folks, we found a provision in the tax law that we enacted last year which could generate an additional \$4 million annually if we improve the conformity of the tax law so that Class B restaurants would be paying 7 percent just as Class A restaurants are. That is the information that is in the amendment before you. I know there are other folks that want to speak to that and perhaps to the bill itself. I think I can only speak to the amendment.

So, what you should look at is language in both Section 1 and Section 2, which I am told by the Revisor's Office, clears up those two parts. You only want to look at the part that has been struck in both Section 1 and Section 2 on the amended language. Then when you look at the fiscal note, you will understand that what this change in the tax law would do would generate approximately \$4 million and an additional \$215,000 for revenue sharing in order to funnel that \$4 million into the General Fund and disburse it to the technical college. It sounds like magic to me but they tell me that it will work.

I urge you to support the amendment, it is an absolutely wonderful proposal the technical college has given us and I will be happy to speak to that later if we are allowed to.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This is probably the most difficult time I have risen this session. I think my record and support of vocational/technical institutes is very good. As a matter of fact, I was one of the

very small number who even voted for an across-the-board cut at the last budget session we had to make sure they had adequate money for funding. I am not opposed to this amendment, but I am opposed to it at this time. I really cannot support a tax increase for this particular issue when we have a \$20 million hole in the budget. If anyone shares my concerns about the timing of this, I would hope that they would table it until we solve the budget problem.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: I hope you will support this amendment. This bill is a priority of the Housing and Economic Development Committee. What I want you to know is it is an absolute essential investment in Maine people, unemployed Maine people, and it is critical to the future of Maine's work force.

The bill will provide up to 4,000 unemployed Maine people with a slot, an opportunity for training at the Maine Technical College System. High demand programs will be expanded and training for new and growing industries will be available. The proposal was part of the original "Jobs for today, jobs for tomorrow" package and supported by the Jobs Commission Report. More importantly, it is a reflection of a commitment by the technical college system to meet the needs of Maine's employers to match job training programs with employer demands but actions speak louder than words, the technical college system has a job placement rate of 80 percent. These are good paying jobs, 97 percent of these jobs are placed in Maine and they pay Maine taxes.

This human investment carries a price of \$4.9 million. For that, graduates of this program will generate \$164 million in wages and \$9.7 million in sales and income taxes — more than offsetting the cost of our initial investment. The proposal has unanimous committee support and the bill itself had unanimous committee support and the endorsement of major businesses and labor representatives. If we adopt anything from the two jobs packages, it should be this.

I urge this body to vote for the proposal and demonstrate this body's willingness to invest in Maine people. Any meaningful action beyond band-aid solution to our economic downturn must include training and retraining our people. Jobs exist as does employment growth in certain industries but only for skilled employees.

According to testimony from business representatives and from occupational supply and demand data, the following have been cited as examples of types of occupations for which there is currently a shortage of skilled workers, a shortage that is likely to continue through the 1990's. They are machinists, medical lab technicians, occupational therapy assistants, medical transcriptionists, nurses, pulp and paper technicians and the list goes on. The technical college system is prepared to train these people.

Please vote yes on this amendment and invest in Maine's future, in Maine's work force, in Maine jobs.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I have to rise to urge you to support House Amendment "A." The technical



colleges have done a wonderful job for many, many years. They have done it with less funding than they probably should have had to do it.

Let me tell you what the technical colleges do better than anyone else, they produce taxpayers. Yes, this is a tax increase. That doesn't particularly bother me, the T word does not scare me because this is an increase towards an investment. In not voting for this, in my opinion, is stepping over dollars to pick up dimes. Please support an institution that has kept Maine people working for years and now in these hard times, we need them more than ever. Allow them the chance to produce some taxpaying, working Maine people.

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

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: I, too, rise to ask you to support this amendment. Several weeks ago, I distributed an article that was jointly written by Charles O'Leary and Jack Dexter, one, the Chair of the AFL/CIO and the other, the President of the Chamber of Commerce. When you get these two groups unanimously supporting an issue of this kind, you know that there has got to be real importance attached to it.

What they said is, "It is no longer possible for people to graduate from high school and step into a quality job, one that pays a salary that can support a family. Between 1950 and the year 2000, the demand for unskilled workers will have dropped from 60 percent to only 15 percent. Maine must start planning for an economic future that has at its core quality jobs for Maine citizens and sufficient training to match those jobs. We urge our state leaders to make this proposal, together with protecting existing skilled jobs and creating new jobs, its highest priority."

There is another reason why I think this is an important measure to support — the bond issue that we have been debating, that I hope we will also pass through, is dedicated to a large part of the revenue to be raised to transportation. Transportation jobs and road building have traditionally been jobs for men, this is a proposal that can supply skilled training to women as well as to men. One of the key ingredients in the technical college program is to push women into non-traditional jobs. This is another reason why I think that this, at this time, is tremendously important.

As Representative Melendy has said, this is a program that will pay for itself within three years. It is, therefore, an investment that I think is absolutely critical.

On motion of Representative Daggett of Augusta, tabled pending adoption of House Amendment "A" (H-1300) and later today assigned.

**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:

An Act to Reform Unemployment Compensation Guidelines in Maine (EMERGENCY) (H.P. 1486) (L.D. 2098) (H. "A" H-1199 to C. "A" H-1189) TABLED - March 26, 1992 (Till Later Today) by Representative MAYO of Thomaston.  
PENDING - Passage to be Enacted.

On motion of Representative McHenry of Madawaska, under suspension of the rules, the House reconsidered its action whereby L.D. 2098 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1189) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-1199) to Committee Amendment "A" (H-1189) was adopted.

On motion of the same Representative, House Amendment "A" (H-1199) to Committee Amendment "A" (H-1289) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-1298) to Committee Amendment "A" (H-1189) and moved its adoption.

House Amendment "B" (H-1298) to Committee Amendment "A" (H-1189) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: We had technical problems with the federal law in the bill that came out of committee and from the Federal Department of Labor and the State Department of Labor. Mary Lou Dyer, Gail Tarr and a lot of people have been working for a couple of days now on this bill. The Unemployment Trust Fund of the State of Maine is in trouble and it is very likely that we will have to borrow money and, at the interest rate, it is a prohibitive cost.

With this amendment, they came out with a formula whereby we are not going to increase the unemployment pay-out this year — in June we were due for an increase, so we are going to delay it for two years. Next year, 1993, we are going to implement 50 percent of that increase. The year after in 1994, we are going to implement the rest of it. Therefore, we are saving money and the bureau may not have to borrow money from the feds or any private institution. If we can hold on until January, then we can borrow money from the federal government until September at no interest rate at all.

The bureau is very enthusiastic with this bill. At the same time, by not raising the unemployment benefits, you would think that we are sort of taking money out of the economy but we are not because we are also qualifying anywhere from 3,000 to 4,000 employees who have been laid off that will qualify faster than they have in the past. These are mostly single mothers and women who have lost their jobs and need money. Under the present system, they can wait as much as six months before they can receive this money and, therefore, they are on General Assistance and AFDC. If we can possibly get money into their hands, they may not be on AFDC, may not be on General Assistance and, therefore, saving tax dollars which are affected by property taxes and also the General

Fund. That is one of the great things that came out of this bill.

The other one is that we have also taken care of a morale problem that we have with our employees in the Department of Labor, specifically the unemployment bureau because these employees have to take floating days off without pay and yet they are paid totally with federal dollars. What we did was allow the Administration and the bargaining units to come to an agreement where these employees should not be considered for these holidays without pay. It would raise the morale of that department, everybody is in agreement, the Administration of that department and I am sure that the Labor Union that represents the employees will be enthusiastic and would sign off on this. It is a good bill and I hope that you can all support it.

Subsequently, House Amendment "B" (H-1298) to Committee Amendment "A" (H-1189) was adopted.

Committee Amendment "A" (H-1189) as amended by House Amendment "B" (H-1298) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-1189) as amended by House Amendment "B" (H-1298) thereto in non-concurrence and sent up for concurrence.

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

**SENATE PAPER**

**Refer to the Committee  
on State and Local Government**

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide the Legislature with Revenue Forecasting Capabilities" (EMERGENCY) (S.P. 232) (L.D. 586) reporting that it be referred to the Committee on State and Local Government.

Came from the Senate with the report read and accepted and the bill referred to the Committee on State and Local Government.

Report was read and accepted and the bill referred to the Committee on State and Local Government in concurrence.

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

**BILL HELD**

Bill "An Act Relating to Legislative Confirmation Hearings" (S.P. 894) (L.D. 2299)

- In Senate, passed to be engrossed as amended by Senate Amendment "B" (S-718) and House Amendment "B" (H-1148) in non-concurrence.

- In House, House Receded and Concurred.  
HELD at the Request of Representative PARADIS of Augusta.

On motion of Representative Gwadosky, the House reconsidered its action whereby it voted to recede and concur.

On motion of the same Representative, the House voted to recede.

On further motion of the same Representative, House Amendment "B" (H-1148) was indefinitely postponed.

The bill was passed to be engrossed as amended by Senate Amendment "B" (S-718) in non-concurrence and sent up for concurrence.

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(At Ease)  
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The House was called to order by the Speaker.

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

**SENATE PAPER**

The following Joint Resolution: (S.P. 971)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT  
AND THE CONGRESS OF THE UNITED STATES  
TO SUPPORT THE LEGAL AVAILABILITY OF RU-486  
FOR APPROPRIATE RESEARCH AND, IF  
INDICATED, CLINICAL PRACTICE**

WE, your Memorialists, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the President and the Congress of the United States, as follows:

WHEREAS, the antiprogestosterone steroid, mifepristone, known as RU-486, has been approved and available in France since November 1988; and

WHEREAS, RU-486 may be used to promote normal delivery in childbirth, reducing the need to perform Caesarean sections; and

WHEREAS, the medical community has identified RU-486 as an important treatment for illnesses, including breast and brain cancer, gynecological malignancies, osteoporosis, Cushing's disease and other serious conditions; and

WHEREAS, the American Medical Association, the American Public Health Association, the American College of Obstetricians and Gynecologists and the American Association for the Advancement of Science have formally recognized the importance of RU-486 and support the testing of RU-486 in the United States; and

WHEREAS, RU-486 has been developed and tested in Europe and has been shown to be an efficacious and safe means of terminating early pregnancy when administered orally early in pregnancy by an appropriately trained physician; and

WHEREAS, the use of such a medication for terminating early pregnancy constitutes a potentially significant medical and public health gain in terms of cost, efficacy, safety, ease of use and privacy of

the physician-patient relationship; and

WHEREAS, it is in keeping with basic medical standards to avoid surgical procedures whenever an equally effective noninvasive alternative is available; and

WHEREAS, medical research that involves this technology has been stalled because of political biases that overshadow the drug's benefits in treating diseases that are killing American women and men; and

WHEREAS, the Food and Drug Administration's import alert against RU-486 has thwarted the availability of RU-486 in the few scientific research studies conducted in the United States; and

WHEREAS, all American citizens are entitled to the best medical research and this drug may be the solution to many serious conditions affecting the nation's health; and

WHEREAS, the introduction of RU-486 into the United States should be encouraged for its significant medical value; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to support the legal availability of RU-486 for appropriate research and, if indicated, clinical practice; and be it further

RESOLVED: That suitable copies of this joint resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; each Member of the Maine Congressional Delegation; the manufacturers of RU-486, Roussel UCLAF, 35 Boulevard des Invalides 75007, Paris, France; and the Food and Drug Administration.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

The Chair laid before the House the following matter: Bill "An Act to Amend and Clarify the Law Enabling State Tax Increment Financing" (H.P. 1697) (L.D. 2377) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1286) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (H-1286).

Representative Poulin of Oakland offered House Amendment "B" (H-1304) to Committee Amendment "A" (H-1286) and moved its adoption.

House Amendment "B" (H-1304) to Committee Amendment "A" (H-1286) was read by the Clerk.

Representative Nadeau of Saco moved that House Amendment "B" (H-1304) to Committee Amendment "A" (H-1286) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Poulin.

Representative POULIN: Mr. Speaker, Men and Women of the House: I would just like to explain my

amendment. Most of this bill is important to our state's economy. With all due respect to the Taxation Committee members and sponsors of this bill who worked hard on it, I object to one portion of the bill. My amendment removes the portion that would allow large retail developers to utilize state sales tax in their financing package. If you feel that that is wrong, I think you should oppose the motion on the floor and vote to pass this amendment.

I also ask for a roll call, please.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: I would like you to oppose this pending motion to indefinitely postpone this amendment and to vote with Representative Poulin's light. This amendment, like the Representative from Oakland says, removes the requirement that retail tax increment finance districts must have annual sales tax revenues of at least \$4 million. This basically takes out in this STIF the opportunities for districts to include malls in their developments. That is why I agree with Representative Poulin, I don't want any more malls (Main Streets under glass) in this state. We have malled and large retail things out of the area of downtown. All it is is a downtown killer. Downtown Portland was killed by the mall, every other mall that is built kills the downtown. All the cities have to do is start restructuring their downtowns.

This bill, as it is right now with this amendment on it, would make it appropriate for cities to improve their downtowns. They would be able to get a STIF, a sales tax or income tax for their downtowns, not for large scale retail operations. The reason that I want this amendment to go on this bill is that service industry in this state has been building and building. In the mid-1980's, economists said that the State of Maine has to be careful, we are building service industries, retail operations, malls — when we have a recession, we are going to be hurting because these are the first people that are going to get laid off. Here we go again, building service type industries, large retail operations, and these are the people that are going to get laid off first because the only thing to improve business in this state is we need to encourage manufacturing. For every manufacturing job that we have, there are four jobs created down the road. For every retail job you create, either you pull it away from another area or you might create a fast food job somewhere else. These jobs are minimum wage jobs, they don't have much benefits and people don't use them as a career opportunity, they use them as a way of getting a little income for awhile so they don't have to be on unemployment. We need to encourage the manufacturing section. This bill does that, it brings into effect income tax and sales tax for manufacturing but retail wants to be put on it. The only thing that I want retail to do is encourage downtown development, not mall development.

I encourage you to vote against the pending motion.

At this point, the Speaker appointed the Representative from East Millinocket, Representative Michaud, to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

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

Representative GRAHAM: Mr. Speaker, Men and Women of the House: Maybe there might be one or two others of you who, like me, are in total confusion at this point. My confusion arises around what exactly it is we are trying to get at with the \$4 million sales tax revenues. I just borrowed Representative Bell's calculator and, if I am right, a tax increment financing district would have to have sales of about \$667 million in order to generate \$4 million in sales tax revenue. Am I off by a decimal point? Whether I am off by a decimal point or not just adds to my confusion but I don't understand this \$4 million limit and what that means in terms of increment financing district.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: The first thing I will try to do is clarify that point for Representative Graham and any others of you. The \$4 million threshold that we put into this bill is precisely a high threshold in order to prevent any shifting of different markets. In other words, if I can be as blunt as possible, this House Amendment "B" is basically a Waterville amendment. I will tell you why it is a Waterville Amendment. Waterville is a little concerned, maybe gravely concerned, that when the Augusta mall goes through, that there will be a direct shift correlation between what's now in Waterville and what they anticipate might be lost to Augusta. Quite frankly, I guess I would be a little concerned with that myself.

However, when we sat down and discussed the different ramifications of this bill, we said essentially that we want to promote new growth. We want this to be above and beyond any potential shift. In other words, let's say you had a Porteous-Mitchell in Waterville and you end up with a Porteous-Mitchell in Augusta and the one in Augusta is doing real well and is a direct correlation to the lack of retail sales business in Waterville, we are not interested in that, we want anything above and beyond \$4 million worth of retail sales taxes.

Representative Graham is correct, that translates into nearly \$700 million worth of business. This gets a little beyond this amendment. However, I think you need to know in order to become a STIF, you have to be a TIF. A TIF is tax increment financing district which is left over by DECD which is approved by the municipality. No municipality gets a TIF thrown on them if they don't vote for it. No municipality will get a STIF thrown on them if they don't want it. We are looking at approximately \$700 million worth of sales tax revenues, this has absolutely nothing to do with income tax revenue, this has absolutely nothing to do with employment withholding taxes. Those are on the other end. That is on the manufacturing end of this.

