

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME V**

**SECOND REGULAR SESSION**

**House of Representatives**  
January 5, 1994 to April 14, 1994

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
30th Legislative Day  
Tuesday, March 29, 1994

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

Prayer by Reverend Douglas Drown, First Congregational Church, Bingham.

National Anthem by the Mountain Valley High School Chorus, Rumford.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

The following Joint Resolution: (S.P. 768)

**JOINT RESOLUTION IN APPRECIATION AND RECOGNITION OF THE STATE'S TWELVE COUNTY PRIVATE INDUSTRY COUNCIL**

WHEREAS, the United States Job Training Partnership Act, 29 United States Code, Sections 1501, et seq., established private industry councils and charged them with the responsibility "to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area"; and

WHEREAS, the United States Job Training Partnership Act directs that each private industry council must consist of:

"(1) representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management of policy responsibility; and

(2) representatives of educational agencies (representative of all educational agencies in the service delivery area), organized labor, rehabilitation agencies, community-based organizations, economic development agencies, and the public employment service."; and

WHEREAS, the Twelve County Private Industry Council has successfully implemented federal training initiatives and the State has utilized the Twelve County Private Industry Council for delivery of state initiatives such as Strategic Training for Accelerated Reemployment (STAR), Additional Support for People in Retraining and Education (ASPIRE) and the Maine Training Initiative; and

WHEREAS, the Twelve County Private Industry Council has provided the infrastructure that creates the bridge for a meaningful partnership between the public and private sectors in the design, implementation and oversight of training programs; and

WHEREAS, thousands of residents of the State

annually receive high quality employment and training services provided through the Twelve County Private Industry Council job training system; and

WHEREAS, the quality and performance of employment and training programs under the Twelve County Private Industry Council has consistently surpassed federal performance standards and has achieved the highest placement rate in New England; and

WHEREAS, the provision of quality employment and training services is critical to the economic well-being of citizens of the State and the economic vitality and competitiveness of businesses of the State on a regional and national basis; and

WHEREAS, the Twelve County Private Industry Council provides fully staffed and comprehensive employment and training services at offices located in each county of its 12-county jurisdiction; and

WHEREAS, the Twelve County Private Industry Council is leading the way in developing means and strategies to cope with employment and training problems ranging from high unemployment to labor shortages; and

WHEREAS, the Twelve County Private Industry Council has demonstrated its commitment, dedication, effectiveness and leadership in addressing the State's employment and training needs of today and planning for the needs of tomorrow; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Sixteenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, pause to honor and give recognition to the State's Twelve County Private Industry Council in appreciation of its outstanding dedication, leadership and provision of employment and training services for the citizens and businesses of the State since 1983; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the State's Twelve County Private Industry Council.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

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**Ought to Pass - Pursuant to the Statutes**

Report of the Committee on Audit and Program Review, pursuant to the Maine Revised Statutes, Title 3, chapter 33 ask leave to submit its findings and report that the accompanying Bill "An Act to Increase the Efficiency of the Appointment Process for Occupational or Professional Regulatory Boards" (S.P. 734) (L.D. 1960) be referred to the Joint Standing Committee on Audit and Program Review for public hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the Report read and accepted and the Bill and accompanying papers Indefinitely Postponed.

Report was read and accepted and the Bill and all accompanying papers were indefinitely postponed in concurrence.

KETTERER of Madison  
COTE of Auburn  
FARNSWORTH of Hallowell

**Ought to Pass as Amended**

Report of the Committee on **Legal Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-530) on Bill "An Act to Make Changes in the Manufactured Housing Laws" (EMERGENCY) (S.P. 461) (L.D. 1453)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-530).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-530) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-530) in concurrence.

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-534).

Representatives: OTT of York  
FAIRCLOTH of Bangor  
SAXL of Bangor  
PLOWMAN of Hampden  
CATHCART of Orono

Came from the Senate with the Majority **"Ought Not to Pass"** Report read and accepted.

Reports were read.

Representative COTE of Auburn moved that the House accept the Majority **"Ought Not to Pass"** Report.

On motion of Representative ZIRNKILTON of Mount Desert, tabled pending the motion of Representative COTE of Auburn that the House accept the Majority **"Ought Not to Pass"** Report and later today assigned.

**Divided Report**

**Ought to Pass as Amended**

Report of the Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-532) on Bill "An Act to Permit Collection of Public Assistance Overpayments by Administrative Process" (S.P. 471) (L.D. 1463) (Governor's Bill)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-532).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-532) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-532) in concurrence.

Majority Report of the Committee on **Legal Affairs** reporting **"Ought Not to Pass"** on Bill "An Act to Amend the Private Security Guards Act" (S.P. 599) (L.D. 1658)

Signed:

Senators: HALL of Piscataquis  
HANDY of Androscoggin  
CAREY of Kennebec

Representatives: DAGGETT of Augusta  
LEMKE of Westbrook  
BENNETT of Norway  
MICHAEL of Auburn

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-526) on same Bill.

Signed:

Representatives: BOWERS of Washington  
GAMACHE of Lewiston  
NASH of Camden  
TRUE of Fryeburg  
ROBICHAUD of Caribou  
STEVENS of Sabattus

Came from the Senate with the Majority **"Ought Not to Pass"** Report read and accepted.

Reports were read.

Representative DAGGETT of Augusta moved that the House accept the Majority **"Ought Not to Pass"** Report.

On motion of Representative BAILEY of Township 27, tabled pending the motion of Representative DAGGETT

**Divided Report**

Majority Report of the Committee on **Judiciary** reporting **"Ought Not to Pass"** on Bill "An Act to Define the Liability of Gas Utilities and Natural Gas Pipeline Utilities" (S.P. 396) (L.D. 1227)

Signed:

Senators: BERUBE of Androscoggin  
HANLEY of Oxford  
CONLEY of Cumberland

Representatives: LIPMAN of Augusta  
CARON of Biddeford

of Augusta that the House accept the Majority **"Ought Not to Pass"** Report and later today assigned.

SPEAR of Nobleboro  
FARNSWORTH of Hallowell

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**Divided Report**

Majority Report of the Committee on **Judiciary** reporting **"Ought Not to Pass"** on Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions" (S.P. 293) (L.D. 880)

Signed:

Senator: CONLEY of Cumberland

Representatives: CATHCART of Orono  
LIPMAN of Augusta  
CARON of Biddeford  
OTT of York  
FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
FARNSWORTH of Hallowell

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Senators: BERUBE of Androscoggin  
HANLEY of Oxford

Representative: PLOWMAN of Hampden

Came from the Senate with the Minority **"Ought to Pass"** Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-524).

Reports were read.

On motion of Representative COTE of Auburn, tabled pending acceptance of either Report and later today assigned.

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**Divided Report**

Majority Report of the Committee on **Taxation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-527) on Bill "An Act to Modify the Taxation of Leases on Automobiles" (S.P. 545) (L.D. 1570)

Signed:

Senators: SUMMERS of Cumberland  
CAREY of Kennebec  
BALDACCI of Penobscot

Representatives: TARDY of Palmyra  
DORE of Auburn  
SIMONEAU of Thomaston  
RAND of Portland  
HOGLUND of Portland  
DIPIETRO of South Portland  
NADEAU of Saco

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

Signed:

Representative: MURPHY of Berwick

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-527)

Reports were read.

Representative NADEAU of Saco moved that the House accept the Majority **"Ought to Pass"** Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I have no illusions where this bill is going with a twelve to one report but I just want to explain why I could not support it.

This is a combination of two bills, 1570 and 1701. 1701 is "An Act to Modify the Taxation of Leases of Automobiles". I have no problem with that bill whatsoever, I agree with it, I think it is good business for the State of Maine.