There are two distinct definitions in this and for the reasons I have just stated and the reasons that we were so conservative in our \$4 million, I

would urge you to indefinitely postpone this amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I apologize for not being here when this debate first started but I was presenting a bill to the Appropriations Committee.

I don't know what has been said before I got here but let me see if I can just give the House some background on this whole TIF and STIF program and try to clarify the committee's position.

TIF was adopted by the Maine Legislature in the late 1970's and made usable by the legislature in the 1980's. The TIF program is a complicated program but basically what it does is it allows a community and a developer or business who is looking to expand to join in a joint venture and to use to recapture the loss or the new property tax revenues in order to help finance the business.

I believe that most observers would agree that TIF has been the most successful economic development tool in the State of Maine. It has been used very successfully all over the state, from Kittery to Fort Kent, I don't think anybody argues with that.

Last year in our wisdom, this legislature extended the TIF provision to state revenues, creating what became STIF (state tax increment financing districts). Last year, in the case of an expanding industry, we allowed that industry and the community to recapture some of the additional payroll taxes that are generated by the STIF in order to help finance the bonds and the infrastructure that is necessary for the city to do in order to accommodate the STIF.

I sponsored the bill last year for STIF and the original bill included retail. We ended up taking retail development out because nobody could be satisfied, including me, that when we were recapturing funds in a retail STIF we were recapturing new revenue. Let me give you an example. If an industry expands, say Bath Iron Works, they come to the City of Bath and they go to the State of Maine and they say that we want to expand, we want to add 400 jobs. It is very easy to go in after the fact and look at Bath Iron Works' payroll the year before the STIF and the year after the STIF and determine how much their payroll taxes went up. It is a very easy thing to do. It's controllable, manageable, and it's administrable. On the other hand, a retail STIF is a little bit more problematic. Certainly a retail development generates sales tax revenues but how much of that sales tax revenue is shifted from another part of the state and how much of it is new? Because we don't want to create a situation where a STIF can capture revenues or recapture revenues that are not new revenues to the state but only a shift from one part of the state to the other. Last year, we determined that we couldn't do that so we took retail out. In last year's bill, we left up to the DECD and the Department of Taxation some responsibility to promulgate some rules to make the program work. They didn't do it. This year, this bill was put in to try to correct that problem.

I want to say that this is a very important bill aside from the question of retail because the STIF program will not work without this bill whether retail is in it or out of it.

This bill was put in to correct those problems

and I think it does that. It also included retail when it came in to us. We faced the same problem we had last year.

What we have done is draft language that the Taxation Committee feels comfortable with and that is stringent enough and strict enough that we are only allowing the recapture of new revenue. Let me kind of walk you through how we envision this working. If a STIF is created for retail sales, at the end of the first year the STIF can apply for 25 percent reimbursement of the new sales tax revenue generated. That is determined by the State Tax Assessor. In order to determine it, he has to go to the sales tax district that the STIF is in. The State of Maine is divided into seven sales tax districts that he has ample data on, he goes to the sales tax district, let's assume that the STIF generated \$10 million in new sales taxes or sales taxes period, new or not new, he goes to the district, looks at last year's figures and the district had \$100 million in sales tax. This year, apart from the STIF, they've got \$95 million. So the district, except for the STIF, lost \$5 million. They deduct that from the \$10 million generated in the STIF, then he has to look at the growth in sales tax revenue statewide and that becomes inflationary growth. If it is five percent, they take the five percent off of the amount of money available to the STIF.

We are satisfied, I think, as a committee (it is a unanimous report) that this language is restrictive enough that this program can be administered for retail development. The original STIF programs had retail in it and, if a retail STIF can be administered, then there is really no reason that a retail STIF should not be allowed.

I know that this is kind of broken down to a battle of Waterville versus Augusta and I regret that, I really do, but this program is not meant for Augusta only. The program is meant for any retail development that meets the criteria. It is also meant to help downtown areas, there is no threshold for downtown redevelopment. That can be used anywhere, Bangor, Portland, Presque Isle, Waterville, anywhere. We feel comfortable with it in the bill but I must stress again before I sit down, this is a very important bill aside from this question.

I will be supporting the motion to indefinitely postpone this amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank the Representative from Old Town, Representative Cashman, for giving a very articulate explanation for what this does and for walking through the background of TIF's over the last couple of years. I think it was helpful for everyone to understand how we got to this point. I don't think there is any question, while TIF's have been controversial for some, they have been used extensively in other states. For industrial purposes particularly, I think they can be useful for our own State of Maine. You only need to look at what has happened in the last five, six or seven years to see that our industrial base is shrinking in Maine and we need to do the types of things we can to turn that around.

I think it is a very different issue, however, when the state begins to involve itself in the

financing of shopping centers or retail establishments of malls from that perspective.

I know that there has been discussion that this is perhaps Waterville versus Augusta. That is really not the case, it could be Lewiston/Auburn, it could be any place, Biddeford/Saco, any place that there is some discussion of a mall being created or a major shopping complex across the river from a bordering community, so it is beyond the issue of a Waterville/Fairfield.

If you look at what has happened the last couple of years, there has been a trend by many larger developers to build these huge spacious malls with other people's monies. Essentially that is what we are talking about here. Small developers here in Maine, I know some, I work with some of them, typically will have to put up 30 percent equity if they are going to be involved in a product and hopefully in good times get a bank to put up 70 percent in the best of times.

This proposal replaces an owners equity with state money. It allows the state to, in a sense, give the developer a free ride from the perspective of those people who are going to be advancing an issue such as a mall or shopping center. I think that there are some real serious public policy questions in that area. If the issue was just jobs, and I think we all want jobs, we have to think about whether tax increment financing in the instance of creating a mall or a large shopping center really does create new jobs. I think if we were honest, we would say it really doesn't create new jobs, it simply reallocates jobs. Often they are not the best of salaries, sometimes they are, sometimes they aren't but in any area that you are going to be giving a special tax advantage to a particular group, a particular developer, a particular project, I think inherently what you are doing is transferring resources, transferring jobs from one end of the state to the other. That is the type of competition that I don't think we should be embracing as a matter of state policy.

The amendment that Representative Poulin has put on takes the question of malls out of the picture. It still allows for the downtown revitalization that many people feel is important and if your downtown and your neighboring communities are like mine, you have all seen what has happened to the downtowns and what malls have done to downtowns. It would still allow that, if the existing bill passes, but his amendment does one thing particularly, it deals with the issue of malls and takes it off the table.

I would hope that you would oppose the motion to indefinitely postpone Representative Poulin's amendment if you agree that as a matter of public policy malls shouldn't be included under TIF provisions.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Men and Women of the House: An article that came out in the Morning Sentinel concerning the STIF's and Bob Morehead and myself don't generally agree on too many positions. This one was concerning the mall makers, maybe on the verge of an original creation. This could be the first time when a state guarantees the actual mall financing because the developers couldn't get banks or insurance companies to back them without guarantees. I will tell you, there is a lot of truth to this. I think this is what we are running up

against. I ran a business for a number of years, was involved in the downtown areas, there is no way that the downtown Waterville area could ever come up with \$4 million to qualify for this. They cannot meet the requirements.

What this does do is allow public money to be used to finance private projects. I think this is wrong. There is no way that we can end up putting up anymore malls in the State of Maine. We have got one in Portland, one in Bangor, one in Auburn and now possibly one in Augusta. There is no way you are going to put on up in Winslow, Waterville possibly, but I don't think you are going to see too many more malls. We are financing one possible mall. I think this is wrong. We are using money — money does not only come from Augusta, this is going to come from 100 miles away so we are going to help finance their mall. I don't think this is right.

I would urge you to support Representative Poulin's amendment and not indefinitely postpone.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I must admit that it is not very often that I get parochial. Most of the issues I have dealt with are not parochial. I did it once on Keyes Fibre, as those of you who were here will remember. Unfortunately in the Keyes Fiber case, there was no money taken from anybody to do what they wanted to do except the employees of that institution, no state money was ever used. It was basically financed with wage concessions from the employees that were there.

Representative Cashman has explained this bill to me a dozen times and he may be exactly correct. The problem I have is that in the City of Waterville, due to the articles reported by the paper, there is a perception, whether it is a real one or not, that this will put Waterville in competition with Augusta as far as the location of a mall. I would like to point out to you that there will not be a mall in the City of Waterville because the land isn't there to make it a mall. Those in Waterville that are afraid that Wal-Mart who has agreed to come to Waterville will all of a sudden drop their plans and come to Augusta, I don't think that is the case either because I feel very strongly that Wal-Mart will live up to their commitment to come to the City of Waterville because I think they feel it is a nice place to do business.

In the City of Waterville, the Mayor, the entire city council, the administrator and the city solicitor looks at this bill as a bill that would give an unfair advantage. In this case, their concern is with the City of Augusta over the City of Waterville in an area. People tell me it is a fear that is unjustified. The fact of the matter is, after three days, we have not been able to persuade those city officials (of which I represent four of those wards) that that is indeed not the case.

I intend to support the amendment offered by Representative Poulin. If that amendment fails, then I am afraid that being parochial for once, I will have to vote against the entire bill and I don't want to do that.

We just left a public hearing (six hours) and if I may, I would like to read to you just a little of the testimony that was presented to us. The gentleman that presented it was extremely eloquent.

It is dealing with hydro-relicensing — in this case, Edwards Dam. He talked about one issue that was involved but his second issue was this, "The second issue I wish to raise is the issue of equality. It is a fundamental principle in our society that we should not discriminate against each other, that each of us should be treated equally particularly by our government. Equality, particularly on the part of government, is at least a practice which should be embraced, not defeated. When equality is not practiced, it makes us less appreciative of our liberty and makes us less effective as citizens." Now, listen to this, "It takes the energy out of democracy. If your community is treated less equal than another community, as a legislator, you should be enraged. If your constituents are treated less equal than someone else's constituents, you should be equally enraged." This was from testimony that was just presented to us on the Edwards Dam by Bill Burney, Mayor, City of Augusta. I almost asked him when he got done if he would have any objections, based on this statement, that as long as the people in the City of Waterville, my constituents, perceived this new glitch in the law as being one that would indeed benefit the City of Augusta over the City of Waterville or any other city for that matter, if he would mind if I would follow his advice and not only vote against it but be equally as enraged that my constituents were going to be treated differently.

After a six hour hearing on hydro-licensing, I didn't think it was probably the best question to ask him at the time. It really didn't pop up in my mind again until this debate started just a few minutes ago, but I did shoot down and get the testimony because it did make a lot of sense to me then and, fortunately, it still makes a lot of sense to me now.

I am sure that the good mayor of Augusta may not feel as strongly about this principle and the issue we are discussing now as he did on the Edwards Dam but the simple fact of the matter is, it is either square across-the-board or it is not. Nothing has been done to assure the city officials in the City of Waterville that there is not an unfair advantage given here. Numbers, play with numbers, play with figures, do all that you want, there is still a grave concern by all of them even though people have tried to change those fears and I would hope that you would vote against the motion to indefinitely postpone this amendment so we can put the amendment on and make this a better bill and then I can support the entire bill. I think it is a matter of fairness. It may be more perception than reality but the fact of the matter is the perception is there and they feel very, very strongly about it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: It is not often that I am on the opposite side of the good Representative from Waterville but today I am amazed at the debate that we are listening to. I know many of you have stood up in this hall and said the best economic development program is a good job, the best social program is a good job. What we are talking about here is recognizing that the retail area is part of the job market and becoming an increasingly significant part of that job market because we are becoming a service-related country.

I want to emphasize what the \$4 million cap means or the minimum that it requires. There has to be \$4

million of new tax created. That means that the net sales have to be somewhere between (minimally) \$80 million and \$100 million a year project. We are not talking peanuts here. I am surprised at the people who got up and voted for the Bath Iron Works bond and they voted for Portland and they voted for other job creating programs that the state has paid for but can get up today and say the state shouldn't be trying to make jobs. I can't believe it. What I do believe is that we are getting into a small mini-war here between two cities.

I can tell you that this is a unanimous report and I can honestly tell you that the Bangor mall is not crazy about this retail section but my first job here is to create jobs out there. I just can't believe that we want to nickel and dime around an issue just because we don't want somebody else to have an advantage.

I am going to ask you to please vote to indefinitely postpone this and get on with our business.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Leeds, Representative Nutting.

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

I have looked this bill over and I fail to find where it specifically says that this bill applies just to the City of Augusta. Could anybody tell me the page number where it says that this bill applies just to Augusta?

The SPEAKER PRO TEM: Representative Nutting of Leeds has posed a question through the Chair to any member who may respond if he so desires.

The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: The bill does not apply just to the City of Augusta or the City of Waterville or the City of Bangor or the city Bangor or Presque Isle, the bill applies to the whole State of Maine. It is intended to improve the economy in the entire State of Maine and in fact the Representative who spoke just before Representative Nutting, Representative Duffy, comes from a city that is very concerned because it will lose business to Presque Isle and it is assumed that the mall that will go in Presque Isle will apply for the STIF. That's good news for Maine because we are going to gain a lot of Canadian dollars. Now that's money that is going to be imported to Maine from another state. Will it hurt Bangor a little? Probably they will lose some of their Canadian business. Auburn is going to lose some business to the mall that is going to open up in Augusta, just like Waterville is. They won't get the STIF for any business they lose that is transferred out of Auburn or out of Waterville. They can only get this for the new dollars. They believe they are going to produce enough new dollars in Augusta (but frankly I don't) in order to qualify for the STIF. I don't think the Augusta mall is going to generate enough new dollars, I think there is going to be a number of transfer dollars and some new dollars but not enough to qualify for STIF. However, I do believe that in Presque Isle, it is not only going to be new dollar but is largely going to be four dollars. It is going to hurt Bangor some and I think it takes some courage when you see like Representative Duffy who is practicing not all politics as local as I think I said last night on another bill but is practicing what is good for the

Maine economy. I hope that in our taxation we try to do this all the time although I know that we don't do this all the time.

I hope that we can go on with the report that came out of the committee, I think the committee worked not in our own regional interests but in the best interests of the state and of getting some jobs going in the State of Maine for all of us.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank the good Representative from Auburn for her answer.

I guess I will be voting to indefinitely postpone this amendment and I very briefly want to say why.

I think in this debate on this issue today we have heard a very, very dangerous thing said and that is that we should defeat this bill if we have to, not because of the words that are written in the bill, but because of someone's perception of what it is. If we start doing things on what somebody's perception is, I think we are headed down the wrong road.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I have two confessions to make, one is that I do not live in Waterville and the other is that, during two periods of my life, one in the mid to late fifties and one in the seventies, I lived in the State of Ohio. The time period between the late 1950's and the mid-1970's in Ohio was a stunning one and the small, mid and large towns in that state died. If you go across the landscape of Ohio now and go into these towns, you will first pass a strip mall outside the towns and then you will drive into the town and you will see the end of a city. Town after town after town.

I taught awhile in the colleges in one of those small towns which is gone, it is derelict. Towns and communities near it that had no claim to anything economically in their central cities, died.

There was an economic competition factor going on in that clearly but in the intervening time, I lived in New England and came back ultimately and luckily to Maine, 12 or 15 years ago. The difference in this state is amazing, even with the economy, and I certainly live in a depressed city with lots of storefronts for lease. Even with the economy that we are in, we still have towns in Maine, we still have central business districts by and large. The reason for the collapse in Ohio, and I was active in politics in that state and was generally aware of some of the things going on, first some industrial revenue bonds that were applied for mall and suburban development, I am not quite sure how that all worked, I am sure that there are many members of the committee who could explain it to me more clearly, but basically as the Representative from Fairfield pointed out, it was a mechanism of taking government money or foregoing the interest on that government money or getting some tax deduction on that government money or the incentives from that money, one way or another, that created an environment in which the alternative development could take place. It was tragic.

I want to urge here that aside from the issue of Waterville, one has to look at the real contents that lays in the bill. If the real content of that bill



makes a change that emphasizes extra urban, outside town mall development, whether it is in Augusta or wherever, and moves that money around whether it is six or ten taxing districts (and the chair of the committee mentioned it but I was unable to find out which taxing districts whether it was six or ten) — in any case, they are quite large. It is clear that a mall in Augusta, and as an individual who owns a department store that is located in downtown Damariscotta indicated and with whom I talked with (I went to the hearing on this and tried to understand the issue) expressed the reality that Damariscotta, to some extent, orients both toward Portland and the Bath/Brunswick area and also toward Augusta. The simple reality is that if we create incentives for these kinds of developments to be ex-urban developments may be occasionally creating some economic incentives when a temporary circumstance such as the politically insane value added tax in Canada creates a temporary boom. I think it will be a temporary boom in northern Maine. They are already moving back from that, that dynamic is changing, investors are looking at that picture quite differently now because of the economic politics of the Canadian provinces and the Canadian National Government but even though there may be a few examples along the borders in which competitive instances might be affected positively because of a gain, I think the data is far too broad, far too large in these taxing districts to be able to distinguish that. Even if you don't accept that logic, the fundamental policy that you are looking at and what House Amendment "B" deals with is the issue of not focusing the TIF's on the downtown area, including retail, but allowed to also be applied to new ex-urban development. I think it is a bad road to follow and I think it is a sad one.

I urge you to vote House Amendment "B" into the bill and then support the bill because of the times and the economy. Now the issue is raised by the Representative from Bangor that we need to try to continue to do everything we can to assist the economy but not to reorient in a way that, I believe, will end up in badly damaging and contributing to the destruction of many of our downtown communities across the State of Maine.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote against the indefinite postponement of House Amendment "B" and go along with Representative Poulin from Oakland and support his amendment.

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

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I want to make two points. First, I would hope that you would vote with the pending motion and later on support Representative Poulin's amendment.

The first point I want to make is one that Representative Richardson just made, malls kill downtowns and downtowns are an essential and vital ingredient to community life. Malls aren't.

The second point is that last Fall the people in Maine voted to urge us in essence to adopt policies which will encourage development of alternative forms of public transportation to reduce dependence on roads. An essential pre-condition to doing so is the concentration of activity incentives, malls run

directly counter to that need. So for two reasons, defeat of the pending motion and adoption of the amendment which will come after that is a very important public policy decision for this state. Remember, if the amendment is adopted, these districts will still apply in downtown areas so we will in effect be encouraging these things in downtown areas and encouraging development in the centers of our communities and encouraging the creation of the conditions necessary for viable successful public transportation.

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

Representative GRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would like to get back to the subject of the amendment that is before us, House Amendment "B" presented by Representative Poulin. Let me, once more, refer to the fact that, in order to qualify as a STIF under the bill as it came out of Taxation, you need to have nearly \$700 million worth of new retail sales to generate the \$4 million (in the first place) to even get in on the ground floor.

It seems like a marvelous way for places that already have large shopping centers and malls to ensure that no benefit is given to any competition that might try to come in with them.

Our problem in northern Maine has been incorrectly stated by the Representative from Portland, Representative Richardson. The fact is that even though the Canadian Provinces and the nation are starting to retrench a little bit and rethink their tax policy, that even if they do change their tax policy and bring it almost even with Maine's, the same thing will occur as occurred in the past and that is that Canadians will still come to Maine to shop for variety and quality. They always have, they always did when the money was almost even. In spite of the fact that there is a 20 percent discount on Canadian money, they still come across.

Representative Richardson, please come visit with me, I have a couple of extra beds at home, and we will talk about it this summer. We will go fishing while we are doing it and I will show you that our problem in northern Maine is not that a shopping mall will kill our downtown, our downtowns are dying because people don't shop there now because their shopping opportunities in our communities are limited. Up to a certain point, more competition in our communities, more stores, will encourage people to come into our towns because now instead of saying, gee Houlton only has two shoe stores, now Houlton has three or four at present and a lot more people are buying shoes in Houlton who used to go to Bangor to the mall simply because the odds of finding something they like at a price they can afford are greater now in Houlton.

Houlton has a proposal for a mall, just in the embryo stage, they are already pouring cement in Presque Isle, Augusta and Waterville both still have a potential for a mall and what I would state to you is that by adopting Representative Poulin's amendment, you will give us all a chance to have some encouragement for that economic development because it will remove that requirement that a STIF must have nearly \$700 million worth of new retail sales. The convenient store with gas pumps, beer and wine and groceries on the main drag in your town is going to have sales in a year of (in a real busy town) probably \$3 million. Smaller towns, rural Maine,



maybe a \$1 million a year. Maybe that gives you a sense of scale that we are talking, \$700 million. There is no way a shopping mall in Presque Isle or Houlton will come near that level of sales in order to qualify as a STIF so this \$4 million requirement is a roadblock to ensure that we can help prevent competition to the existing malls from coming in.

I hope that I have not muddied the waters on this and my plea to you is to vote against the pending motion because the amendment as proposed by Representative Poulin is a very good one, a very sensible one, that will mean a level playing field for all of us.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise, I guess, to correct my good friend from Houlton. I don't have a pocket calculator but I believe it is \$70 million in sales, not \$700 million. Six percent sales tax on \$70 million generates the \$4 million.

A couple of other points while I am on my feet — there are legitimate concerns to the inclusion of retail in the STIF law. It is interesting to listen to the debate here today because many of the points that have been made were made downstairs. I have met with the people that my good friend, Representative Jacques, spoke of, I have met with them on several occasions and Representative Jacques is right, they have concerns. I think they are legitimate concerns. I have had legitimate concerns with the inclusion of retail. Representative Gwadosky alluded to several of them in his talk. It is a difficult question, that is why the Taxation Committee put so much time into it, that is why this language is so restricted.

I do want to point out a couple of things though. It was mentioned a couple of times that malls oftentimes result in the decline of a downtown — well, being from Old Town, I know that that is true. Old Town used to have a very good shopping area in its downtown district and it is gone basically because of the Bangor mall. But, the decision on whether a mall becomes a STIF isn't made by state government, it is made in the local community. Remember as Representative Nadeau pointed out, to become a STIF you first must be a TIF and that decision is made at the local level. If there is concern at the local level that a proposed mall will result in the blight of the downtown area, it can be addressed there.

Another thing that was brought up was that we are using public funds to help finance a private project — my friends, that is the exact philosophy of TIF and STIF and if you oppose that, then I suspect you ought to be working for the repeal of the entire program because that is how it works, that is what it is based on.

I come from an industrial community, Old Town is an industrial community and any of you who have been there know that, the STIF legislation that went through here last year and is being amended by this bill addresses industrial expansion. I couldn't be happier. Industrial expansion is important to the city of Old Town. I think that the Taxation Committee tried to go the extra mile here to be sensitive to areas that aren't going to have industrial development but might have retail development and to those areas be they Portland, Bangor, Augusta, Presque Isle, whatever area of the

state it is, that type of development is as important to them as an industrial development is to Old Town. We are trying to accommodate the needs of the state here. There are legitimate concerns and I don't mean to minimize them because they are real but I would just restate one more time, we worked this very hard in the Taxation Committee and it was unanimously agreed that the language in this bill is restrictive enough to make the program work.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I support House Amendment "B." Without this amendment, this bill stiffens Maine taxpayers at the expense of our downtowns. Vote red.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I rise just to support the good Chair of the Taxation Committee. He is absolutely correct, we worked many hours on this bill and we feel as though we have enough safeguards in there, checks and balances, and that the decision is made back in the municipalities so that it is entirely up to them. If whatever their decision is for their downtowns, they will be made back home, it is not made here.

I urge you to support the position of the Chairman of the Taxation Committee.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I think we need to ask ourselves several questions about this issue. First of all, if you are talking about \$4 million, you have heard that it could be \$700 million but is probably \$70 million of sales tax that has to be raised in order to qualify. What could that mean? That means a large shopping center that is called a mall. We have heard that we need the jobs that a retail shopping center (mall) creates. I think we have to be realistic about jobs that a large shopping center (called mall) could create. We are talking about close to minimum wage jobs, we are talking about jobs largely held by women, we are talking about jobs that are generally only 30 hour a week jobs and, therefore, no benefits. This state needs new jobs. All of us in this room have taken actions to create new jobs in the State of Maine but we need manufacturing jobs. Manufacturing jobs will bring in retail. I think we have to question the tax policy that is being proposed here. This is a good bill but this part of the bill actually causes a head-on collision between communities. It could be Bangor, Rockland, Belfast, Lewiston, Auburn, Madawaska or Calais and I think we must be very careful as we develop tax policy at the expense of the different communities. Are we going to put our communities in direct competition with one another?

Representative Jacques from Waterville talked about testimony from the Mayor of the City of Augusta. I believe that the Mayor of the City of Augusta would love to have these monies directed towards downtown Augusta. If these monies were channeled towards downtown Augusta, Augusta would not have as many vacant and empty buildings. I think that is very important. The \$4 million can only mean a very large shopping center so I would urge you not to support the pending motion and not to indefinitely postpone this amendment but to support this amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting on my feet again but I cannot resist, I am sorry to see that the Representative from Houlton is not in his seat, saying that once on a hot July day, I pulled into McDonald's just off the Interstate in Houlton. When we came out of it, my family which was tired and hot and wanted to get on home, I turned right instead of left to get back onto the Interstate meeting an immediate rebellion in the car. They said, "Where are we going?" I said, "We are going to see downtown Houlton." We drove right to downtown Houlton and through the whole rebellion of my family at this, I made it clear to them that I think the New England towns are absolutely fantastic community institutions and that I wanted to go see downtown Houlton, period. We drove right downtown, I remember the building, we made a U-turn in downtown Houlton and came right back out to the Interstate and went on home. My wife said, "There, are you satisfied?" I said, "Yes, it is a nice town."

I would urge Representative Graham and others in Houlton to look very carefully at the impact that the seeming fortuitous location of an interstate at an international border next to their town would mean that they choose an economic development in that town and end up having a negative impact on downtown Houlton.

While I am on my feet, I thought I would address one other comment made by the Chairman of the Taxation Committee. He said that public monies are not involved. Normally, my instincts is to oppose TIF's because in fact it penalizes the community as it grows its way out of any particular economic difficulties and gets more jobs to be able to have the local resources to do what it needs to do as it grows. I think the rationale though for public policy reasons are justified and I have come to appreciate that from the Chairman of the Taxation Committee in terms of industrial development and in terms of preservation for downtown areas. I think it is a shame that the complication over this issue has ended up delaying the ability of dealing with downtown areas.

We have a job to do here but we do not need to start down the road of in effect using the forgiveness of future tax dollars as a means of undercutting the viability of the downtown districts of dozens, scores, and hundreds of Maine towns.

I would urge you to defeat the indefinite postponement of House Amendment "B" and to adopt it and to adopt the bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out that what Representative Richardson has just pointed out to you is that he went through downtown Houlton after having gone to McDonald's on the freeway and spent not one dime.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be brief. I want you to understand one thing, I hope Augusta builds the greatest mall in the world, I really do,

because they are not going to build the mall in Waterville because they don't have the land.

I just have a concern and I really appreciate the comments made by Representative Cashman because I think those were the truest words that have been said here today. There are legitimate concerns by people with this bill. I appreciate the fact that he has met on numerous occasions to try to address those concerns and relieve my officials of their concerns but I just want you to know that I do not vote on perception. Somebody smarter than me once said, "Perception can be, indeed, reality." The reality of the matter is that the officials in Waterville think that this bill is going to push into what Representative Norton used yesterday as another form of cannibalism for one community fighting another community. Quite frankly, I don't want a mall in the city of Waterville because the downtown is dying and the downtown jobs are owned by citizens of Waterville who were born, lived and raised in the city of Waterville. They are family businesses and I hate to see them go. There is one shopping mall in my district that, for years, we couldn't even get ahold of the owner. He lived in Massachusetts, we couldn't get him to clean up his garbage, he had water problems, he had garbage blowing all over the place, noise, lighting — every time the city tried to deal with this fellow, he was never around because he lived in Massachusetts. If I've got to go with somebody, I am going to go with the guy or gal that has the business in the city of Waterville on the Main Street. I don't want another mall. I don't want to be competing for another mall. The concern they have is that you are forcing the towns to cannibalize on each other and to compete for money. It just reminds me of the whole S&L thing again. It may be a great idea, but the way it is written now, you are going down the wrong road, I just have some great concerns and I am not voting for this amendment on perception. The fact of the matter is that after numerous meetings, the concerns that my people from home had, were not addressed. So, in their mind, those problems are real and they are there and I appreciate the fact that Representative Cashman admitted that they are real problems and they are there.

I don't vote on perception, I vote on what problems there are in the mind's of the people back home. I just wanted to clear that up. I am sure my good friend didn't mean anything by it but it set me off just a bit.

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

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I am concerned that in the debate over this amendment, we have moved away from the purpose of this bill. This bill only provides a tool for those who believe that there can be an increased revenue pie. Anyone who believes that the potential for new revenues is static and will never increase obviously will feel that there should be or will be a head-on rivalry between communities. But, those of us who believe that the revenue pie can get bigger and will get bigger and feel that what is good for one community directly benefits all communities. Let's not get into a situation where, if I can't have something, I don't want you to have it either. Let's take a look at what will be good for everyone and for all of us. If allowing a community to use a piece of increased revenue pie, once piece of that, not all of

it but only a small part of that to do something that would benefit this state, let's do it.

I hope that you will go with indefinite postponement of this amendment and I hope that you will remember that this was a unanimous committee report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: I am pleased to be the sponsor of the bill and I am glad that it kept a lot of people in the chambers to discuss the issue.

What this bill does, and I would only hope that it was on your desks, I had a handout passed out, and it specifically says that "only new sales are eligible in a STIF program." Determining whether a STIF containing retail business operates is eligible, the Commissioner of DECD must be satisfied that the state tax increment resulting from the district will not include sales tax revenues derived from or transferring or shifting of retail sales to another geographic area within the state to the district so sales in the district must be new sales, not a shift, new dollars, to reap the benefits. As we all know, this bill allows the state to become a partner. Communities have the burden to encourage development but under this law, the state shares in that burden by foregoing 25 percent of new sales tax increase in that district. When you think of the 25, now let me turn your focus to the 75 percent, those are new dollars that would not have been derived in this state, new sales tax dollars. Those are revenues that we need so we don't have to sit here, month after month, and try to find revenues.

This program increases revenues, that is a change in philosophy for many of you, I understand that. I am not one to sit here and want to raise taxes. This bill has an awful lot of safety nets in it, it raises new sales tax and disburses it and allows communities that fall under a STIF program to recoup some of their infrastructure costs. When you become a TIF, that goes to the voters of your community, your councilors vote on that issue, there are public hearings held, there is every opportunity in the world for people to speak out whether you are from that community or a budding community.

When I hear people talk about perception and competition amongst communities and cannibalism — do we not do that now? Aren't communities competing against one another now? Aren't we as individuals representing our communities competing for those dollars now? This bill provides jobs, this bill gives communities in downtown areas the ability to upgrade and make improvements and be rewarded for doing so. I would only urge you to support the pending motion.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of the Representative from Saco, Representative Nadeau, that House Amendment "B" (H-1304) be indefinitely postponed. Those in favor

will vote yes; those opposed will vote no.

## ROLL CALL NO. 402

YEA - Aliberti, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Erwin, Farnum, Gean, Heino, Hichens, Hogle, Jalbert, Kerr, Kontos, Larrivee, Lipman, MacBride, Macomber, Mahany, Marsano, Marsh, Martin, H.; McHenry, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, Ott, Paradis, P.; Pendleton, Ruhlin, Rydell, Saint Onge, Savage, Simpson, Spear, Tardy, Tupper, Waterman.

NAY - Adams, Anderson, Anthony, Ault, Bailey, H.; Barth, Bell, Bennett, Boutilier, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Dutremble, L.; Farnsworth, Farren, Foss, Garland, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heesch, Hichborn, Holt, Hussey, Jacques, Joseph, Ketover, Ketterer, Kilkelly, Kutasi, Lawrence, Lebowitz, Lemke, Libby, Look, Lord, Luther, Manning, Mayo, McKeen, Melendy, Merrill, Michael, Mitchell, J.; O'Gara, Oliver, Paradis, J.; Parent, Paul, Pendexter, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Reed, G.; Reed, W.; Richards, Richardson, Rotondi, Salisbury, Sheltra, Simonds, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Townsend, Tracy, Treat, Vigue, Wentworth.