The bill I do have a problem with is L.D. 1570, on rental cars. What the original 1570 did was that the rental car companies came in (Hertz and Avon and all of those) and they said there was a shortage of rental cars in the State of Maine because our excise tax was too high. I think we all agree with them, our excise tax is very high, we are one of the highest excise tax states in the country. The State of Vermont does not have any excise tax, the State of New York has no excise tax, New Hampshire and Massachusetts are both much lower than we are. Therefore, of course, it cost them more money to do business because they had to pay excise tax and they had to pay it on a full year even if they only brought the cars in during our tourist season, large tourist season, which is in the summer.

What I wanted to agree to do was allow them to come in to register those cars for three months a year or four months a year, do it on a quarterly basis or even a monthly basis while they had those cars in this state. But, the committee chose to do it the way the rental car agencies wanted to do it. What we are doing is raising the sales tax on rental cars in this state. When you rent a car or when somebody comes in to Maine to rent a car they are raising the sales tax from seven percent to ten percent. That money goes into our Bureau of Taxation. At the end of the year, the rental car companies send a bill to the Bureau of Taxation on what they paid for excise tax and we are going to reimburse them for their excise tax. I think that is poor tax policy. I think it is completely wrong. I am a minority of twelve to one but that is all right, I firmly believe — I just could not go along with it.

What these companies are doing, they are going to make money on this. I still maintain that we make our truckers in this state pay excise tax on suggested retail and sometimes that is a \$60,000 valuation more than what they paid for those big semi trucks, those big tractors. Yet, we aren't

reimbursing them for overtaxing them. Why should we reimburse any company — raise a tax to reimburse a business? Our excise tax is too high, we should do something about our excise tax and bring it down so that every business can come into Maine and make a profit and do business. We should not be raising the sales tax.

I do not buy the argument that we are exporting this tax because everybody else is exporting taxes and it all ends up that that little consumer is paying the bill. So, if we have a fair, even, level playing field with every other state — New Hampshire, Massachusetts lets them pay excise taxes while they are there.

The argument came up that it is a mandate that we would have to reimburse the towns. In my opinion, and I am not a lawyer, we would not have to reimburse the towns because they would still be gaining, they would be gaining that extra three months a year or a month a year, whichever way we chose to go. I do not believe that is any loss of money. It would be an increase of money.

I just wanted to give my side of the story and I would hope you would vote with me but believe me, I have no illusions where it is going.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: This was a 12 to 1 Committee Report. I fought Representative Murphy of Berwick, she feels very strongly about this matter and expressed herself excellently in terms of her objections. Let me tell you why we did the leased auto tax change.

There is a pool of cars regionally around the country and there is a pool in Boston, a pool probably out of New York or somewhere else and whether or not cars that are going to be available for rentals are allotted to a state depends somewhat on whether or not the tax is favorable. Well, a number of states have changed their method of taxing these automobiles and excise taxing them and it has been hard for Maine businesses that want to rent cars to get enough cars to rent. In particular it hurts us with the summer industry and when people fly into Bangor or they fly into Portland, they are having a hard time finding a rental car. The rental car companies said we have turned away a number of vehicles, potential sales. So, let's remember that these people who rent cars are in business and they are in business to make money and if you can't rent a car and drive up into the mountains around Rangeley or drive up the coast you can't go up there and spend your money because the bus service isn't that great. So, we think this is going to help the tourism business in Maine through doing this change on the excise tax on cars that are available for rental.

We would also like to point out to you that the committee felt very favorable towards this. I have come, over the years, to admire New Hampshire for their tremendous ability to export their tax, how many times have members of this body — I think we are very representative of the people of the State of Maine — rented a car in Maine? Well, I have got one this week because my husband's broke down, it is getting an engine job, so I am renting a car this week. A few years ago, I had an accident and I rented a car. I think my driving record is well known around the House here. I have had a couple of occasions in the last eight years to rent a vehicle

and now I know none of you will get in a car with me behind the wheel. But most of you, if you are going to rent a car, you rent it in Florida or you rent it in Texas or California when you are on vacation. So, who is paying that tax? Out-of-staters. What is this doing? This is allowing us to help a business in Maine and well in excess of 90 percent of the tax is going to be picked up by out-of-staters who when they come here are so glad to get here and find it so much less of a hassle to be on the Maine coast than down on the Cape where they will get stuck in traffic jams for three hours that they won't even notice the difference in their tax rate, besides which a number of other states are doing the same sort of thing. This will allow us to have some more short-term cars available for rental in Maine.

I think that just about explains it.

I also want you to know that modifying the sales tax on automobile leases for one year longer, if you take a look at the fiscal note, effective January 1, 1995, it is going to reduce the General Fund revenue, okay, and it will decrease the General Fund revenue by approximately \$1.5 in fiscal year 1995-96 but have a positive effect in subsequent years.

The net effect of these changes between the one on the lease and the one on the rental is awash and I want you to turn to the committee amendment, Senate Paper 545 of L.D. 1750, take a look at the fiscal note and take a look at the statement of fact and I think that you are going to find, very comfortably, that, (1) it is going to be paid for by out-of-staters primarily, and (2) it is going to allow our auto rental companies some more cars that they can rent for short season, and (3) it is not going to cost us anything. It is good for business, it doesn't cost us anything and I hope you will support the committee Majority Report.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add a couple of more comments to what Representative Dore had to say.

She explained that each company has a pool and they allot each state so many and Maine gets so many cars and that is all these companies want to register here in Maine because of our excise tax system. She said a lot of states do not have excise taxes to pay on these cars, but where Maine does, each company puts in here just the minimum amount. If they are going to have just the minimum amount and with our excise tax so high, all these companies prefer to register and excise in this state is just the small cars, your Escort's, and other small cars as such. A lot of the clients that come into Maine like to rent Town Cars and larger cars and the companies prefer not to because the excise tax is so high on those large priced cars.

The other advantage to this bill for these companies — it is a win for them but it is a win also for the towns. The towns this way will get to collect more excise and keep this excise tax through this extra percentage of sales tax they collect, the three percent extra, that will come back to reimburse the companies for the extra time that they will not have those cars in service here in this state.

I think it is a win situation for the towns because they are going to be able to collect all the excise tax that we wouldn't get if we didn't have these cars. The way it is now they will just put in

the minimum amount of cars and in the summer time when they need those extra cars they bring them in from out of state, they will bring them in from New York, Rhode Island or wherever, where the excise tax system is actually zero in those states.

I believe that this is a good bill for the tourist industry, a good bill for the towns, and a good bill all the way around. I would urge you to support the Majority "Ought to Pass" Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify one thing. I don't have a problem with the tax. If we want to raise the sales tax on rental cars, I don't have a problem. It is the tax policy. I believe this is the wrong thing to do to start raising taxes to reimburse to certain businesses and not making our business climate an even playing field for everybody in this state. That is where I depart from them. I do not believe that the towns are going to make that much more money. The only ones that are going to make it are the large cities who have them, but in this state if they could register for the number of months they bring that car in here and pay excise tax for the three months they have that car the towns are still going to get an increase in money. Grant you maybe not as much, but I hope the Appropriations Committee begins to realize there is three percent sales tax out there they can get their hands on. I don't believe we should be putting it back into a business, I believe if we are going to raise a tax, the tax should go to the good of all, not one individual business. It is the policy I am against.

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

A vote of the House was taken.

65 voted in favor of the same and 35 against, subsequently, the Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (S-527) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-527) in concurrence.