ABSENT - Aikman, Bailey, R.; Bowers, Carroll, J.; Duplessis, Greenlaw, Hepburn, Michaud, Pines, Rand, Ricker, Skoglund, Small, Whitcomb, The Speaker.

Yes, 51; No, 85; Absent, 15; Paired, 0; Excused, 0.

51 having voted in the affirmative and 85 in the negative with 15 being absent, the motion did not prevail.

Subsequently, House Amendment "B" (H-1304) to Committee Amendment "A" (H-1286) was adopted.

Committee Amendment "A" (H-1286) as amended by House Amendment "B" (H-1304) thereto was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1286) as amended by House Amendment "B" (H-1304) thereto and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

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

## SENATE PAPERS

## Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-725) on Bill "An Act to

Implement the Recommendations of the Special Commission on Governmental Restructuring" (S.P. 910) (L.D. 2330)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-725).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-725) was read by the Clerk.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I only rise today to tell you that this is the first of three pieces of legislation that you will see as a result of the Special Commission on Restructuring that was created in May of 1991. What you will see of these three bills is a consensus of unanimous support of these measures in this bill of the State and Local Government. We asked the Committees of jurisdiction to comment on proposals from the Restructuring Commission as well as other restructuring bills. We thank you for those comments and we respected your wishes and adhered to those in almost all cases so I urge your support of L.D. 2330.

Subsequently, Committee Amendment "A" (S-725) was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-725) in concurrence.

#### Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-680) on Bill "An Act to Restructure State Government" (EMERGENCY) (S.P. 929) (L.D. 2384)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-680) as amended by Senate Amendments "C" (S-704), "F" (S-715), "G" (S-722) and "H" (S-723) thereto.

Report was read and accepted, the bill read once. Committee Amendment "A" (S-680) was read by the Clerk.

Senate Amendment "C" (S-704) to Committee Amendment "A" (S-680) was read by the Clerk and adopted.

Senate Amendment "F" (S-715) to Committee Amendment "A" (S-680) was read by the Clerk.

On motion of Representative Joseph of Waterville, Senate Amendment "F" (S-715) to Committee Amendment "A" (S-680) was indefinitely postponed.

Senate Amendment "G" (S-722) to Committee Amendment "A" (S-680) was read by the Clerk.

On motion of Representative Joseph of Waterville, Senate Amendment "G" (S-722) to Committee Amendment "A" (S-680) was indefinitely postponed.

Senate Amendment "H" (S-723) to Committee Amendment "A" (S-680) was read by the Clerk.

Representative Joseph of Waterville moved that Senate Amendment "H" (S-723) to Committee Amendment "A" (S-680) be indefinitely postponed.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not indefinitely postponed Senate Amendment "H." This section of the bill alludes to the Pre-school Handicapped Children's Services that are funded in much the same way as the K-12 Special Education Program administered by the Department of Education are funded and they are from the same federal sources in accordance with the same federal statutes, regulations and policies. To move this into another department will cause us great problems because we now receive about \$10 million in federal locational rehab funds with only a 20 percent matching rate and these things are all tied into this bill.

We should not move the Pre-school Handicapped Children's Services, it is a wonderful program and we don't want to destroy it at this point.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: There is no intention of destroying CDS in this piece of legislation. This legislature has supported a bill since 1989 on the Department of Children and Families. This function has always been included as a guideline to the reorganizing committee that will report to the legislature, the 116th in this case, as to how this will be implemented. We understand the concerns of the good Representative, I understand the concerns of the good Representative. However, it has been fully explored in these past three and four years as to whether or not federal dollars will be lost. It has been our conclusion this year, it was our conclusion last year and for the two years prior to that that those funds will not be lost. Much investigation has gone into this and we have been assured that in fact in this case as in other cases the State of Maine has not maximized its use of federal dollars. By putting them under one umbrella department, those federal dollars, plus more, will be available.

I urge you to indefinitely postpone Senate Amendment "H."

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Constantine.

Representative CONSTANTINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address a question through the Chair to the Representative from Waterville, Representative Joseph.

The Part H money, which is the physically handicapped money that we were just discussing — it is my understanding that currently the federal government will only award that money to the Department of Education and that the State of Maine, if it were to go to some other department, would have to apply for a waiver and have that waiver granted. Based on the comments you just made, can you tell me whether or not in fact the State of Maine has received an approval from the federal government to have that money go to another department?

The SPEAKER: The Representative from Bar Harbor, Representative Constantine, has posed a question through the Chair to the Representative from Waterville, Representative Joseph, who may respond if she so desires.

The Chair recognizes that Representative. Representative JOSEPH: Mr. Speaker, Ladies and

Gentlemen of the House: I will try to answer that question. We have no guarantee at this time. What I did say was that we have investigated this question and we have asked the questions of persons within the federal government who are the direct contacts for these federal dollars. We explained in 1989, 1990 and 1991 what we were doing and they felt that we would not lose and they urged us to continue in this direction.

You will look at perhaps the State of Connecticut who in fact has consolidated the Department of Children and Families and they as well testified before the Blue Ribbon Commission on Children and Families and assured us of the same.

Perhaps we shouldn't be debating this particular issue as it stands because if you look at the bill you will see that what has been called in the past a select committee to implement this legislation and to actually create the Department made up of legislators from the Appropriations Committee, the Education Committee and the Human Resources Committee, State and Local Government Committee and three other members (actually 13 members of this committee) will have that answer for you. It certainly is not the intention of this bill or past pieces of legislation that we have supported to do anything detrimental to the services provided to children and families of this state. We hope only to enhance those services, to consolidate those services and to have them in one department.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I can't support more firmly Senate Amendment "H" as filed by my committee chairman, Senator Estes. The raid on that Division of Alcohol and Drug Education dates back to 1969 and I call it a raid because, once you take that out of the known Department of Education, it will fail to be recognized the way it is today. It is a national model. It has been copied by school systems throughout this country. Canada has been over here and looked at it and adapted it. We have had endless correspondence about the success.

I can't speak for individual members of my committee but since that division emphasizes prevention, I believe that is the key that will be lost because it is so easily overcome by the proponents of rehabilitation and treatment. While those two segments are very necessary to approach, I am telling you that prevention is the offense in this business. I emphasize that one division because I think it is the one that needs to be funded for most definitely but I support the entire amendment filed by Senator Estes and I do it with it as much conviction as I can muster. If I could explain it anymore clearly than this summary does, I would, but I want to thank the majority office for that distribution. I feel it makes the whole picture very clear as I did yesterday when we were addressing other segments of our work.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Constantine.

Representative CONSTANTINE: Mr. Speaker, Ladies and Gentlemen of the House: Based on the answer to my question from the Representative from Waterville, Representative Joseph, it is not that I question whether or not it might be possible to get federal money for the Department of Education for pre-school

handicapped children, my question is whether or not it was going there. The reason for my concern is because we very clearly have allocated that money to go to the local sites in our communities and we need it to go there so we certainly would not want to lose it.

Second of all, we had a question pending regarding CDS as to whether or not at some point they become part of the local school system. Until that question is answered, it seems to me appropriate to keep that system within the Department of Education. Therefore, I recommend that you vote against the indefinite postponement motion.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, support opposing the indefinite postponement of this amendment. I do it for different reasons. I share in the concern of our the prior speaker that until we have absolute certainty that children's services money can continue to flow federal money, I think we should leave CDS in the Department of Education.

I can envision a time in the future when we should be moving it over to the new Department of Children and Families but until we have those certainties in place, I think it should stay in the Department of Education.

I am really rising on account of a different aspect of that same amendment. One of the things that that amendment does is it moves the Bureau of Rehab to the Department of Education and out of the Department of Health and Developmental Services. Now part of the Bureau of Rehabilitation is the Division of Deafness and, as many of you know, I have had a long and strong contact with the deaf community in this state and the deaf community is strongly united that the Division of Deafness belongs in the Department of Education, not in the Department of Health and Developmental Services. I want to read why they say so I will just read from the Advisory Committee of the Division of Deafness. "The deaf community does not support the future location of the Division of Deafness in the proposed Department of Health and Developmental Disabilities. The proposal of the Committee on State and Local Government is a step backward in the modern view and perspective of deafness. By placing it in the Department of Health and Developmental Disabilities, it perpetuates the ancient views that deafness is a disease, thereby treating individuals affected by deafness as a medical model. Let me remind you and the committee that the 1991 State Legislature enacted L.D. 940 which recognizes a social linguistic community of deaf people as a distinct, culturally rich group, rich with its own language, traditions, cultural values and norms, history, folklore, literature and a network of organizations. American sign language, a visual gestural language is recognized as the official state language of deaf people. The deaf community strongly recommends the immediate action to move the Division of Deafness from the Department of Health and Developmental Disabilities to the Department of Education in the reorganization of state government. Sincerely, William Nye, Chair, Advisory Committee Division of Deafness."

What he is saying is absolutely accurate. We have for too long viewed deafness as animate and instead it is time we start appreciating the deaf

culture, recognizing the richness of that culture and of its language and moving it from the Department of Health and Developmental Services which treats it as a health problem and instead moving into the Department of Education furthers that goal. So, I would also urge opposition to the motion on the floor which is for indefinite postponement of Senate Amendment "H."

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

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: I first want to thank the State and Local Government Committee for their very courteous and patient receiving of the various presentations I had to make. They were long and tedious and we had interesting advocacy groups there during a time when it was hard to find the time but they allowed the advocacy groups to speak. First, I want to thank the Chairperson, Representative Joseph, and I certainly thank the members of that committee for their patience.

The amendment is a housekeeping amendment. It is an amendment that is making things more compatible, it is an amendment that is guaranteeing the funding from the federal source. It is an amendment that talks about what department has related services that will work in coordinating with these services we are recommending to move. Even though to some of you it may seem a major move, I see this amendment as really a housekeeping move for compatibility purposes.

I would tell this body that the other body, with a bipartisan vote, voted overwhelmingly to support this amendment. The other amendment.....

The SPEAKER: The Chair would advise the Representative that he may not use the action of the other body to influence.

Representative OLIVER: Sorry Mr. Speaker, I apologize.

This amendment also had the support of the Committee on Education, bipartisan support, and has the support of the Department of Education.

I want to read a few things that may clarify for you because there are some complications in any transition that this body should understand. "This amendment deletes the transfer of the Division of Alcohol and Drug Education Services from the Department of Education. Drug and alcohol prevention is best insured by constant and integrated educational programs that provides a variety of approaches and strategies to teach children about alcohol and drug use. If this division is transferred, it will become part of an organizational unit in which the primary purpose is treatment. While prevention and treatment must be coordinated, prevention programs cannot be subsumed under a treatment organization and expect to continue a quality prevention program."

We have seen it at the national level, we have seen it at the state level, we have certainly seen it in our communities that, without a great effort on prevention, we lose the battle. If we put all our resources into treatment, whether it be drug abuse or alcohol abuse or any abuse, we end up pouring more money over the years in the treatment unless we come to grips with what we have to do which is preventive education.

Under legislation passed during the last session, the department's drug and alcohol prevention programs and the programs contained in the Office of Substance Abuse are required to coordinate their efforts. A

plan for the coordination of services have been developed and was delivered to the Joint Standing Committee on State and Local Government.

The amendment deletes the transfer of the pre-school handicapped children as previously mentioned from the Department of Education to the Department of Children and Families. As Representative Anthony said, in the future this may be a good idea, but I want to remind this body that the sub-committee of the Education Committee spent weeks and weeks of tedious, very, very difficult negotiations with the clients, with the staff, with the department and with interested citizens to forge what I consider a very viable compromise. This compromise can be undone as we make a transfer to another department. The compromise has a major role for the Department of Education in it. This is a compromise reached after weeks and weeks of difficult negotiations. I would not like to see this unraveled.

The services to the pre-school handicapped children must be coordinated and integrated between the local sites in the school systems that these children are preparing to enter. Such coordination and integration will be much more difficult if the programs for these children, pre-K and K-12, are in different departments.

The third part of this amendment is the transfer of Rehabilitation Services from the Department of Human Services to the Department of Education. This has been supported both by the Departments of Human Services and Education, the Joint Standing Committee on Education, the staff to the Bureau of Rehabilitation, the major advocacy groups for the people who are visually impaired and has been reviewed by the Regional Commissioner for the Rehabilitative Services Administration. I would say that this was a long meeting and I asked a lot of questions on the funding. This was the regional administrator who signs off on the funding, we get about \$10 million in vocational funding, get about \$1.6 million for the Division of Blind and Visually Impaired, — I said, "If these divisions are in separate departments, will we get federal funding?" His answer was "no." Having dealt with the feds for over 30 years of my life, I asked the natural next question — "Are there exceptions, are there waivers, are there some loopholes?" His answer was, "no." He proceeded to read the regulations so for two hours we heard the regulations and we understood very clearly that there would be no exceptions. So, it is very important that the State and Local Government Committee unfortunately, and it might have been an oversight on our part, did not have this information before they made the decision. We do have the information now and we have met with the regional director and he made it very clear that, if you are going to get the full vocational-rehab funds for this state, you are going to keep the Division of the Blind and Visually Impaired and both Rehab and Division for Deafness in the one department. It was made very clear in that meeting.

There is no additional fiscal cost associated with this amendment. The amendment has the strong, as I said before, bipartisan support as evidenced by the vote on the Education Committee and I would urge your support of this amendment.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Hichens.

Representative HICHENS: Mr. Speaker, Members of the House: I hesitate to be critical of the work

which commissions and committees put into a lot of these studies but for the life of me, I cannot understand how this Blue Ribbon Commission came out with some of the bright ideas that they have come up with in this restructuring program. Although I appreciate the work of the State and Local Government Committee, I do not understand how they have gone along with some of these recommendations. Among these recommendations, there was the breakup of the Division of Rehabilitation which in my estimation would be a disaster. I had the privilege of establishing the Division of Blindness and Visually Impaired and the Division of Deafness and Hearing Impaired. I have been on the advisory committees on both of these divisions, 20 years on one and 18 years on the other. I have seen the work that they have been able to do and the desire they have had to go over into the Department of Education because they felt that they didn't get all the breaks they desired or needed from the Department of Human Services. To break up the Department of Rehabilitation and put them in one division, put the Division of Blindness and Visually Impaired in another and the Division of Deafness and Hearing Impaired in another is foolishness in my estimation.

I hope that you will go along with this amendment and defeat the motion to indefinitely postpone.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I rise today, sadly, in opposition to my colleagues from Portland, Representative Anthony and Representative Oliver, to urge you to indefinitely postpone Senate Amendment "H." It seems to me what we need to do if we are really going to talk about restructuring is to break out of those traditional categories that we have always thought about regarding the delivery of services.

What this amendment does is continue to add on to, put back in, the Department of Education because that is the way it has been. Let me specifically speak to the issue of substance abuse. The good Representative from Portland tells you that in fact the Office of Substance Abuse has always focused on treatment instead of prevention. That is correct because prevention has always been in the Department of Education and communication has been very, very poor.

Committee Amendment "A" in fact would make that communication work because all parts of the treatment continuum or the substance abuse continuum from prevention to treatment would be in one place.

I would also say that I understand that there is considerable question about the appropriate placement of child development services. There is also considerable discussion about the placement of MCH, Maternal and Child Health, as there is with juvenile correction. If in fact we go on to indefinitely postpone Senate Amendment "H", I will be presenting an amendment that will allow us to look again at whether the decisions made by the State and Local Government Committee were correct. In the meantime, I urge you to support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: I rise to urge you to vote against the pending motion so that we can go on to accept the Senate Amendment. The Education Committee, as you have heard, worked long and hard on this amendment

and we were in total agreement with the language filed by Senator Estes.

Mr. Speaker, I request a roll call.

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

Representative CROWLEY: Mr. Speaker, Men and Women of the House: Pertaining to the Child Development Services, the services of the children from 0 to 5 year old is called under federal law the Intermediate Educational Unit. And, as defined in the federal law, means any public authority other than the local education agency under the general supervision of the state's educational agency that is established for the purpose of providing free public education on a regional basis and provides special education in related services to handicapped children within the state. We have a model program here in the State of Maine with the 16 county sites that we have and to do anything to destroy this would be ridiculous. We have a child-find and an early intervention program that is absolutely doing wonders out there. We could tell you stories upon stories of letters we got from people, the mothers and fathers and children who have been served by this program. To move this program would be a colossal mistake.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I would just urge that you would not indefinitely postpone this amendment. I will echo the sentiments of others on the Education Committee — the committee and particularly its sub-committee spent many, many hours in terms of CDS. We have got it now where we think it is workable, it is (in a sense) a whole new setup and to then suddenly move it again might undo all of that hard work. I would urge that you would not indefinitely postpone and go on and accept the amendment.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I understand your concern. I also think that you are not hearing what I am saying which is, although the guidelines in the bill to direct these functions to the different departments, the Department of Health, as well as the Department of Children and Families — those decisions will not be concrete or made until the committee on the Commission of Reorganization, which implements these guidelines, reports back to the legislature with a piece of implementing legislation. This body will then either accept or reject. These are guidelines, these are considerations, but these are also considerations that you have voted for in the past.

I also need to say to you that the decision to place the blind and visually impaired into the Department of Education was made at the request of Representative Oliver and we respected his request because we felt that he knew best. When we honored that request, we felt that we were doing the right thing.

I also need to say that I hold CDS in high esteem. The father of CDS lives in Waterville, a pediatrician, Dr. Ed. Ervin, Sr., who has been involved in these issues for years. This proposal has his blessing. He understands the issues because when I have questions, that is where I go.

What you are hearing here today are the same



questions, the same concerns, as when we tried to restructure. There may be criticism of this legislature because we have not restructured enough. We understand how you are feeling but there is still more to this process. An analogy might be, as the Appropriations Committee tried to develop a budget, and we all try to change what has been done, then the perception out there in the State of Maine is that the legislature cannot cut the budget. So, I think that you have to know that there are no final decisions. We would simply ask you to go along with this outline, this proposed structure, and the decision will be made by you, the legislators.

There was a proposal before us to allow the bureaucrats to do this, to make the decision on how this department will work. However, in the proposal in Committee Amendment "A", the legislature with those bureaucrats, department heads, commissioners, IDC, all of those who are direct service people will work together on a piece of legislation that will come back to the legislature in the 116th. So, with that, please do not feel threatened. Please do not feel that we are trying to disintegrate your particular program, that we are trying to restructure government to make it work better for those persons that we serve, the clients of state government, the customers of state government, the people whose government this is. So, if you look at the restructuring commission's report and we use this as our outline, we are not trying to separate prevention from education or education from treatment. Prevention, education and treatment are part of the whole issue. Why should these issues be spread in two or three different parts of state government, that is what restructuring is. We want to more efficiently and effectively provide services to the people of the State of Maine as well as, hopefully, save taxpayer dollars.

I urge you to indefinitely postpone this amendment and when we come back, perhaps what your wishes seem to be, will be adhered to.

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 Portland, Representative Oliver.

Representative OLIVER: Mr. Speaker, Men and Women of the House: I want to respond briefly to Representative Clark. I am very sorry Representative Clark is leaving this body because 99 percent or 99.9 percent of the time I am looking to her and following her light on social issues. Representative Clark mentioned something like "business as usual" or "stacking programs" and it was indicated that restructuring is difficult and this may be challenging restructuring. I am in favor of the restructuring and I certainly, with this amendment, will be supporting the bill.

As I said before, this is basically housekeeping in trying to put those divisions where it is more compatible with the programs. For example, the combination of rehabilitation of services with the Department of Education is logical because of the funding source which for both programs is the U.S.

Department of Education. The strong program ties between rehabilitation and education in the areas of special education, vocational education, adult education, substance abuse education, technology for people with disabilities and many more. So, this is not a move to challenge restructuring. This is a housekeeping move with an oversight and, I will take part of the blame for the oversight for not getting the full information to the committee, and that these are moves of compatibility and to ensure federal funding.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Joseph of Waterville that Senate Amendment "H" (S-723) to Committee Amendment "A" (S-680) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 403

YEA - Cathcart, Clark, M.; Cote, Gean, Gray, Holt, Joseph, Kerr, Larrivee, Pineau, Ruhlin, Simonds, Treat.

NAY - Adams, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cashman, Chonko, Clark, H.; Coles, Constantine, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Goodridge, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heino, Hepburn, Hichborn, Hichens, Hoglund, Hussey, Jacques, Jalbert, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Richardson, Rotondi, Saint Onge, Salisbury, Savage, Sheltra, Simpson, Skoglund, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

ABSENT - Aikman, Bowers, Heeschen, Lemke, Luther, Pines, Ricker, Rydell, Small, The Speaker.

Yes, 13; No, 128; Absent, 10; Paired, 0; Excused, 0.

13 having voted in the affirmative and 128 in the negative with 10 absent, the motion to indefinitely postpone did not prevail.

Subsequently, Senate Amendment "H" (S-723) to Committee Amendment "A" (S-680) was adopted.

Representative Pendexter of Scarborough offered House Amendment "B" (H-1303) to Committee Amendment "A" (S-680) and moved its adoption.

House Amendment "B" (H-1303) to Committee Amendment "A" (S-680) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: This amendment contains almost all of the same provisions that have been proposed through four studies that we have had relative to this issue. The restructuring commission proposal, the Speaker and President's Blue Ribbon Commission



Report, the Governor's Task Force on Children and Families and the President's bill on restructuring.

This amendment gets the process going by July 1, 1992. It abolishes the existing Department of Human Services and the Department of Mental Health and Mental Retardation, the Division of Community Services and the Office of Substance Abuse. It creates a Department of Children and Families and a Department of Health. It creates a health department containing divisions for mental health, mental retardation, public health, medical care financing and aging. It creates a Children's Department containing divisions for child protection, foster care, family support and economic support. It contains the programs for the blind and deaf to be part of the Department of Education. It calls for substance abuse to be part of the Department of Health, Head Start to be part of the Department of Children and it improves single contracting, evaluation, licensing, information and referral systems. It also provides for a legislative oversight committee to review the transition process.

We do not need to study the reorganization of children's services anymore. This process needs to begin now in the most cost effective way possible by transitioning the programs within existing departments so that services to Maine's neediest citizens can continue without interruption. The necessary legislative oversight to this process is built into this amendment. Bob Glover, the Commissioner of Mental Health and the Chair of the Interdepartmental Council will be leading this process for the administration. He presented his proposal to the restructuring commission at the request of the commission and to the State and Local Government Committee. It is a sound approach and I urge you to vote for it.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question through the Chair to the sponsor of this amendment. Could the sponsor tell us how this differs from what is in the State and Local Government Committee's, Committee Amendment "A?"

The SPEAKER: The Representative from Waterville, Representative Joseph, has posed a question through the Chair to Representative Pendexter of Scarborough who may respond if she so desires.

The Chair recognizes that Representative.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: The way this differs is that starting July 1st, the Department of Mental Health and Mental Retardation, the departments I had mentioned, will be abolished and the transition phase will begin starting October 1st. The Committee Amendment basically creates a commission that will develop the legislative language and their homework needs to be done by November 1st. However, the legislation will be presented in the First Regular Session of the next legislature. So, basically what it does is it puts off the implementation of restructuring the Department of Children and Families and the Department of Health one more year. My amendment gets the process moving now. I think it is time for us to start and do something. We have, as I mentioned, four study committees who have recommended what is included in my amendment. The process is not necessarily different as far as who goes where and what happens. I think the basic difference is that

my amendment gets things moving now, whereas the Committee Amendment basically defers it one more year.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Hichens.

Representative HICHENS: Mr. Speaker, I move indefinite postponement of House Amendment "B" (H-1303).

If you read in the Statement of Fact of House Amendment "B", it provides for the commencement of the immediate abolishment of the Department of Human Services, the Department of Mental Health and Mental Retardation. I cannot understand the reasoning for this.

I was Chairman of the Health and Institutional Services Committee back in 1971 when the then Governor Curtis had the same ideas in mind of putting both of these departments under one umbrella. After much deliberation, which has not gone into this situation, which has only been in our minds for about three weeks or so with the State and Local Government Committee, we decided as a legislature to keep both of these departments separate and they have worked very well separately in the last 20 years. To set up a huge bureaucracy like this would not be in the best interest of the people of the State of Maine, the mentally retarded, the mentally ill and those under the Division of the Health Services Commission.

I hope that you will go along with my motion to indefinitely postpone this and have further study in the future as to the possibilities of these things.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I would hope that you would not go along with the motion to indefinitely postpone this amendment.

What we are presenting here is nothing new. The fact that we are abolishing the Department of Human Services and the Department of Mental Health and Mental Retardation in itself should not be something that you are afraid to do. This has been recommended by four studies. I really don't think that we need to study it any longer. I think the recommendations we are making here is nothing new. The question is basically the time frame of when things get implemented or whether we are going to continue to study it again.

To reassure those of you who were supporting Senate Amendment "H", I might assure you that that amendment is included in mine.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am very happy to second the motion of Representative Hichens because as I read this, the Commissioner of Human Resources is going to restructure rather than the legislature. It seems like a strange — I just don't understand the amendment. The part that I am especially concerned with is Section F that we just put back where we thought it belonged with an extremely strong vote — the 0 to 5 program with child development services and I surely wouldn't want to put that under the Human Resources Division.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and

Women of the House: I would like to make one more point of clarification. The transition here is not going to be done by the bureaus or the bureaucrats or whatever. If you look at the amendment in Part E, it establishes a committee, a legislative committee, that will have the oversight on the transition process. The committee structure is exactly the same as what is in Committee Amendment "A" and it reflects the proportion of the majority and minority parties of the chambers.

Mr. Speaker, I request a roll call.

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 Hichens of Eliot that House Amendment "B" (H-1303) to Committee Amendment "A" (S-680) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 404

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hichens, Hوجلund, Holt, Hussey, Jalbert, Joseph, Kerr, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Rotondi, Ruhlín, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Skoglund, Stevens, A.; Stevens, P.; Strout, Swazey, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth.

NAY - Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Butland, Carleton, Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Ketterer, Kutasi, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Merrill, Murphy, Nash, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Savage, Spear, Stevenson, Tamaro, Whitcomb.

ABSENT - Aikman, Anderson, Bowers, Cashman, Gould, R. A.; Jacques, Lemke, Lord, Luther, Marsh, Paul, Ricker, Simpson, Small, Tardy, The Speaker.

Yes, 93; No, 42; Absent, 16; Paired, 0; Excused, 0.

93 having voted in the affirmative and 42 in the negative with 16 absent, the motion to indefinitely postpone did prevail.

Representative Manning of Portland offered House Amendment "A" (H-1297) to Committee Amendment "A" (S-680) and moved its adoption.

House Amendment "A" (H-1297) to Committee Amendment "A" (S-680) was read by the Clerk.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This amendment basically goes along with what the recommendations of the committee were. However, it moves it up a little and it abolishes, as you can see, the Office of Community Services. It moves those positions exactly where the committee wanted it to be put but it also deals with the abolishment of two positions in July versus two positions in November. It also deals with the infamous Maine Children's Trust Fund. The Maine Children's Trust Fund has been kicking around here for a couple years and if you read the Statement of Fact, and my committee on Human Resources understood it, this was a 12 to 1 report to the Appropriations Committee. We finally decided we needed to do something about the Maine Children's Trust Fund. The members quit — the board of directors quit in 1991. So, there is nobody really doing anything about that. The committee heard from the Community Services people and they said they are just holding the money waiting to find out where it is going. So, what we decided to do was to take the Maine Children's Trust Fund, put it in the Department of Human Services and then allocate the monies that they collect every year and give that money to the local child abuse and neglect councils on a per capita allocation, whatever your county has per capita throughout the state. This is important because one of the things that people know is that you only get the money in this time of year if somebody is out there telling you that you ought to do the check-off. If we are going to have this program, we ought to have somebody out there trying to do it.

Inland Fisheries have a lot of allies out there and they tell people to do the chickadee check-off but nothing has been done last year or this year. If we want to continue this fund, we ought to do this and have the Child Abuse and Neglect Councils from all 16 counties go out there and really press for this proposal.

I would hope that you would pass this. Like I said, the Committee on Human Resources recommended this as a 12 to 1 report. I also think that most of the people I have talked to on State and Local Government have no problem with this. It eliminates a department that has only six people left. There are only six people left in the Office of Community Services. We really looked at it hard and we think that is something we can do away with. I hope you go along with it.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Duplessis.

Representative DUPLESSIS: Mr. Speaker, I move indefinite postponement of House Amendment "A."

Mr. Speaker, Men and Women of the House: I would like to just read some of the letters that have gone out to the newly appointed Committee of the Maine Children's Trust Fund from the Office of Community Services which the Representative from Portland has already stated has been in a state of flux for the last few months.

This is from Jude Maston, their director. "The trust fund has gone through significant changes during the past year and I thought it might be helpful to provide some background information about the fund as well as the Office of Community Services. The Office of Community Services, formerly the Division of Community Services is part of the Executive Department reporting directly to the

Governor. In addition to the Children's Trust Fund, our office administers the Head Start Program, the Head Start Collaboration Grant and the Community Services Block grant. We have six staff and our office is located in Hallowell. Until recently, the Children's Trust Fund was operated as an independent entity. During the Spring of 1991, the Maine Legislature voted to have the Division of Community Services administer the Children's Trust Fund. The goal was to have the fund administered within the division's administrative budget ensuring that all funds collected went either into grants or the trust. Until that point, the administration of the Children's Trust Fund was used up. The majority of the funds collected through the check-off was only a small amount going out to grants. In addition, the board was legislated to serve in an advisory capacity rather than continue its authority over the trust fund. The board strongly disagreed with this action and subsequently resigned. As part of the restructuring effort, a committee was organized to review the administration of the Children's Trust Fund and make recommendations for changes. During the middle of that process, a special session of the legislature was held and, late in December, legislation was passed that transferred three of the six programs operated by the Office of Community Services to another agency. This action seriously disrupted our operations eliminating more than three-fourths of our budget, necessitating the layoff of ten of 16 staff. With the same legislation, the Division of Community Services became the Office of Community Services. Unfortunately, the resignation of the board and this action by the legislature compromised the process that was intended to ensure grants going out that first year. In addition, I feel you should be aware that further administrative changes appear to be eminent. Budget amendments have been proposed to abolish the Office of Community Services and transfer the Trust Fund to DHS." She goes on to say, "the change may be likely, we are not really sure. Different scenarios have been offered and it is still up in the air."

Basically what she is saying to the committee members is that she is inviting them to get a meeting started real soon, within the next couple of weeks, get together and get some grant money out. I believe they have the RFP's in hand, they just need to go through them to administer this grant money. I believe, yes, it has been stalled and rightly so because of the legislation that was been passed in December, but I think that the movement is to get the grant money out. I hope that you would support the indefinite postponement.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that the Office of Community Services wants to continue what they are doing. However, if memory serves me right, the only one in the committee who voted against this was Representative Duplessis. We looked at this and said it is time to abolish the complete Office of Community Services. There are only six individuals left there. The Appropriations Committee looked at it last year and gave it life until July 1st. We looked at it and said it is time to do away with it completely because other functions of government could handle this. We are having a director and assistant director, we have the Office of Head Start

which everybody agrees can go over to the Department of Human Services, that is the recommendation of the State and Local Government Committee.

The only recommendation that they didn't do was to develop how the monies were going to be spent. What better way to send those monies out and to use the Child Abuse and Neglect Councils, which everybody in this body understands has helped deal with child abuse, exactly what the Children's Trust Fund is there for. They would be the advocates out there in the communities in future years, they would try to get more money. In the past, one individual would be, at this time of year when we are all doing our income tax, the individual going on the television stations to try to get more money. This group, which had 16 different individuals groups throughout every single part of the state, would be saying do you want to do something about children's problems? Do a check-off, the money would flow back to the communities, it would continue this program.