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**Non-Concurrent Matter**

Bill "An Act to Clarify the Application of Nursing Facility Admissions Criteria" (EMERGENCY) (H.P. 1230) (L.D. 1650) on which the Majority "Ought to Pass" as amended Report of the Committee on Human Resources was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-922) in the House on March 25, 1994.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Human Resources read and accepted in non-concurrence.

Representative MARTIN of Eagle Lake moved that the House Recede and Concur.

On motion of Representative TREAT of Gardiner, tabled pending the motion of Representative MARTIN of Eagle Lake that the House Recede and Concur and later today assigned.

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**Non-Concurrent Matter**

Bill "An Act to Promote Integrity in the Citizens Petition Process" (H.P. 1417) (L.D. 1931) which was passed to be engrossed as amended by Committee Amendment "A" (H-881) in the House on March 24, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-881) and Senate Amendment "B" (S-542) in non-concurrence.

The House voted to Recede and Concur.

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**COMMUNICATIONS**

The following Communication: (S.P. 770)

116th Maine Legislature

March 28, 1994

Senator John J. O'Dea  
Rep. Elizabeth H. Mitchell  
Chairpersons  
Joint Standing Committee on Education  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Ronald P. Milliken of Farmington, David W. Brown of Bar Harbor, Walter H. Moulton of Brunswick and Natalie Graceffa of Augusta for reappointments to the Maine Educational Loan Authority.

Pursuant to Title 20A, MRSA Section 11415, these nominations are currently pending before the Joint Standing Committee on Education.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/Dan A. Gwadosky  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

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The following Communication: (S.P. 771)

116th Maine Legislature

March 28, 1994

the Senate.

Senator John J. O'Dea  
Rep. Elizabeth H. Mitchell  
Chairpersons  
Joint Standing Committee on Education  
116th Legislature  
Augusta, Maine 04333

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/Dan A. Gwadosky  
Speaker of the House

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Walter H. Moulton of Brunswick, Natalie Graceffa of Augusta, David W. Brown of Bar Harbor and Ronald P. Milliken of Farmington for reappointments to the Maine Educational Loan Authority.

Came from the Senate, Read and Referred to the Committee on **Judiciary**.

Was Read and Referred to the Committee on **Judiciary** in concurrence.

Pursuant to Title 20A, MRSA Section 11415, these nominations will require review by the Joint Standing Committee on Education and confirmation by the Senate.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Sincerely,

Resolve, to Clarify the Transfer of Certain State Lands to the Maine Veterans' Homes (EMERGENCY) (H.P. 1465) (L.D. 1991) (Presented by Representative JALBERT of Lisbon)(Governor's Bill)

S/Dennis L. Dutremble  
President of the Senate

Reference to the Committee on **Aging, Retirement & Veterans** suggested and ordered printed.

S/Dan A. Gwadosky  
Speaker of the House

Under suspension of the rules and without reference to a Committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence. Ordered sent forthwith.

Came from the Senate, Read and Referred to the Committee on **Education**.

Was Read and Referred to the Committee on **Education** in concurrence.

**SPECIAL SENTIMENT CALENDAR**

The following Communication: (S.P. 769)

In accordance with House Rule 56 and Joint Rule 34, the following item:

116th Maine Legislature

Recognizing:

March 25, 1994

Calais High School Lady Blue Devils, of Calais, who won the State Class C Girls Basketball Championship. They won 44 straight games in the last two years; (HLS 911) by Representative DRISCOLL of Calais. (Cosponsor: Senator VOSE of Washington)

Senator Gerard P. Conley, Jr.  
Rep. Constance D. Cote  
Chairpersons  
Joint Standing Committee on Judiciary  
116th Legislature  
Augusta, Maine 04333

On objection of Representative DRISCOLL of Calais, was removed from the Special Sentiment Calendar.

Dear Chairs:

Was read.

Please be advised that Governor John R. McKernan, Jr. has nominated the following:

The **SPEAKER**: The Chair recognizes the Representative from Calais, Representative Driscoll.

Pursuant to the Constitution, Article V, Part 1, Section 8:

**Representative DRISCOLL**: Mr. Speaker, Men and Women of the House: It is with a great deal of pride I stand today to welcome the Lady Blue Devils Basketball Team from the great City of Calais in Washington County. The Lady Blue Devils, under the expert coaching of Bob McShane, captured the State Class C Basketball Championship against the Twin Towers of Madison. The Blue Devils started the season with just one returning starter and from sheer determination captured the gold ball. This is the second straight year the Lady Blue Devils have won the state title. They have racked up an astonishing 44 and 0 record. We, their friends, family, citizens of Calais and school join in honoring them today. Subsequently, was passed and sent up for

John R. Atwood of Damariscotta for appointment as a Justice of the Maine Superior Court.  
Samuel W. Collins, Jr. of Rockland for appointment as an Active Retired Justice of the Maine Supreme Judicial Court.

Pursuant to Title 4, MRSA Section 6:  
Kermit V. Lipez of South Portland for appointment as a Justice of the Maine Supreme Judicial Court.

This nomination will require review by the Joint Standing Committee on Judiciary and confirmation by



concurrence.

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**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative BOWERS from the Committee on Legal Affairs on Bill "An Act to Amend the Laws Governing the Training and Certification of Law Enforcement Officers" (H.P. 828) (L.D. 1114) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-969)

On motion of Representative ZIRNKILTON of Mount Desert, tabled pending acceptance of the Committee Report and later today assigned.

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**Ought to Pass as Amended**

Representative COTE from the Committee on Judiciary on Bill "An Act to Establish Limited Liability Corporations and Set Their Tax Rate as Other Corporations" (H.P. 1123) (L.D. 1522) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-980)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-980) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-980) and sent up for concurrence.

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**Ought to Pass Pursuant to Joint Order (H.P. 1344)**

Representative JOSEPH from the Committee on State & Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1994 (EMERGENCY) (H.P. 1462) (L.D. 1988) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1344)

Report was read and accepted. The Resolve read once.

Under suspension of the rules, the Resolve was given its second reading without reference to the Committee on Bills in the Second Reading.

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

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**Ought to Pass Pursuant to Joint Order (H.P. 1344)**

Representative JOSEPH from the Committee on State & Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1994 (EMERGENCY) (H.P. 1463) (L.D. 1989) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1344)

Report was read.

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

Representative ALIBERTI: Mr. Speaker, Fellow Colleagues of the House: I object to this Joint Order and I would like to speak to my objection.

I want to go on record as objecting to this because there were several instances of commitment that was made and not carried out. First, there was no committee report that was authorized to come back to the county delegation to make a report on an increase in wages of ten percent to the Clerk of Probate and the Sheriffs Department. I didn't say I was opposed to that. There was supposed to be a report and it never came back. Also, we have an advisory committee, county budget committee, that not only is advisory, it has the authority to make these recommendations and I didn't hear one word as to whether this budget committee was in favor or against the proposed increase. That is just for a matter of record.

Subsequently, was accepted. The Resolve read once.

Under suspension of the rules, the Resolve was given its second reading without reference to the Committee on Bills in the Second Reading.

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

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**Ought to Pass Pursuant to Joint Order (H.P. 1344)**

Representative JOSEPH from the Committee on State & Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1994 (EMERGENCY) (H.P. 1464) (L.D. 1990) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1344)

Report was read and accepted. The Resolve read once.

Under suspension of the rules, the Resolve was given its second reading without reference to the Committee on Bills in the Second Reading.

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

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**Ought to Pass**

Representative DAGGETT from the Committee on Legal Affairs on Bill "An Act Concerning the 1993 Apportionment of Legislative Districts" (H.P. 1372) (L.D. 1856) reporting "Ought to Pass"

Report was read and accepted. The bill read once.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Representative DAGGETT of Augusta presented House Amendment "A" (H-889) which was read by the Clerk and adopted.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by House Amendment "A" (H-889) and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-952) on Bill "An Act to Amend the Maine Health Security Act" (H.P. 86) (L.D. 116)

Signed:

Senators: BERUBE of Androscoggin  
CONLEY of Cumberland

Representatives: CATHCART of Orono  
CARON of Biddeford  
FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
LIPMAN of Augusta  
FARNSWORTH of Hallowell

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

Signed:

Senator: HANLEY of Oxford

Representatives: OTT of York  
PLOWMAN of Hampden

Reports were read.

On motion of Representative COTE of Auburn, tabled pending acceptance of either Report and later today assigned.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

**Divided Report**

Majority Report of the Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-953) on Bill "An Act to Bring the Bureau of State Police, the Department of the Attorney General and the Maine Drug Enforcement Agency into Conformity with the Criminal History Record Information Laws" (H.P. 665) (L.D. 903)

Signed:

Senators: BERUBE of Androscoggin  
CONLEY of Cumberland

Representatives: FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
FARNSWORTH of Hallowell  
CATHCART of Orono  
CARON of Biddeford

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B"

(H-954) on same Bill.

Signed:

Senator: HANLEY of Oxford

Representatives: PLOWMAN of Hampden  
LIPMAN of Augusta  
OTT of York

Reports were read.

Representative COTE of Auburn moved that the House accept the Majority **"Ought to Pass"** Report.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to reject the Majority "Ought to Pass" Report, to go with the Minority Report because what we have here is a good thing but not enough of a good thing.

I commend the bill because the bill sheds light on many of the records that we have been talking about over the last couple of years that should be disclosed and made public. What the bill proposes to do with the amendment is make it perspective for only the things in the future, even though we have many records with a lot of information that people ought to know about and should have an opportunity to know about.

The Minority difference from the Majority is that the Minority allows us to have full light instead of just a little bit of light coming through a venetian blind.

I would urge you to reject the Majority and accept the Minority, which allows the disclosure of the records to be both prospective and to allow the records that exist today to be disclosed so we know what has gone on.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise as the principal sponsor of L.D. 903. This morning I urge you to vote for the motion of the Majority "Ought to Pass" Report.

I do agree in principle with my seatmate from Augusta, Representative Lipman, that it would be good to be able to retrieve information retroactively. But, I think that in actuality from 1976 when this Section 200-D became effective and gave confidentiality to the Department of the Attorney General, since that time assurances have been given by the investigators of our state to witnesses, confidential informants and others who cooperated with the State of Maine in our investigations. To break that confidentiality today in this body by passing the Minority Report, I think would set a terribly bad policy for our state. There is enough distrust now — to retroactively open up some of those files where people had been given assurances that if they cooperated with out state in all kinds of criminal investigations, not just one or two in the last year, but all kinds, would be wrong.

I agree in principle, it would be nice to be able to retrieve some of that information but I think the compromise that was worked out by a majority of the signers of the report in the Judiciary Committee in cooperation with the Maine Press Association, the Department of Attorney General and the Maine Prosecutors Association is a real effective compromise.

We have worked on this bill for a year and a half. We have worked long hours in committee, both sides have cooperated, both the Minority and the Majority Report have cooperated. I think the product of the Majority Report is more real in that it will not break those assurances that were given by Attorneys General beginning in 1976 all the way to the present day.

Now, the Maine District Attorneys have lived under the change that we are advocating this morning. All the law enforcement agencies in this state, all the state ones except the Attorney General's Office, the State Police were just brought into this act under legislation sponsored by the good Representative from Houlton last spring. It was heard in conjunction with this bill on the same day, April 8th, 1993 — all law enforcement agencies except the Department of Attorney General. That is what we are doing this morning, we are closing that gap once and for all that says that all the materials are confidential.

What this bill says is that there is a clear and precise criteria for asking for the release of certain information. It will end a very wrong chapter in the bill in our criminal statutes, in our laws that say there is blanket confidentiality. State Police saw that it was wrong and they asked for remedial legislation. The District Attorneys had the Title 16-D amended in 1979 with the Criminal History Record Information Act. That has been tested all the way to the Law Court and been found to be real and effective and Constitutional.

I urge you this morning to support the Majority Report of the Judiciary Committee and we can end once and for all a statute that doesn't really belong on the books and that has been on for 18 or so years too long.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I did not intend to rise again in regard to the same bill. I very much agree with 90 percent of what my fellow legislator from Augusta has said. I think that perhaps one example could be a reason why I believe it is so important that we have also a full disclosure, not only perspective disclosure. I agree with him that under some circumstances the investigators told people what they said was confidential and it wouldn't be disclosed and that that would be violated. We have to weigh that against the fact that these same persons may have used your name, my name, or anyone's name and said things about you that weren't so, that remain in these records that you can't get the information to get out of these records. So, it is a balancing test. I would always weigh and balance the right to know.

I also think that there are things that have occurred in the history of Maine and so that we don't make this a partisan issue, let's talk about the unfortunate thing at state prisons where an inmate was killed, the Richardson case, if I may. There are many people that want to know what really happened there so that it doesn't happen again — because history allows us to investigate to avoid harms happening again. So, there are a lot of virtues to opening the lights and turning them on full blast.

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

Representative FARNSWORTH: Mr. Speaker, Men and

Women of the House: I would just like to say that there is a very practical reason, I think, for accepting the Majority "Ought to Pass" Report and rejecting the Minority — no matter whether you agree or not with the comments that were just made about the desirability of having the right to know be made retroactive and that is if you want to open up state records to the same level that local records are I think you have to accept the Majority Report because to make it retroactive (I was persuaded) would incur a substantial fiscal note.

I honestly think that this session is not going to find funding for something like this. I think the AG's office was extremely reasonable in their presentation to us of how many people they would have to make available to go through the records of the very large number of very controversial cases that all of a sudden would be made open records.

In the interest of passing something, I think we felt it truly is a compromise to say make it prospective so it can be planned for and the records can be organized properly because we can't afford it right now. It would kill the bill, in my opinion, to put a fiscal note on.

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

Representative OTT: Mr. Speaker, Men and Women of the House: I rise just to make a point of clarification. In my mind, it was my interpretation, my understanding that in committee we had thrashed out any reference to any fiscal note. To my understanding, there is none, so I take exception to what Representative Farnsworth has previously stated to you.

The bill, I believe, requires those who want these records to pay for those, so it was not an expense that was going to be undertaken or absorbed by any department, nor was it going to add anything to anyone's budget but it was pure and simple and an expense paid for by those requesting the information.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I also rise to urge you to reject the Majority "Ought to Pass" as amended.

We discussed these issues at the end of the last session as to the ability of the Attorney General's office to offer blanket confidentiality in past investigations. I am concerned about how investigations will proceed prospectively.

I am also cognizant of meetings all over the country in the last couple months regarding panels investigating what the government has and hasn't done that we are just finding out about. I am talking about testing with radiation in our mental health facilities and on and on. These are records that should be open to the public.

We have allowed or discussed that there will be a fee paid for the release of these records and I urge you to reject this and go on to accept the Minority "Ought to Pass" Report.

Mr. Speaker, when we take the vote, I request the yeas and nays.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of 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 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 Cote of Auburn, that the House accept the Majority "Ought to Pass" as amended Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 284

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heesch, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhl, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Carr, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Joy, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michael, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, True, Tufts, Whitcomb, Winn, Young, Zirnkilton.

ABSENT - Clement, Coffman, DiPietro, Hillock, Kutasi, Larrivee, Lemke, Martin, H.; Thompson.

Yes, 84; No, 58; Absent, 9; Paired, 0; Excused, 0.