In reference to that letter, that is something completely new. Quite frankly about a month ago, we dealt with this in the Appropriations Committee, there was nothing said to our committee that they were going to reinstitute the board at that particular time. At that time, the committee said, let's look at how to redistribute this money. I think this is the best way of doing it, putting it through the Child Abuse and Neglect Councils. I don't think anybody can say anything about them, they have done a heck of a job and I think this is one way for us to cut down government, to do away with two positions that really aren't needed anymore. That agency used to have 30 to 40 people. They are down to six people. They are down to the Director, Assistant Director, a secretary, two people in Head Start and a physical program director. That is it. That is all that is left in that department. Everything has been shifted either to the Department of Agriculture or Maine State Housing and it has been shifted without any problems. The only thing left is the Community Block Grant, that can be done very easily because, after talking to the Office of Community Services, we understood and have been assured by the CAP agencies, it is practically nothing but a pass-through. They get their money from the federal government, they pass it through. The Department of Human Services could handle whatever they need. If we really want to cut down on government, this is a good way of doing it. It is a good way of handling the Children's Trust Fund, hopefully it will get it more money in the future and I hope you go along with it.

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

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

I happen to think that the changes Representative Manning talked about concerning community services that he is correct, those changes have been made appropriately in the past couple of years and the efficiencies created are going to make the programs run more smoothly.

But, another aspect of the amendment that is presented deals with the Children's Trust Fund and I have a question about the grants that can or cannot be presented by the local Child Abuse and Neglect Councils. Did the Committee on Human Resources and

ultimately the State and Local Government Committee deal with the criteria that is going to be used for those grants?

Number two, are the grants going to be created after the money has flowed to the individual neglect councils and then each neglect council sets up their own criteria and method for spending those dollars?

Three, is there assurances that the committees have received either in writing or by statements by the neglect council's representatives that all of those dollars that come from the check-off do in fact go to grants and not to administrating grants, which was one of the original problems that we tried for a number of years to deal with within the board situation for the Children's Trust Fund?

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

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

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: In response to the questions posed through the Chair, the first answer is no, we did not discuss any standards. Yes, the CAN councils will be able to distribute this money based on their own standards. The last question I am not clear about so you may have to restate it.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The standards, I would assume, would be the same standards that they are working on right now. They go out and they try to do fund raising, they try to get monies, not only we in the legislature fund them for a tune of (I think) \$240,000, these are boards out there that I think have done a great job. If they decide that what they need in one particular area, don't forget there are 16 of them, so if one area of the State of Maine decides they want to deal with something completely different than the next neighboring town, then that is what they ought to be doing with their money that they get and they ought to be deciding in their area specifically what that area is.

In past years, they have gotten money from the Children's Trust Fund. So here it is, let's get the money out there, let's try to do something. Let's make this program last if we are going to keep it on the books, that is they key thing. This program has been floating around — first it was very controversial when it got started, there really weren't too many people who liked the program that much but we gave it a chance, we got it going. It really has floundered. This is one more chance, hopefully, that will get it going. If it doesn't, then we will have to deal with it in the future.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: Just briefly. I am going to reluctantly vote against the pending motion. I am hopeful that the Committee on Human Resources is going to continue to monitor this issue. Representative Manning is correct that the Children's Trust Fund has funneled dollars to the local Child Abuse and Neglect Councils and, in my mind, they have used those appropriately.

My last question was not addressed and that is one of my big concerns and that is, we are asking to

maintain a check-off on tax returns. There is no doubt in my mind that that needs better marketing and I think the changes that are in the amendment are going to create that situation. There is no doubt in my mind that the efficiency by creating 16 entities out there rather than one board that has been factional and one director is a better situation. But, the dollars that are raised with that check-off on tax returns, in my mind, have to — 100 percent of those dollars, when they go to those children and abuse and neglect councils need to be for grants. Those abuse and neglect councils get dollars now which they should and will continue, I hope, to use some portion of those dollars for administration of their council and in fact administration of grants. But, the dollars that come from the check-off should go for grants. Although I am going to support the amendment, I would hope that the community resources sets up some kind of monitoring or reporting by these neglect councils in the future so they can continue to monitor where those dollars go and how they are spent and I would urge the House to vote against the pending motion.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I urge you to oppose the pending motion and I urge you to adopt House Amendment "A" to Committee Amendment "A."

This is an issue that I believe we intended to do, was an oversight basically by the staff which had a great deal of work to do but in our discussions we believed that we had done this so we certainly are grateful to Representative Manning for presenting this amendment. I urge you to vote against the pending motion.

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

Representative CROWLEY: Mr. Speaker, I would like to pose a question through the Chair to the sponsor of the amendment.

Representative Manning, there is no program in the State of Maine that is more successful, more important than Head Start — how will this change in the control of command here improve Head Start in our state?

The SPEAKER: Representative Crowley of Stockton Springs has posed a question through the Chair to Representative Manning of Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The position of Head Start was a federally funded position that was created through a grant approximately two or three years ago. It just happened to set in the Division of Community Services. That program will continue without any interruption. The program director works closely with the current staff of the CAP agencies, and she works also with the staff of many others. Her position (who happens to be Cheryl Leeman) and that position will just simply move over to the Department of Human Services and continue without any interruption. The other position with that is a federally funded secretary's position. These are federal funds that came down about two or three years ago.

Representative Martin of Eagle Lake requested a roll call 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 pending question before the House is the motion of Representative Duplessis of Old Town that House Amendment "A" (H-1297) to Committee Amendment "A" (S-680) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 405

YEA - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Carroll, J.; Donnelly, Duplessis, Farnum, Foss, Garland, Greenlaw, Hanley, Hastings, Hepburn, Ketterer, Kutasi, Lebowitz, Libby, MacBride, Marsano, Merrill, Murphy, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Stevens, A.; Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Boutilier, Butland, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farren, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hichens, Hoglund, Holt, Hussey, Joseph, Kerr, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Look, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Michael, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Savage, Simonds, Skoglund, Spear, Stevens, P.; Stevenson, Strout, Swazey, Tamarro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth.

ABSENT - Anderson, Bowers, Carleton, Gould, R. A.; Jacques, Jalbert, Lemke, Lipman, Lord, Luther, Marsh, Melendy, Michaud, Ricker, Sheltra, Simpson, Small, The Speaker.

Yes, 36; No, 97; Absent, 18; Paired, 0; Excused, 0.

36 having voted in the affirmative and 97 in the negative with 18 being absent, the motion did not prevail.

Subsequently House Amendment "A" (H-1297) to Committee Amendment "A" (S-680) was adopted.

Committee Amendment "A" (S-680) as amended by Senate Amendments "C" (S-704), "H" (S-723) and House Amendment "A" (H-1297) thereto was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-680) as amended by Senate Amendments "C" (S-704) and "H" (S-723) and House Amendment "A" (H-1297) thereto in non-concurrence and sent up for concurrence.

**Non-Concurrent Matter**

Bill "An Act to Legalize Marijuana for Medicinal Purposes" (H.P. 1729) (L.D. 2420) which was passed to

be engrossed as amended by Committee Amendment "A" (H-1281) in the House on March 26, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1281) as amended by Senate Amendment "A" (S-726) thereto in non-concurrence.

On motion of Representative Manning of Portland, tabled pending further consideration and later today assigned.

**Non-Concurrent Matter**

An Act to Require the Department of Human Services to Have a Regular Presence in Every County of the State (H.P. 620) (L.D. 890) (C. "A" H-884) which was passed to be enacted in the House on February 20, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-884) as amended by Senate Amendment "B" (S-652) thereto in non-concurrence.

On motion of Representative Manning of Portland, tabled pending further consideration and later today assigned.

**Non-Concurrent Matter**

Bill "An Act to Strengthen the Public Disclosure of Lobbying Activities" (H.P. 1591) (L.D. 2245) which was passed to be engrossed as amended by Committee Amendment "A" (H-1130) in the House on March 17, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1130) as amended by Senate Amendment "A" (S-664) thereto in non-concurrence.

The House voted to recede and concur.

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

At this point, the Speaker appointed the Representative from East Millinocket, Representative Michaud, to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

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

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

**REPORTS OF COMMITTEES**

**Divided Report**

Eight Members of the Committee on Judiciary on Bill "An Act to Facilitate Criminal Enforcement of the Environmental Laws" (H.P. 1129) (L.D. 1654) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-1306)

Signed:

Senators: GAUVREAU of Androscoggin  
HOLLOWAY of Lincoln  
BERUBE of Androscoggin

Representatives: ANTHONY of South Portland  
FARNSWORTH of Hallowell  
KETTERER of Madison  
CATHCART of Orono  
PARADIS of Augusta

Three Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-1307)

Signed:

Representatives: RICHARDS of Hampden  
OTT of York  
HANLEY of Paris

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought Not to Pass"

Signed:

Representatives: COTE of Auburn  
STEVENS of Bangor

Reports were read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Cote.

Representative COTE: Mr. Speaker, I move that the House accept Report "C", the Minority "Ought Not to Pass" Report.

Mr. Speaker, Men and Women of the House: I don't often rise on the floor of this House on too many issues that come from my committee. However, the importance of this issue and its tremendous impact on small businesses and average Maine citizens has prompted me to take a stand against this bill's passage. I urge you to join me in opposing this far-reaching legislation.

The proponents of this legislation, led by the Attorney General's Office, would have you believe that this bill is needed simply to strengthen Maine's environmental laws. While that may be true to some extent, this legislation in fact would make criminals out of small business people who don't mean to violate environmental regulations.

Please ask yourselves, if adopting such complicated legislation at this time and this hastily

serves any constructive purpose or does it add more confusion to an already complicated area of the law?

As you may know, and as I am learning, environmental laws are extremely complex, often requiring environmental lawyers or other experts to interpret their meaning. Yet, despite this incredible complexity, L.D. 1654 attempts to impose criminal sanctions on a wide variety of complex waste violations. In fact, in stead of narrowly and clearly defining a crime, L.D. 1654 incorporates by reference two volumes of Maine statutes and almost three feet of state regulations. Even more frightening is the fact that such regulations include a provision that allows DEP to define by rule other special waste, thereby giving DEP and not the legislature the power to define the crime that the AG's office may or may not at their discretion, prosecute. How many farmers, saw mill operators or laundromat operators in your district will be in a position to monitor DEP rulemaking to the extent necessary to avoid the sudden reality that they had become criminals by rulemaking?

Believing that this type of monitoring is possible by these hardworking Maine business people is simply unrealistic. These people are busy working on their farms or in the woods or wherever, they simply can't afford themselves the time or luxury of keeping track of what DEP bureaucrats are doing in Augusta. Ask yourself today if you are truly comfortable with what this bill asks you to decide or does its very language raise even more questions in your mind?

Two committees have attempted to settle the issues raised by this bill and so far we have managed to come up with essentially five different reports. It seems to me that very fact in and of itself ought to stress the importance of waiting on this issue until we are able to clearly define what is a criminal act. People deserve to know clearly that their actions are criminal and that such acts will be accompanied by known criminal penalties. This bill leaves too much to the unknown and unnecessarily threatens Maine's average small business person. It simply goes too far.

Ladies and gentlemen, I urge you to oppose this legislation and to vote for the "Ought Not to Pass" Report.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain to you what the Majority Report does, the report signed by eight members of the Judiciary Committee and it is bipartisan in nature. This report creates felony violations for intentional or knowing violations, just if there is intentional or knowing conduct. It clearly strengthens the environmental laws in those areas. It is laws dealing with our air and water pollution, handling of both biomedical waste and special waste such as asbestos, industrial sludge or waste oil.

You would not be able to prove the crime unless the person knew that what the person was doing was illegal or that the person intentionally violated the law in question.

Secondly, I would like to point out that we have now built into, after this bill came back to the committee -- I noticed that it was suggested that it is complex and that we have had various reports -- we

have made this rather sophisticated (as the way I would describe it) in response to the concerns of the members of this House that they expressed previously. When it was reported back to the committee, there was additional work done both by the Energy and Natural Resources Committee and by the Judiciary Committee to refine it, to make it more sophisticated and to be very careful to exempt the average person doing the average sort of activity so that that clearly would not be criminal in nature. We have limited prosecutorial discretion. The bill prohibits the Department of Environmental employees from ever threatening criminal prosecution solely to gain advantage in a civil matter. We have limited prosecution of environmental crimes to just the Attorney General's Office precluding the District Attorney's Offices from ever bringing such actions.

We have created an affirmative defense for unavoidable malfunctions. That was one of the great concerns that was expressed early on the floor of this House that there were unavoidable malfunctions that could trigger criminal violation. We have made it clear that that will not.

We have exempted certain activities from the water pollution laws specifically to the extent that one would or could intentionally or knowingly pollute water in connection with road building or agriculture activities. Those potential violations are made totally exempt now from these proposed felony violations. Agricultural activities have now been exempted, it was referred to the average farmer. The average farmer should have no fear whatsoever from this proposed law.

We have also provided that the felony provisions do not apply to private home owners or to non-profit activities. It is limited to persons who intentionally and knowingly violate the environmental laws for a commercial purpose. That is to say in connection with a business enterprise or in return for a fee. In other words, there has been significant restrictions and limitations built into this to allay the concerns that were raised on the floor of this House in the previous action and previous debate on this matter. We have made this as tight and as narrow and as carefully defined as possible. Yes, it is long and yes, it is a little complicated but it has to be that way if we are going to protect the average person from problems that could engender criminal prosecution and that is what we have tried to do.

I would like to say one other point — from my point of view, the reason we are making these things felonies is because, if they are not felonies, there is no way to trigger interstate compact activity to get at out-of-state polluters. That is to say that an out-of-state person can come into this state, can dump and do other clearly knowing and intentional violations and, under the existing law, that is a misdemeanor and a misdemeanor only. There can be no extradition of that person, none, to face criminal penalties.

The only way you can trigger extradition is to raise these knowing and willful violations, intentional violations, into felonies. Without it, we have no effective criminal defenses against out-of-state polluters.

I urge support the Majority Report, so I would urge you to vote against the motion on the floor to accept the "Ought Not to Pass" Report.

Mr. Speaker, I ask for a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Ladies and Gentlemen of the House: Only the legal profession would confuse the word sophisticated with straightforward.

I guess I would like to pose a question through the Chair. It is my understanding that the Energy and Natural Resources Committee also reviewed this and I can only assume that there was probably unanimous agreement on this?

The SPEAKER PRO TEM: Representative Tardy of Palmyra has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Men and Women of the House: In response to the good Representative's question, Energy and Natural Resources came out divided six to seven. There are five different stories to this bill. Besides the three reports here, we came out of committee divided six to seven. This bill goes too wide in scope. We asked, bring this bill to the point where you want to cover the environmental dumpers coming into the state. We could have agreed to that but this was not to be had. This bill covers too wide a spectrum, it just hasn't been narrowed down enough. It will encompass most anybody doing most anything environmentally with the possibility of a fine and a jail sentence.

Please, I would ask you to vote for the "Ought Not to Pass" Report. We have been involved in something completely different in committee — we have been dealing with the dam empowersments and I have lost my train of thought but I would ask you to vote for the "Ought Not to Pass" Report.

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

Representative COLES: Mr. Speaker, Men and Women of the House: True, the Energy Committee was divided as I believe the Representative from Palmyra knew when he asked the question.

I think the basis for the division was essentially a division between those who felt this bill causes real problems, deliberate, intentional violations, severe violations of our environmental laws that cause significant harm to our citizens and our natural resources and those who wish to do that but who felt — I don't know how to characterize it, I mean no insult in doing it this way because it is difficult to characterize — a fear of the unknown. That is, they could not be certain in their own minds that the bill was going to accomplish what they wanted to accomplish and nothing more.

What I want to say to you is in fact there is no way to achieve such certainty in advance of experience with the law only to experience with this law (as is the case in most laws that we pass) when we find out if we have drawn it correctly or how it should be amended, only to experience what we have



learned, what we need to know, to sharpen this down if it has to be sharpened down at all.

In the meantime, there is no reason whatsoever to expect that that experience will result in an injustice. We don't have a large prosecutorial staff for these crimes, there isn't that much in the way of resources to be devoted to them. The AG's office is not going to waste their limited resources on crimes which are not serious. They are not going to waste limited resources on crimes for which the affirmative defense provision that you can read in this bill clearly make a case that a person did not do it deliberately or knowingly, did not intend to harm the environment severely. Another reason to think that we won't have abuse of discretion is that there are federal laws making the same sorts of things felony violations and there are several other states with similar laws, very similar laws. Neither on the federal level nor in those other states has there been any instance that we have been made aware of of any abuse of prosecutorial discretion or unjust prosecution. The law has been used in cases where there is clear convincing evidence that a company or a person deliberately, knowingly, intentionally decided to poison the environment for financial gain. Any legitimate business person, any law abiding person is put at a competitive disadvantage with those who ignore the laws and pollute the environment. If you spend money to make sure you obey the law, to make sure you do not pollute our environment and your competitor does not, you are at a disadvantage.