84 having voted in the affirmative and 58 in the negative, with 9 being absent, the Majority "Ought To Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (H-953) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-953) and sent up for concurrence.

The Chair laid before the House the following items which were tabled earlier in today's session:

SENATE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (S-534) - Committee on Judiciary on Bill "An Act to Define the Liability of Gas Utilities and Natural Gas Pipeline Utilities" (S.P. 396) (L.D. 1227) which was tabled by Representative ZIRNKILTON of Mount Desert pending the motion of Representative COTE of Auburn to accept the Majority "Ought Not to Pass" Report.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in concurrence.

SENATE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (S-526) - Committee on Legal Affairs on Bill "An Act to Amend the Private Security Guards Act" (S.P. 599) (L.D. 1658) which was tabled by Representative BAILEY of Township 27 pending the motion of Representative DAGGETT of Augusta to accept the Majority "Ought Not to Pass" Report.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Divided Report

Majority Report of the Committee on Banking & Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-961) on Bill "An Act to Provide Family Security through Quality, Affordable Health Care" (H.P. 956) (L.D. 1285)

Signed:

Senator: McCORMICK of Kennebec

Representatives: HALE of Sanford  
TRACY of Rome  
ERWIN of Rumford  
RAND of Portland  
JOSEPH of Waterville  
TOWNSEND of Canaan

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

Signed:

Senators: CAREY of Kennebec  
KIEFFER of Aroostook

Representatives: PINEAU of Jay  
CARLETON of Wells  
CAMPBELL of Holden  
KUTASI of Bridgton

Reports were read.

On motion of Representative PINEAU of Jay, tabled pending acceptance of either Report and specially assigned for Wednesday, March 30, 1994.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Regarding Disorderly Conduct" (H.P. 969) (L.D. 1300)

Signed:

Senators: BERUBE of Androscoggin  
HANLEY of Oxford  
CONLEY of Cumberland

Representatives: CATHCART of Orono  
LIPMAN of Augusta  
CARON of Biddeford  
OTT of York

FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
PLOWMAN of Hampden  
FARNSWORTH of Hallowell

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-955) on same Bill.

Signed:

Representative: COTE of Auburn

Reports were read.

Representative COTE of Auburn moved that the House accept the Minority "Ought to Pass" Report.

On motion of Representative MARTIN of Eagle Lake, tabled pending the motion of Representative COTE of Auburn to accept the Minority "Ought to Pass" Report and specially assigned for Wednesday, March 30, 1994.

#### Divided Report

Nine Members of the Committee on Judiciary on Bill "An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State" (H.P. 1153) (L.D. 1552) report in Report "A" that the same "Ought Not to Pass"

Signed:

Senators: BERUBE of Androscoggin  
CONLEY of Cumberland

Representatives: CATHCART of Orono  
CARON of Biddeford  
FAIRCLOTH of Bangor  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
FARNSWORTH of Hallowell

Two Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-956)

Signed:

Senator: HANLEY of Oxford

Representative: PLOWMAN of Hampden

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-957)

Signed:

Representatives: LIPMAN of Augusta  
OTT of York

Reports were read.

Representative COTE of Auburn moved that the House accept the Report "A", Majority "Ought Not to Pass"

Report.

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

Representative FOSS: Mr. Speaker, Men and Women of the House: This bill, L.D. 1552, was sponsored by me last session and held over. It was precipitated by the public outrage over the Harvey Prager case. I want to give you a little background on the bill and its somewhat convoluted path through the Judiciary Committee.

For those of you who don't remember, Harvey Prager was convicted of smuggling 11 tons of marijuana into this state. How many children did that poison? Harvey Prager never served one day in prison and he never fulfilled his alternative sentence of establishing an AID's hospice in Portland. Yet, Mr. Prager is now poised to become a lawyer in Maine. Nothing prohibits Mr. Prager from being admitted to the Bar. The court now determines eligibility for the Bar. One of their prerequisites is good moral character and that must be established. However, since his conviction and his failure to spend one day in jail or to fulfill his promise to create an AID's hospice, he has been admitted to law school, he has also been selected as a Clerk to a Maine Supreme Court Justice. So, why would anyone assume that he will be denied admission to the Bar based on poor moral character?

Many of my constituents called and they believe that lawyers are officers of the court and should be held to the highest standards. In our state convicted felons cannot become police officers nor licensed security dealers and many other professions we also look at felonies.

I also want to bring to your attention the fact that (for those of you who are supporting the casino) on page 21 of the draft it was important enough for the members of the Judiciary Committee to preclude any convicted felons from dealing cards in the casino, unless ten years had passed since that conviction and serving a sentence. I will read the language in that, "An individual may not be a licensed gaming employee if he or she has been involved in any criminal activity or has been convicted of a crime punishable by one year or more in imprisonment and in any jurisdiction unless at least ten years have passed since satisfactory completion of the sentence or probation imposed by the court for the crime."

I find it rather curious that the majority of the Judiciary Committee could prohibit convicted felons from dealing blackjack but they cannot take that kind of stand on lawyers being admitted to the Bar.

Currently lawyers are disbarred if they are convicted of the same kind of crime as described in this bill.

When it was drafted, I felt it was important that we give room for rehabilitation and there are three exceptions. One is if a full and free pardon has been obtained. The Second, if there were extraordinary circumstances surrounding the crime and, the third is that a reasonable amount of time has passed since the applicant's conviction and completion of sentence and there is evidence of complete rehabilitation based on the applicant's subsequent history.

Sounds very familiar and very much like the language in the casino bill for gaming employees.

Other states prohibit convicted felons from becoming lawyers, they have an absolute ban,

including Florida, Indiana, Pennsylvania, Mississippi, North Dakota and Missouri. I think Maine should join those states.

I hope you will reject the motion before you to accept the "Ought Not to Pass" Report.

Mr. Speaker, I request a roll call.

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

Representative COTE: Mr. Speaker, Men and Women of the House: I understand why the proponent of the Minority Report would like to do something, but we have to face facts, this body cannot right every wrong.

When the sponsor of L.D. 1552 appeared before the Judiciary Committee she said she was appalled by the case of a man who pled guilty to charges involving importation of large amounts of marijuana and was sentenced only to probation and not to serve any time in jail. I, too, was appalled by the handling of that case in the Federal District Court. I am sure that the sponsor is also appalled that while on probation the same man was admitted to the University of Maine School of Law. I, too, am appalled.

I am also certain that the sponsor was appalled when it was announced that this same man had been selected to serve as a Law Clerk to a recently appointed Maine Supreme Justice last year. I, too, am appalled; indeed, outraged.

It was shortly after this announcement last spring that L.D. 1552 was presented. Since it was late in the session, the committee held the bill over until this year.

The problem with L.D. 1552 is that it does not fix right the wrong that the prime sponsor and many of us might have identified with regard to this matter. The fact is the Maine Legislature is powerless to redo a sentence that has been handed down by a Federal District Court Judge. I repeat, we are powerless to redo a sentence that has been handed down by a Federal District Court Judge. That is where everybody's outrage begins.

What this bill does is try to insert a statute into the attorney admissions process. It will not correct any problem with the bar admission process because no one has identified any problem at that level.

The Board of Bar Examiners has an extensive process for reviewing applications for admission to the Bar and making a determination as to whether or not an applicant is a person of good moral character. That board seems to be operating just as we in the Legislature, including those people who share my outrage, would like it to operate. No one identified any dispute with the way the Board of Bar Examiners operates before the Judiciary Committee which would justify the statute.

We always have to be concerned about the law of unintended consequences which seems to be one of the few constant laws around. It may be that a statute would have exactly the opposite effect of that intended by the proponents of L.D. 1552. A case can be made that by specifying conditions in statute, the Board of Bar Examiners should not go beyond the statutory considerations as they would today. Therefore I urge you to apply the old adage, "if it ain't broke, don't fix it." Let the Board of Examiners decide whether the applicant is a person of good moral character.

Please, join me in supporting the Majority "Ought Not to Pass" Report.

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 York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I agree with what most of Representative Cote has stated to you but I want to make it known to this body the reason for the report out of the committee designated as Report C. Actually, the bill as Representative Foss has presented does provide that, if one were convicted of a crime that was punishable by imprisonment of more than one year, that that would raise the presumption, a presumption that that person did not possess the requisite moral character for admission to the Bar. It goes on, as she has stated to you, it provides some relief if you can indicate that there was a pardon or that there was excessive or extenuating circumstances that would warrant the Bar Examining Board to overlook that conviction or that there was a sufficient period of time that had lapsed and some proof of rehabilitation or good conduct on the part of the applicant.

To me that seemed more restrictive than the existing law. I think Representative Cote has pointed out that there are regulations that there has actually not been any challenge to the process or procedure that is now in place and I would agree with that.

This bill seems to say that if there is a conviction that is punishable by more than one year and you qualify for one of the three exceptions, so to speak, then you have overcome that presumption and that the examiners could then not consider you being of bad moral character because of that conviction.

At least two of us in the committee felt that that was restrictive and that it would be more in keeping with the focus that I think Representative Foss wants to promote here and that is to allow the same presumption to be considered where there is a conviction, allow the same exceptions to apply or the same three factors for relief but to say that even if one were to survive the presumption or to overcome the presumption that the board could still consider any conviction in coming to a conclusion of whether or not an applicant had good moral character. That is the focus of the Report C to, in my mind, actually make it a stronger bill that says that even if an applicant were to overcome the three criteria for getting around the conviction being considered bad moral character that nevertheless the examining committee would consider any conviction in arriving at its conclusion.

I ask you to defeat the pending motion so that we can go on and consider Report C.

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

Representative FOSS: Mr. Speaker, Men and Women of the House: I did also want to respond to Representative Cote. I, too, am appalled by all the same circumstances she described. I thought I was fairly clear in my testimony that I think there is a great deal of outrage publicly and I think many of us feel that both as legislators and as citizens of

Maine. I think it is clear that because of all of those circumstances the process is not working and surely the Legislature is not powerless in preventing convicted felons from becoming lawyers. We have an absolute right to take that step. I urge you to reject the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Ketterer.

Representative KETTERER: Mr. Speaker, Men and Women of the House: I would ask you to accept Report A on the "Ought Not to Pass" on this bill.

I think it is clear that the public as well as members of the House and the other body would have a disagreement with perhaps the highest tribunal in the coequal branch of government, the judiciary, regarding Harvey Prager.

I would simply ask you to keep a few simple thoughts in mind.

The Supreme Judicial Court, acting through the Board of Bar Examiners, has the full jurisdiction to decide on the suitability of those who intend to practice law in the State of Maine. I think most people here would agree with me that by and large they have done a pretty good job.

Harvey Prager has not been admitted to practice law in the State of Maine. Although as Representative Foss suggests, there certainly is every indication to feel that he is well on his way.

He has managed to receive preferential treatment from the United States Attorney's Office.

He managed to receive preferential treatment before a judge of the United States District Court on sentencing.

He managed to receive preferential treatment for admission to the State University Law School and, he managed to be assigned (applied for) a judicial clerkship which would begin in the fall of 1994. So, in that regard, much of what Representative Foss has indicated I think is factually accurate.

I think the larger question is — as a matter of public policy, is it a good idea to either change existing law or write new law or both simply because of one person? In my short tenure here in four years, I have found that there are a number of people who want the legislature to pass a law because they perceive a problem.

I would respectfully suggest that in virtually all instances passing a law because of the conduct of one person is generally not a good idea. It is not good public policy.

The simple fact that this bill has been referred to in the halls here and the print media as the Harvey Prager bill — if there is any question in your mind whether it has to do with one person or more than one person, ask yourself why it is called the Harvey Prager bill and you will have your answer, this has to do with one person and one person's admission to the Bar.

To pass this bill out suggests that the State Supreme Court doesn't know what good moral character is. They have been required for years not to admit people who don't have good moral character. I would like to think that members of our State Supreme Judicial Court, acting through the Board of Bar Examiners, would certainly consider fully someone's prior conviction particularly such an egregious prior conviction such as this one.

So, I guess for all of those reasons, having to do with some extent each branch being able to have jurisdiction over its own matters, having in mind the

fact that it is not like there is no rule in place regarding who should be admitted, there is a standard that it should be people of good moral character. I think the Law Court has enough common sense to consider someone's prior conviction in determining what constitutes good moral character. Simply the public policy and the notion of passing a law because of the existence of one person or the problem that one person creates, I would be in favor of letting the process resolve under its current rules, not changing statutes and not directing the Law Court to take any particular action.

I think we have got the Law Court's attention on this particular issue and I would like to think that they would fully consider all aspects of a person's application including their record of prior conviction for the most part. I can't think of any exceptions here — the State Supreme Court has done a good job with being careful as to who gets admitted to that very special class of people who are potential admittees to the Bar and with respect to those who are admitted and have been guilty of some misconduct, the State Supreme Court has been quick to admonish, reprimand, suspend or disbar those who deserve that disciplinary action. There is no reason to think that would not be the case.

In closing, let me simply comment that when someone looks at presumption and talks about a presumption that if you have a prior conviction of this type, felony, that this is going to be sort of prima facie evidence that you are not a person of good moral character and therefore should be excluded from the practice of law, think of the flip side of that same coin, think of the person who has five or six theft convictions, all misdemeanors, a couple of shoplifting, a couple of bad checks, all crimes involving honesty, five or six of them, certified copies of conviction — under existing law somebody could go in and say, (the Board of Bar Examiners could say) with five or six crimes involving honesty, we are not going to admit this person, that is not the type of person we want to repose special trust in. But, if the proposals become law and the presumption is that if you have a felony conviction that you presumptively don't have good moral character, the inverse of that would seem to be true, that if you have a misdemeanor conviction or you have a conviction not involving a felony, which would be a misdemeanor, that that does not rise to the level of improper conduct and does not constitute good moral character, therefore you could actually make the situation worse by passing this legislation out by saying people that have misdemeanor convictions involving honesty, theft convictions can now having a presumption going in their favor that they don't fall into the category of not having a good moral character.

So, for all of those reasons, I would ask you to accept Report A, "Ought Not to Pass", leave things the way they are. Please don't pass a bill out simply because there is one person that we are attempting to remedy that situation. It is not sound public policy and, for those reasons, I don't think we should do it.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: My good friend, the Representative from Madison, has brought the exact reason why we have the Minority Report C to this

bill, because of the defect that he is talking about.

If the motion is defeated and we go on to the Minority Report we have this problem resolved in the Minority Report so that if in fact the person (to give you an example) is convicted of rape in Louisiana and they get a pardon in Louisiana, the Minority Report would provide that the Board of Examiners would still be able to judge the moral character and turn them down from being a member of the Bar if the Board of Examiners so chose to do it. I don't think you are left without an alternative. I think that the Minority Report was specifically designed because of the problem that the good Representative from Madison has demonstrated.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: There is one fact or one development in this that needs to be placed on the Record and that, I think, makes this different than the case of one individual, Harvey Prager. There is an individual in Thomaston who is a fisherman who was a lower worker for one or two moves in this marijuana smuggling operation. That individual's result, and he did something wrong but clearly was not the organizer of it, that result was that he was turned down from all sorts of alternative sentencing approaches by the system and was consigned to Thomaston.