Passage of this law will be a major step forward toward assuring that such unfair competition, such unjust competition, such unethical competition will stop.

I urge you to read the amendment itself. It looks terrible but it really isn't that complicated once you begin to read it. I also urge you to read the material that Representative Marsh had distributed to you. I hope that when you finish reading that material you will see that this law has been very carefully drawn to try to assure people — there is no way of course of guaranteeing them — but to try to assure people who are afraid that their innocent actions will result in some sort of prosecution that they don't deserve and to try to assure those people that they will not in fact fall under this law, that if they acted in good faith, that that will be respected.

Remember, all these violations are already crimes and we are not carelessly prosecuting these people left and right. I think you will also agree that the severe crimes, the severe violators, do not deserve to be and should not be let off the hook with a slap on the wrist. Passage of this bill is the only way to prevent that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I truly hesitate to rise to speak against this bill, not because I feel badly about getting up and talking to you, but because quite clearly there is no one in this room that thinks people should be allowed to get away with the pollution of our environment, especially not me because what Representative Coles said hurts people like me. I am a member of the regulated community. When somebody violates through activities, the environment that I work in, it hurts me. So, then

the question is, why do I get up and oppose this? Well, something else that Representative Coles said was this, he said this is a very carefully crafted law. Now, I submit to you when you have three different reports that come out of one committee and two reports that come out of another committee and none of them agree that there is still room for doubt as to whether this is a very carefully crafted bill or not.

Why do I think that it is not a very carefully crafted bill? First of all, let me explain that I do not think that people did not do a very good job and put a lot of time and sincere effort into this. Why I think it is not a carefully crafted bill is that this is a very serious subject that we are talking about, one that would take a great deal of time because we are putting people at risk of becoming criminals for a five year period — they could be incarcerated up to a five year period, a \$25,000 fine. We are saying that anyone who violates rules, orders, licenses — by the way, I was talking to a fellow from Bowater, one of his licenses covers a book six inches thick, there is a lot of information in there that you could be violating. Take a rule that the DEP promulgates, six months from now DEP could promulgate a particular rule that today I am not a criminal under, they promulgate it six months from now and I could become a criminal.

I ask you, how many times does DEP promulgate rules that you people have come to me or to other people and said that we don't agree with that rule and it needs to be changed? Why should I be under the subject of rules that I don't even know are crimes when I commit them?

In this bill, if I read it correctly, it states that demolition debris and construction debris can be considered special waste and are covered by this law. Does that mean that if I go out and clear a lot to construct an apartment house and I take three stumps out of it and dump it onto a piece of land that I could be charged with criminal activity? I don't know the answer to this, I am asking. If you say no, you can't be because nobody would charge you with criminal activity for three stumps, how many would they charge me for? How many would I have to have before they would charge me? Six? Twenty? One hundred? Where do I cross the line? I don't know.

My whole point is that this needs to have some greater work, people need to take the best minds, lawyer minds if they are around, sit down, all groups concerned, and go over this in a very careful manner. I think it is going to take more time than we have been able to have put into this right now. It is a very serious matter, the destruction of the environment is a very serious matter. But let me tell you something else that is a very serious matter, there is something extremely precious besides the environment and that is the freedom of individuals that this country has so long stood for. The concept that you are going to follow a good due process of law that I know well ahead of time what is a crime and what is not a crime, I think that is a very important concept that this country has followed. So, we have to try to balance these two precious heritages that we have, our environment and our concept of jurisprudence.

I will close with this, I called the Attorney General and I spoke in front of my committee, I spoke in front of the Judiciary Committee and said, why can't we pick the most serious crimes that we have



and specifically set down and address those? Why can't we take a very small bite of the apple now, craft very good, careful laws that would take care of that? I would be more than happy, as would everybody else that I talked to, to support that. Maybe these people think this did it, I don't. That is why, with great reluctance, I am going to vote "Ought Not to Pass."

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

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: As a courtesy, I would like to ask people in this body to reject the request to accept this "Ought Not to Pass" Report simply because people have worked very long. You sent it back to our committee, we consulted with Energy and Natural Resources. There are two other reports which seems to me inappropriate to discuss at this point, so we are talking about a bill that is no longer supported by anybody and we can't talk about two amendments that people are clear in their differences on at least and that we worked on. I find it almost offensive that after all that work, we can't even discuss them. For that reason alone, I would like to ask that people at this point reject this report.

I call this report "See", the see no evil, hear no evil kind of approach. This is a do nothing report. We have in fact, I thought, a fair amount of consensus among people in this body that there is a need to do something. We can't do it if we are not even going to be able to talk about the proposals in front of us.

The other thing I would like to point out because I don't think it is clear from this debate is that this bill and any of the reports here do not criminalize anything that is not already criminal. The real debate here is about, are the penalties appropriate? We can't have that unless we can have one of the other reports in front of us and I would appreciate your rejecting this report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Men and Women of the House: At the risk of being ruled out of order for discussing an amendment that might not be before us, I would like to comment that actually by supporting this motion "Ought Not to Pass", you in a way might be actually covering more activities that would be crimes. I would support the Majority Report that came out of Judiciary because I think it makes it very clear that by establishing the standard knowingly intentionally — it is not just knowingly and intentionally committing the crime, it's doing it, it is knowingly and intentionally doing it knowing that it is a crime. I think that answers the concerns that my good friend, Representative Gould, has.

The state would have the burden of proving, picking the cases that they had the financial resources and the motivation to prove that that polluter which we are concerned about knowingly intentionally is committing that crime and knowingly intentionally knows that that is a crime. So, we are actually reducing the number of crimes, environmental pollution crimes if you will, that will be prosecuted by going with the Majority Report. The real issue that both committees have worked so long and hard on to get at a higher criminal penalty to try to give the Attorney General's Office (and if you read the

bill it very clearly points out that that power, that tool will be in the hands of the Attorney General), not in the hands of the DEP, to get after the real serious pollution crimes that are occurring, give them a weapon, a tool that they need now that they currently don't have. Actually, as far as the concerns of Representative Gould, of the number and the types of environmental violations that an individual could be charged with as a criminal penalty, it actually would reduce them. By supporting this "Ought Not to Pass" Report, you would essentially be opening that field to a much boarder spectrum of things that could be prosecuted.

I would hope you would reject this motion and go on so we could support the Majority "Ought to Pass" Report of the Committee on Judiciary.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I am not a lawyer, don't claim to be, but there seems to be that here we have a group of lawyers that cannot come to an agreement of what we should be doing on a very, very serious bill. It would appear to me and it would seem to the most of us here that the seriousness of what is going to happen in regard to this type of a bill and the fines that are going to come upon our people, there should be a closer knit of the people involved and the Judiciary committee.

Late last night, I was passed this amendment. A little while later, I was presented with this bill and then further on in the evening just about the time I got ready to go to bed, I was presented with this one. That tells me that there is a very, very difference of opinion about what should go on as far as this bill is concerned. When you have three reports coming out of Judiciary Committee, I think it is time that we go ahead and move the "Ought Not to Pass" Report and let them go do another job in the next session of the next legislature.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I have supported this legislation in the past but the seed of doubt now exists in my mind. I don't like the flavor of the disagreements that are surfacing among the crafters of the legislation. However, I am torn on this because naturally no one in this House does want out-of-state truckers to come in here and damage our environment, we don't want a lot of these factors to take place. But, when a bill is divided to this extent and that seed of doubt appears and you have as little agreement — I trace it to the lack of time that you have had to work on it — so, I am going to change my vote around. As much as I am sympathetic to this legislation, I will be voting "Ought Not to Pass."

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

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: I suppose I should know when to quit, but....

I hope you listened particular to the debate of Representative Anthony and Representative Farnsworth. I hope you will at least get this into the posture where you can vote on the Majority Report because the Majority Report, in my opinion, speaks to the many concerns that were brought up when we last

debated this issue.

In my other life, I enforced the laws of the State of Maine. I feel very strongly about the statutes of the State of Maine. I feel very strongly about the posture of enforcement in the State of Maine. I feel very strongly about the abuse of process and I assure everyone here that I have given this a lot of thought. I told you when I got up before that I felt that this had been over-lobbied and there was a lot of overreaction. Now I guess I have got to describe it perhaps as we are getting on the brink of mass hysteria. I, for the life of me, cannot understand why there is so much concern over this. The Majority Report now is watered down to the point...

The SPEAKER PRO TEM: The Chair would remind the Representative he may speak about the bill and why we should not accept Report C. If Report C does fail, then he can talk about Report A which is the Majority Report.

Representative MARSH: Mr. Speaker, thank you, it has been a long couple of days.

I guess I hope that perhaps I will have a chance to debate the Majority Report. In making your decision on this vote, I would encourage and request people in here to read the communication that I had passed around a few minutes ago. I think that you will find that this speaks to most all of the concerns that were brought up here. I think if you read this, think about the environment that we live in, think about the quality of the people that we have in law enforcement here in this state, the quality of the attorneys that we have in the Attorney General's Office, that you will find it in your heart to get the Majority Report at least to the point where we can debate it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Reed.

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

A question to either committee members or anyone who may answer. I have read the ancillary material that was just handed out and on the second page of that it says "Examples of current and past criminal investigations which this new law will allow the Attorney General to prosecute." A few moments ago, I think I heard Representative Farnsworth say that this law does not make anything now criminal that isn't presently criminal. I am confused by the apparent dichotomy of these two facts and I would appreciate some clarification.

The SPEAKER PRO TEM: Representative Reed of Falmouth has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: In answer to the question just posed, I would say that it is a matter of practicality, not of whether or not something is already criminal. For example, other Class E offenses right now is a Class E misdemeanor include display of an improper license plate, public indecency, preparation of a term paper for a college student in return for a fee, possession of burglars tools or a theft under \$500. That is the nature of Class E in terms of its relative penalties compared with other kinds of crimes.

What the Attorney General's Office has told us, for example, is if they have an out-of-state company

that is sending people to a specific unlicensed site in this state, it is just not going to be worth the effort to get the kind of penalty that we give people for these other kinds of crimes (which we give for misdemeanors) to go through the prosecution and it is not treated as seriously by any involved. That is why the suggestion is that you can effectively prosecute if we make it at a level for example with other felonies such as stealing \$1,000 or more or burglary of a motor vehicle or bribery of a public official or witness tampering that that is the kind of level we are talking about because then it gets taken seriously and the penalties are commensurate with the effort that you have to put into it.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to further respond to the gentleman's questions. The first three examples given are all out-of-state individuals or entities that cannot be prosecuted in the existing law effectively because you cannot get out-of-state extraditions. Those three examples are clearly examples of situations where there can be no effective prosecution under the existing laws. The last three are cases that I believe falls into the category described by Representative Farnsworth that you could in fact charge them with a Class E crime but the penalty is so insignificant that it really wouldn't be worthy of the amount of effort involved.

I would also like to respond to the concern that there is a lot of different reports, I have heard that now a couple of different times. You have got to recognize that there are 8 people from two parties on one report in this bill and there are five others who divide three and two. We have divided reports coming through here all the time because people's philosophies differ. This is an example, not of legal technicalities but rather political philosophies or approaches to situations differing. That I think is really why you have basically two reports — there are three reports but there really is a majority of 8 on one of them.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: For goodness sakes, let's not make up a monster and put anymore weapons in the hands of the DEP. Can you just imagine the bureaucrats getting themselves this kind of a report and I know what they will say, if the politicians upon the hill could not decide how this is to be enforced, we will do it. I say again, and I have repeated it over and over again, let's get off the people's backs. I would hate to think that every little thing that they will decide. I have repeated this often, I am what you would call a product of the bureaucracy. In thirty years I have seen it of the bureaucrats when they say they don't know what they are doing upon the hill. A few years ago, the legislature in their wisdom gave the bureaucrats the rulemaking power. When they did that, why didn't they do away with the legislature? Now you have a committee that can't seem to decide what to do. Maybe what we should do is have something like a town meeting, every bill comes to be argued on the floor of the House, no committee hearings.

Only yesterday, as House Chair of my committee, I moved to get rid of a bill because there was an

attempt to come up with 8 different proposals. I would have been embarrassed if that had happened. Eight different proposals and you are asked to make up your mind on one of them. There was one person on one, two on the other one and 3 on another and so on. I say again, until they can bring up something which is concrete where we can tell the people of the State of Maine, the DEP can go so far and that's it and they must know what they are doing. This idea that maybe there will be a crime and maybe there won't — people by nature do what they feel is right but the bureaucrats must come up with new regulations to enforce the laws that have been placed before them and they must come up with new regulations to justify their existence. If you pass this kind of a law, they are going to have a field day.

I am one of the strict environmentalists, I live out in the country because I couldn't stand it in the city but I say again, until the committee can come back with something concrete, this ought not to pass.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to rise to add some additional facts to what Representative Farnsworth indicated with respect to Class E crimes. Class E crimes in the criminal statutes, 17-a, that deals with every ordinary crime is six months in jail or a \$1,000 fine. The environmental crime section with a Class E crime is a fine up to \$25,000 for each day of violation. The Class C crime currently in the environmental section is up to a \$50,000 fine for each day of violation. Currently, the Class C crime in the criminal statute is a \$5,000 fine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: The position posed to us by the motion of Report C, "Ought Not to Pass", the premise is that basically there isn't a problem. The problem defined to us repeatedly is not the criminality of a given act, the problem is whether the penalty for those acts approach the cost of doing business. That is the issue. If in fact you can dispose of some trash or something for a couple of thousand dollars illegally and if the penalty for getting caught for doing that approaches something like a couple of thousand dollars, the penalty is meaningless.

I park on the streets of Portland, I occasionally get tickets for parking there all day, the penalty is \$5, to put it in a garage is \$6.50 for the day, the cost of doing business we cannot operate our environmental laws in that manner. We must look at the issue of whether or not the penalty is appropriate and that debate can follow a negative vote of defeat of "Ought Not to Pass."

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

Representative TREAT: Mr. Speaker, Men and Women of the House: In response to the concerns from the Representative from Lisbon, Representative Jalbert, I urge you to vote against the pending motion so that we can go on to explain to you how Committee Amendment "A" limits the power of the DEP.

I would like to read a letter to you that came from the Attorney General to the Chairs of the Judiciary Committee concerning this matter of delegation of authority under this piece of

legislation. "Dear Senator Gauvreau and Representative Paradis: I am writing you regarding L.D. 1654, "An Act to Facilitate Criminal Enforcement of the Environmental Laws." Yesterday, during the final workshop on this bill, I assure you of my commitment to be personally involved in reviewing all Class C criminal and environmental actions brought by my office. There has been much discussion outside of the committee process regarding hypothetical cases that my office could bring under these upgraded penalties. First, we are not creating any new penalties, we are simply increasing the penalties. My office is not now nor have we in the past brought civilis cases to court in this area. As you may be aware, Title 5, section 196 allows me to delegate review of authorities in various matters. I shall not delegate review of these criminal environmental crimes unless I have a personal conflict with the case. In those circumstances, the Chief Deputy Attorney General will review the matter. Thank you for the many hours your committee has spent working on this legislation. Sincerely, Michael Carpenter."

Please vote against the pending motion so that we can go on to discuss Committee Report "A" and Committee Report "B" which, by the way, if you don't like either of those, you can then move indefinite postponement and have another opportunity to vote on this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Men and Women of the House: Sometimes it is hard for me to believe that Representative Anthony and I represent the same city. He certainly must represent different constituents, that's all I have to say. My constituents are not made up of just lawyers and professional environmentalists, they are made up of people who are trying to make a living and trying to get along in this very difficult world. The DEP has certainly never made it very easy for us.