I don't want to go into it in depth here but there have been a few press reports that even if one reads them critically one realizes that it is not just one individual. There were other individuals who were treated very harshly in the same situation who did not have the benefits or the access to the legal system, to the echelon of society, to the natural advantages of Mr. Prager. Yes, it is bad to develop public policy out of one case but the one case was part of a system that favored just one individual and that was facilitated by some of the leading lights or one of them in our judicial system. It was unacceptable.

I have been interested here to sit and listen to the legal distinctions but basically what I hear is a deference back to the leading lights in the legal system that allowed such an outrageous miscarriage of justice when the individuals who were tertiary, down at the bottom of the pecking order, get slammed away for years in Thomaston and those who were at the organizing level, the thought level, walk away not even fulfilling their requirements. I don't know what we are doing.

I think the exceptions that the Representative from Yarmouth has laid out are enough. I think we need to deal aggressively with such a terrible miscarriage of justice that indicated a pattern of miscarriage of justice in a certain realm in our legal system. It was wrong.

I will be following the light of the Representative from Yarmouth and if her approach goes down, I will look carefully at the other approaches, but I think the exceptions as laid out are reasonable. I think the miscarriage of justice in the system was wrong in how it came down on the lower individuals and allowed the upper individual to escape and even though it might not be perfect, we all know systems are imperfect, I will be following her light on this bill.

The SPEAKER: The Chair recognizes the

Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I would like to pose a question through the Chair.

I respect the committee's judgment and their process.

The question I would like to ask is at any time did the Bar Association take a stand on this or make any recommendations?

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

The Chair recognizes the Representative from Auburn, Representative Cote.

Representative COTE: Mr. Speaker, Men and Women of the House: No, they have not because he has not come before the Bar yet. When he does, they will decide whether he has good moral character or not.

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

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I get the feeling that we are minimizing this issue and it is an extremely important issue — on one side, rights; on the other side, the encouragement of a negative element in a highly professional and important part of our society.

I just get the feeling that — so what? I have a great deal of problem with that and I too will follow the light of Representative Foss.

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

ROLL CALL NO. 285

YEA - Beam, Bowers, Brennan, Caron, Carroll, Cashman, Cathcart, Chase, Constantine, Cote, Daggett, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Gamache, Gean, Gould, R. A.; Gray, Hatch, Heeschen, Hichborn, Hoglund, Joseph, Ketterer, Kikelly, Kontos, Larrivee, Melendy, Michaud, Mitchell, E.; Nadeau, O'Gara, Oliver, Pfeiffer, Pineau, Pinette, Poulin, Rand, Rotondi, Rowe, Saxl, Stevens, K.; Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Wentworth, Winn, The Speaker.

NAY - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Carr, Chonko, Clark, Cloutier, Clukey, Coffman, Cross, Dexter, DiPietro, Donnelly, Dutremble, L.; Farnum, Farren, Fitzpatrick, Foss, Greenlaw, Hale, Heino, Hussey, Jacques, Jalbert, Johnson, Joy, Kerr, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michael, Mitchell, J.; Morrison, Murphy, Nash, Nickerson, Norton, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Pouliot, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Ruhlin, Rydell, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Sullivan, Taylor, True, Vigue, Walker, Whitcomb, Young, Zirnkilton.

ABSENT - Clement, Coles, Hillock, Holt, Kutasi, Lemke, Martin, H.; Martin, J.; Saint Onge, Thompson, Tufts.

Yes, 54; No, 86; Absent, 11; Paired, 0; Excused, 0. 54 having voted in the affirmative and 86 in the negative, with 11 being absent, Report "A" "Ought Not to Pass" was not accepted.



On motion of Representative LIPMAN of Augusta, Report "C" **"Ought to Pass"** was accepted.

The Bill read once. Committee Amendment "B" (H-957) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

By unanimous consent, all matters having been acted upon were ordered sent forthwith, with the exception of matters held.

**Divided Report**

Majority Report of the Committee on Judiciary reporting **"Ought Not to Pass"** on Bill "An Act Concerning High-speed Chases" (EMERGENCY) (H.P. 1294) (L.D. 1742)

Signed:

Senators: BERUBE of Androscoggin  
CONLEY of Cumberland

Representatives: FAIRCLOTH of Bangor  
CARON of Biddeford  
FARNSWORTH of Hallowell  
KETTERER of Madison  
SAXL of Bangor  
CATHCART of Orono  
COTE of Auburn

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-958) on same Bill.

Signed:

Senator: HANLEY of Oxford

Representatives: PLOWMAN of Hampden  
LIPMAN of Augusta  
OTT of York

Reports were read.

Representative COTE of Auburn moved that the House accept the Majority **"Ought Not to Pass"** Report.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: This bill entitled "An Act Concerning High-speed Chases" was developed by a group of law enforcement officers and retired law enforcement officers in response to a terrible accident which occurred in East Holden last year where a young doctor, Dr. Duckworth, was killed and his family was terribly injured by a car involved in a high-speed chase.

This bill has been amended considerably since it was presented to the Judiciary Committee and what we have done is try to model some legislation after the legislation that was passed on passing stopped school busses. We had a terrible problem in the State of Maine with cars passing stopped school busses that no recourse against the driver, but a terrible endangerment to the children who were crossing in

front of that bus. So, in the past legislature, a law was passed that said that the registered owner of the vehicle would be approached and considered to be the driver of the vehicle unless the driver came forward or the driver was found. That has cut down on the incidents of school bus passings considerably.

We have taken that kind of language and put it into a bill to make the registered owner of a vehicle responsible or make it a civil penalty so that we have the ability to take down the registration number and call off the chase as soon as possible to try to prevent these kinds of accidents from happening. The price is too high at this point for us to continue but there is a great need for us to know who these persons are and how we can track them down.

I would urge you to defeat the "Ought Not to Pass" Report and go on to accept the Minority "Ought to Pass" Report.

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

Representative COTE: Mr. Speaker, Men and Women of the House: L.D. 1742 creates a traffic infraction if a person is the registered owner of a vehicle involved in a high-speed chase. This is similar to a law created several years ago for owners of vehicles passing stopped school busses. If the intent of the proposed bill is to force owners to identify the driver it seems ineffectual. There is such a sharp contrast between the traffic infraction penalty and punishment for a Class C crime that owners would have little incentive to divulge the driver's identity. If the objective instead is to force police to terminate chases as soon as they obtain a registration plate number, then we may be encouraging drivers to outrun police in the expectation that the only consequence will be payment of a fine.

Under the present law, police know that they have to be prudent in the pursuit but also know that drivers who flee face severe punishment. We should keep it that way.

Last, I suspect most judges would be extremely reluctant to find a violation of the accused (is the driver) the judge will even be more offended that the punishment is so minor.

The state prosecutors don't foresee much success if they try to prosecute under this law.

Its only utility may be as a reduced charge plea bargained in difficult cases. That is a poor justification.

I urge you, men and women of the House, to join me in the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: As the good Representative, Representative Plowman, has stated, a group of law enforcement and retired law enforcement officers got together and tried to develop legislation that would give them another tool in dealing with the high-speed chase problem. Believe me, it is a problem. It happens a lot more than what you, as a lay person, believe. As a retired State Police officer, I know that very few weeks go by that you are not involved in a high-speed chase of some form or another.

If this piece of legislation were passed, I feel that it would give the law enforcement people the tool that they need to break the chase off and then go back at a later time with a follow-up investigation and be able to perform their duties in

the high-speed chase field.