We have had a bridge that has been under study now for — I have been a member of the study committee for 12 years at least — when we started out, that bridge was \$85 million; today it is \$158 million. \$25 million of that I would guess could be laid at the feet of the DEP. They have obstructed us in every way in the world. We had so many problems with the State of Maine DEP that we asked to have our case moved to Boston so we could get some response. I think in the final result of it, I believe we were fined \$30,000. I am getting a little tired of people getting up here and saying we have got to do this, we have got to do that. I am an environmentalist, I believe in the environment but if we had a bill today that did away with the DEP, I would be voting for it, I will tell you right now. I think this state would be a heck of a lot better off.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I don't often get up to speak a second time but it sounds very strange to me that if it was the only thing there was to raise the fine and the penalties, how is it that their lawyers on the Majority Report and the three lawyers on the Minority Report can't get together on it?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and

Gentlemen of the House: I am calmed down a little bit now and maybe I can say what I want to say. Any order, license, permit or approval or decision by the DEP would come under one of these Class C felony penalties.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Høglund.

Representative HøGLUND: Mr. Speaker, Men and Women of the House: I really don't like to do this today but I feel like I have to. I believe what Representative Lord and Representative Anderson are trying to tell you is, if the Judiciary Committee could have taken it to the midnight hauler and put it together so that we could have some coalition because both Energy and Natural Resources and Judiciary want to get the midnight hauler, I want to get the midnight hauler. Unfortunately, this piece of legislation is the worst piece of legislation written. It is the worst piece of legislation on environmental and judiciary compiled. You have 8 attorneys on three different reports who can't agree and that is the problem with attorneys handling environmental laws. The environmental laws are already crimes. The thing is they are upgraded the crime to Class C. Some of it should be. The midnight hauler should be. People dumping into our drinking water knowingly should be fined but there is some fine lines here on what is innocent and what is knowingly and what is intentionally and what is willing. Sometimes when you have businesses such as industry who have air emissions that come out that industry, it is not knowingly and intentionally, it is a mistake but they can be charged with a crime.

You have farmers — and this is really something that I can't understand with the attorneys, you have farmers who are exempt for putting culverts in the roads, they pollute it, but a contractor, a city person, can you imagine that, it is a crime.

I ask you to vote for "Ought Not to Pass" and maybe the two committees can come up with what really needs to be done to make the Class E crimes and get to the real issue of the midnight hauler and people who are really doing it and not attorneys opinions on exactly what should be happening.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I was not planning to rise this early on this issue but after the previous speaker, I have to clarify something that was said.

To me, this is an excellent bill, the Majority Report, it has been very carefully and diligently worked on for weeks.....

The SPEAKER PRO TEM: The Chair would remind the Representative that we are not on Report "A." However, he may speak on the bill itself and why we should not accept Report "C" but he may not speak on Report "A."

Representative NUTTING: May I pose a question to the Speaker?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative NUTTING: May I answer the previous speaker's allegations about a certain industry being exempt?

The SPEAKER PRO TEM: The Chair would answer in the affirmative.

Representative NUTTING: A statement was just made that farmers would be exempt from this law and that is not the case at all. Believe me, they are

not exempt, they have no problem with this bill.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of the Representative from Auburn, Representative Cote, that the House accept Report "C", "Ought Not to Pass." Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 406

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Carroll, D.; Carroll, J.; Cashman, Chonko, Clark, H.; Cote, Crowley, DiPietro, Donnelly, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Hanley, Heino, Hepburn, Hichborn, Hichens, Høglund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kontos, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Mahany, Marsano, Martin, H.; McHenry, Melendy, Merrill, Morrison, Murphy, Nash, Norton, O'Gara, Ott, Paradis, J.; Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Rotondi, Salisbury, Savage, Sheltra, Spear, Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Vigue, Waterman, Whitcomb, The Speaker.

NAY - Adams, Anthony, Cahill, M.; Carleton, Cathcart, Clark, M.; Coles, Constantine, Daggett, Dore, Gean, Goodridge, Graham, Gray, Handy, Heeschen, Holt, Ketterer, Kilkelly, Larrivee, Lawrence, Lemke, Manning, Marsh, Mayo, McKeen, Michael, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, Oliver, Paradis, P.; Paul, Pfeiffer, Pineau, Poulin, Pouliot, Powers, Rand, Richardson, Ruhlín, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Stevens, A.; Treat, Tupper, Wentworth.

ABSENT - Bowers, Hastings, Luther, Parent, Richards, Ricker, Small.

Yes, 91; No, 53; Absent, 7; Paired, 0; Excused, 0.

91 having voted in the affirmative and 53 in the negative with 7 being absent, the motion did prevail.

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At this point, the Speaker resumed the Chair.

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The House was called to order by the Speaker.

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Representative Farnsworth of Hallowell moved that the House reconsider its action whereby Report "C", "Ought Not to Pass" was accepted on Bill "An Act to Facilitate Criminal Enforcement of the Environmental Laws" (H.P. 1129) (L.D. 1654).

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

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I appreciate the fact that everybody is here at this point because I would like to take this opportunity to clarify that what we have just voted on is the "Ought Not to Pass" Report for this bill.

This gives this body no opportunity to consider and judge or discuss the work that the committees

have just done. We ended up with two report, plus the "Ought Not to Pass" Report and I will not belabor it but I hope you understand that current law is broader than either of the reports. Current law is broader than anything before this body so if you are worried about their being a law that is too unfamiliar for people and too broad, the one on the books is worst than what we have in front of this body.

The only thing that we have been doing for weeks now is narrowing and narrowing and chipping away. We have the broadest law possible on the books now. We have been chipping away at it and we have disagreed over how far to chip and what to chip but if your concern is that this is too broad a law, you are leaving the broadest of all on the books.

The second thing you are doing, which I don't really believe anybody here wants to do, is you are leaving almost a worthless penalty for any significant, intentional violation of our criminal laws. So, for those reasons, I would ask that this body reconsider and, Mr. Speaker, I request a roll call.

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 Hallowell, Representative Farnsworth, that the House reconsider its action whereby the House voted to accept Report "C", "Ought Not to Pass. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 407

YEA - Adams, Anthony, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Coles, Constantine, Daggett, Farnsworth, Gean, Goodridge, Graham, Gray, Gwadosky, Handy, Heeschen, Holt, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Mahany, Manning, Marsh, Mayo, McHenry, McKeen, Michael, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, Oliver, Paradis, P.; Paul, Pfeiffer, Pineau, Poulin, Pouliot, Powers, Rand, Richardson, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Stevens, A.; Stevenson, Treat, Tupper, Wentworth.

NAY - Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Butland, Carleton, Carroll, J.; Cashman, Chonko, Clark, H.; Cote, Crowley, DiPietro, Donnelly, Dore, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Hale, Hanley, Heino, Hepburn, Hichens, Hoglund, Hussey, Jacques, Jalbert, Kerr, Ketover, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Melendy, Merrill, Morrison, Murphy, Nash, Norton, O'Gara, Ott, Paradis, J.; Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Rotondi, Salisbury, Savage, Sheltra, Spear, Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Aikman, Bowers, Clark, M.; Duffy, Hastings, Hichborn, Joseph, Luther, Parent, Ricker, Small.

Yes, 58; No, 82; Absent, 11; Paired, 0; Excused, 0.

58 having voted in the affirmative and 82 in the negative with 11 being absent, the motion did not prevail.

Subsequently, Report "C" "Ought Not to Pass" was accepted and sent up for concurrence.

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

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Extend the Appraisal License Effective Date (H.P. 1734) (L.D. 2422) (H. "A" H-1284to S. "A" S-645)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**ENACTOR**

**Emergency Measure**

**(Reconsidered)**

Resolve, to Establish the Maine Youth Apprenticeship Program (S.P. 970) (L.D. 2450)

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

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 2450 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-1301) and moved its adoption.

House Amendment "A" (H-1301) was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-1301) in non-concurrence and sent up for concurrence.

**PASSED TO BE ENACTED**

An Act Regarding Electronic Banking Terminals (H.P. 1765) (L.D. 2448)

An Act Concerning the Maine Municipal and Rural Electrification Cooperative Agency (S.P. 969) (L.D. 2449)

An Act to Further Enhance and Protect Maine's Great Ponds (S.P. 922) (L.D. 2369) (C. "A" S-719)

Were reported by the Committee on Engrossed

**Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

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

**REPORTS OF COMMITTEES**

**Ought to Pass Pursuant to Joint Order (H.P. 1766)**

Representative MELENDY from the Committee on Housing and Economic Development on Bill "An Act to Create Jobs, Promote Economic Growth and Provide Business Assistance" (EMERGENCY) (H.P. 1773) (L.D. 2455) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1766)

Report was read and 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.

On motion of Representative Melendy of Rockland, the House reconsidered its action whereby An Act to Further Enhance and Protect Maine's Great Ponds (S.P. 922) (L.D. 2369) (C. "A" S-719) was passed to be enacted.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 2369 was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-719) was adopted.

The same Representative offered House Amendment "A" (H-1302) to Committee Amendment "A" (S-719) and moved its adoption.

House Amendment "A" (H-1302) to Committee Amendment "A" (S-719) was read by the Clerk and adopted.

Committee Amendment "A" (S-719) as amended by House Amendment "A" (H-1302) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-719) as amended by House Amendment "A" (H-1302) thereto in non-concurrence and sent up for concurrence.

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

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act Regarding Maine's Comprehensive Early Intervention System for Infants and Children Ages 0 to School-age 5 (S.P. 921) (L.D. 2360) (H. "A" H-1274; S. "A" S-716; and H. "B" H-1295 to C. "A" S-679)

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

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative

Constantine.

Representative CONSTANTINE: Mr. Speaker, Ladies and Gentlemen of the House: This bill is about child development services known as CDS and as a cosponsor of this bill, I wish to take a few minutes to state for the Record the legislative intent.

All of us who have been involved in this bill over the last four months have taken great pains, sometimes acute pains, to focus the energies of the system on the development of services to young children with special needs and their families. This is the spirit of this law. We have deliberately empowered the system at 16 local sites to be known hereafter as 16 regional sites. In some ways, we have expanded local responsibility and local control. This provides people at the local level with new challenges, new opportunities and we have faith that they will use them well to benefit the people in their communities.

It is our wish that each part of the CDS system see the other as a vital and necessary part of the whole and that each has a responsibility to support and advance the entire system as well as the spirit of the law. We hope that CDS resists any opportunity to become more than a bureaucracy at any level, that often children with special needs increase in all parts of Maine and that CDS regains its national recognition as a good service delivery system for early intervention.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Revise the Salaries of Certain County Officers (H.P. 1768) (L.D. 2451)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act Related to the Maine State Retirement System (S.P. 809) (L.D. 2008) (H. "A" H-1292)

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

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Men and Women of the House: This bill is somewhat public phoenix I believe, I think it was before the body earlier, it went away, was recalled from the files, it appeared before in the form of an amendment and found it to be

technically inappropriate and is now back as H-1292. If you look at it for just a moment, it seems to me at least and I would certainly stand to be corrected that it grants a full year of retirement credit for employees retroactively in 1989 who have a thousand hours for the State of Maine. For 25 weeks of work, you get a full year of credit. I don't know of any other employer who is quite that generous with a full year of retirement credits.

Most troubling to me is the fiscal note, which has in one sentence only that I will read to you, "The increase of future employer contributions for state employees could be as much as \$53,000 each annually. I find that an extraordinarily high sum for a part-time employee.

Mr. Speaker, I request the yeas and nays on enactment of this measure.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: My good friend, the Representative from Falmouth said he requested to be enlightened on this. I think I should do it.

What happened last year is that the Internal Revenue came out and said that anyone who does not work full-time for the state such as your conservation people, such as the clerks that we have here in the legislature, they cannot be under the Maine State Retirement System but must come under the Social Security System. If you remember, last December we passed an emergency bill so that the state would be in compliance with the Internal Revenue code. What happened as a result of that was that all these people such as the people who work for conservation department in parks, such as the people who work six or seven months for the DOT, such as all the clerks in this building, legislative employees, were cut out of the retirement system completely. Some had been under that part-time system for four or five years. There is no such thing as working 10 weeks and getting a year's credit. What this bill does is that it authorizes the Maine State Retirement System to set up a program so that our legislative employees or the people who work for conservation and DOT — there will be a formula whereby if they work at least a thousand hours, it will be pro-rated that they will have credit for the retirement system based on that amount. There is no such thing as giving anyone a free ride. As you know, yesterday an attempt was made to tag on to this thing and make it a Christmas tree bill. Last night we amended it so that it would apply to those people who did work part-time, called PST's, part-time, seasonal temporary employees.

The second part of that bill took care — and I think people from the Education Committee would be interested — it took care of these educational technicians which was something that was left off in the retirement system. There is nothing in this bill that gives anybody any kind of a free ride. It is to reinstate people who have been under the retirement system and to be able to continue that such as part-time seasonal temporary people.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I must respectfully disagree with the gentleman who just spoke when he said that there is a pro rata provision in here and I will read to you the following: "The

board shall provide in its rules related to the determination of creditable service for state employees that any part-time or seasonable state employee who is employed during the period beginning January 1, 1989 and ending June 30, 1992 is credited with a full year of creditable service for each year in which that employee is employed for 1,000 or more hours. There is no pro rata provision in this measure.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I shall repeat myself again and tell the gentleman from Falmouth that what we are doing in here is reinstating people who have been told that they have credit under the Maine State Retirement System. It is only fair because the Internal Revenue made this regulation. We call tell all these legislative employees and all these people who work for the Conservation Department, such as park rangers and the people in DOT (and we did get communication from the Conservation Department and DOT) that that is a big part of summer employment.

It is not a question of creating anything new. This is to reinstate those people who have had credit in the past rather than turning around and saying, here's your money, get out.

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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 408

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Bailey, R.; Bell, Boutillier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hichens, Hوجلund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lipman, Look, Lord, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Morrison, Murphy, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, W.; Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Savage, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Bailey, H.; Barth, Bennett, Butland, Carroll, J.; Donnelly, Duplessis, Foss, Garland, Greenlaw, Hanley, Hepburn, Kutasi, Lebowitz, Libby, MacBride, Marsano, Ott, Pendexter, Pendleton, Reed, G.; Richards, Salisbury, Stevens, A.; Whitcomb.

ABSENT - Bowers, Carleton, Coles, Crowley, Hastings, Luther, Mitchell, J.; Nadeau, Parent, Pineau, Ricker, Sheltra, Small.

Yes, 112; No, 26; Absent, 13; Paired, 0; Excused, 0.

112 having voted in the affirmative and 26 in the negative with 13 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act (S.P. 877) (L.D. 2238) (S. "A" S-638; S. "B" S-701; and H. "B" H-1287 to C. "A" S-633)

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

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

**FINALLY PASSED**

**Constitutional Amendment**

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) (H. "D" H-1237 to C. "B" S-527 and S. "B" S-555)

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

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

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: Due to the history of this legislation, there may be some confusion regarding the meaning of the phrase "legislation implementing this section" which appears at the beginning of the second sentence of the bill.

Originally, L.D. 66 as amended by Committee Amendment "B" was presented as proposed Constitutional Amendment that set forth a basic prohibition on mandates and listed several exception where the legislature could act without providing funding. This earlier version depended upon a companion implementing statute, L.D. 1963, to give definition to these exceptions.

L.D. 66 as it appears before us today does not include a list of exceptions and is not dependent upon a companion bill. Instead, it is a simple statement of a requirement to fund future mandates. Exceptions to the general no mandate without funding rule may be determined on a case-by-case basis by a two-thirds vote of both Houses. In this new context, the phrase "legislation implementing this section" does not mean that the legislature may in the future use implementation legislation to further define or water down the basic concept of L.D. 66 to require funding for state mandates or in any way create new exceptions. Implementing legislation may be necessary to deal with such issues as how funding will be distributed to local units and how the amount required to be funded will be determined.

Further, appropriations to provide state funds to meet the annual 90 percent funding requirement do not require a two-thirds vote.

This being a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken. 109 voted in favor of same and 20 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

An Act Concerning the Bureau of Intergovernmental Drug Enforcement (H.P. 1629) (L.D. 2292) (H. "A" H-1186 to C. "A" H-1106 and H. "A" H-1282)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. A two-thirds vote being necessary, a total was taken. 109 having voted in the affirmative and 9 in the negative, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**(Off Record Remarks)**

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On motion of the Representative Morrison of Bangor,

Adjourned at 7:28 p.m. until Saturday, March 28, 1992 at twelve o'clock noon.