There is no question that this isn't going to stop high-speed chases. They are going to continue to happen and this just gives the law enforcement people an extra tool to deal with. I urge your passage of this bill to give the law enforcement that extra tool.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Cote of Auburn that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Bailey of Township 27 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. All 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 Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I would like to pose a question. If this bill were passed a year ago would it have saved the life of that doctor?

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

The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: It probably wouldn't have because the plates on the vehicle were illegally attached. Again, this isn't going to stop high-speed chases. It is going to give the law enforcement people another tool to deal with.

Again, I urge your passage of this bill.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: This particular accident, as referred to by Representative Plowman, occurred in my district. Let me tell you a little bit about the circumstances. This was a road block over a rise. This particular vehicle came over the rise, saw the road block and did a 180 degree spin, spinning the wheels, turned over the rise and proceeded out for about five miles on a four lane, down to a two lane open highway and then made a left turn and went up over a ridge on a very small winding two lane highway.

In my opinion, if this bill had been law, because of the open road and the opportunity for the law enforcement officers to obtain enough information to at least pursue something, in most cases it would be the vehicle, in a lot of cases it may not be the driver, it may not be the driver's vehicle but at least this would allow them a tool to reduce the intensity of a high-speed chase.

I think in this particular case, I believe it would have saved the life because after proceeding on the two lane highway there were at least two to three miles of high-speed pursuit. I think if the law enforcement officers had been able to identify something and use it as a tool later then this would have prevented the death of this particular individual.

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

Representative LORD: Mr. Speaker, my Learned Colleagues: I would like to pose a question. I don't have any children now, but years ago I had couple of daughters that used to go out once in awhile. Supposing a bunch of youngsters (teenagers) got together in a car (my car) and they were driving and got into a high-speed chase and they got the license plate number and then when it came time to talk to me, my daughter or son or whoever it was, wouldn't open up and let us know who was driving, would that mean that I would then be holding the bag?

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

The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Men and Women of the House: To the good Representative Lord, I believe that that would give the law enforcement community a tool to come deal with you and talk to you and try to further their investigation. The option would be theirs at the time whether you would be holding the bag or not but it would give them the power to come and talk to you about this and the option would be theirs at the time.

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

Representative COTE: Mr. Speaker, Men and Women of the House: In answer to your question, Representative Lord, you would be holding the bag. The only exception would be if your vehicle had been stolen, then you would be exempted.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Representative Lord, if your daughter parked her car downtown in a crosswalk and you received a nice high-priced ticket you would be holding the bag too.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. To anyone who would answer — hypothetically, if I had five vehicles in my yard and somebody had scooped the plates off it and illegally attached them on to a vehicle that was in a high-speed chase and they did not get caught and the police officer took that registration and lo and behold, hypothetically, the perpetrators put those plates back on my vehicle, what would this do to me in your case scenario as another tool?

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

The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Men and Women of the House: The good Representative from Rome, Representative Tracy, I will answer your question the same way — it gives the law enforcement people the tool to come talk to you. They are going to use their judgment, like they do in all other investigations. At some point, if they thought that you were hiding something or disclosing something, they would use that as a tool to deal with you but as a general rule, I am going to say that they are going to use their judgment and deal with the violator the

way it should be dealt with.

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

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

Would this bill stop the high-speed chase, if this bill would come in effect?

The SPEAKER: The Representative from Waterville, Representative Joseph, has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: The answer to that question is no. It would not. It is as Representative Bailey says, it is just an additional tool that would permit the officer who is involved in the chase to make a decision on when he or she might break off that chase.

If they make a decision to break off that chase certainly before apprehension or stopping the vehicle, then at least there is some avenue that might be pursued that would give law enforcement opportunity to maybe track down the person who was actually operating the vehicle.

This isn't just a bill that focuses on one incident that happened here in Maine, it is a national problem. There has been articles, there has been press coverage, there has been television programs, on the tragedies that have occurred from law enforcement agencies all over the country whether in big cities or small towns or in rural counties where people have been involved in high-speed chases that involved victims, innocent victims being injured or killed or certainly property damage occurring because maybe a chase involved some minuscule violation of the law. It may have been a more serious offense, but at any rate, it is of such concern that some departments have, on their own, made departmental policy that says there will be no high-speed chases or they have made department policy that they will cut off a high-speed chase at a certain speed limit, perhaps 60, 70, or 80 miles an hour, and they are ordered not pursue the fleeing vehicle on any speed beyond that particular range.

This is a modest effort for Maine to address the problem and has been alluded to here it is similar to the situation with the bus stop bill that was passed here by our predecessors, an effort to balance the rights of individuals with protecting our young children and I think the same analogy is true with this bill.

It doesn't mean that the person who is cited for this violation is necessarily going to be convicted of it, there are defenses for this. If the police were to gain information through contact with the registered owner of the vehicle that would lead to an arrest and the subsequent conviction of the person who was actually operating the vehicle, that would be a defense to the civil violation. It is a good policy and I think we should follow the Minority Report.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

I realize that the state police from the central bureau do have a policy when they consider to go on a

high-speed chase. My biggest concern is these small town municipalities have established some kind of policy when to have a high-speed chase. We had that situation in Lisbon last year where the policy was very vague or I don't know if it was existing but on a backup call from Lisbon Falls to another police officer in the village of Lisbon, a backup call on a possible domestic problem, which is a common thing, and then going through 196 near the shopping center this gentleman who was a good friend of mine was crossing the highway, smacked right into him and was killed instantly. After that, they established a policy when the officer would have a high-speed chase.

My concern is, is there any way possible under this bill that we can have the municipalities, and some are very small — we have a county Sheriff, will any kind of policy be established to decide when to have high-speed chases?

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

The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I can't answer for every municipality but I have spoken with the police chief in my town, he is very much in favor of this bill. It will help the police department in my town set the parameters of when to institute and when to break off a high-speed chase so that the decision is made beforehand when you are driving 85 or 90 miles an hour down the road on one of our famous Maine winding roads with potholes and everything else, especially this time of year, the decision needs to be made beforehand, there is no time for split second decisions on when to make this decision to cut off. We need to give them the tools that they need to make a decision to cut off. It is very hard for someone who is chasing a drunk driver to decide to cut off. It is very hard for someone who is chasing someone in a situation like this to just cut off and know that they have no recourse, no avenue to come back unless they pursue.

The cost is high, not just to our citizens, but to our police. I had a very good friend of mine lose her cousin in a high-speed chase, he was a police officer on his way home. He was on the night shift — on the way home one morning (he was off duty) but he was called into a high-speed chase, not on a winding road, but on the Turnpike, two straight lanes, you can pick up a registration number very easily on two straight lanes, but that wasn't what was allowed. This gentleman was killed on his way home. When his family expected him for breakfast, they were getting a very different kind of phone call.

The cost is high to our citizens and to our state police and to our municipal officers. We need to give them the ability to take out a number, cut off the chase, go back and check. And, if the people who steal license plates are smart enough to take them off, put them on the same model, same year, same color vehicle, and then have the ability to take them back, they are much better than I give them credit for.

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

Representative COTE: Mr. Speaker, Men and Women of the House: As I said before we know that drivers who flee face severe punishment but if the objective of this bill is to force police to terminate chases

as soon as they obtain a registration plate number, then we may be encouraging drivers to outrun police in the expectation that the only consequences will be the payment of a fine.

The Criminal Law Advisory Committee had concerns about this bill that they expressed to us. They said that L.D. 1742 is very ineffectual because it is only a traffic infraction and it is very hard to overturn a traffic infraction.

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

ROLL CALL NO. 286

YEA - Adams, Ahearne, Aliberti, Beam, Brennan, Cameron, Caron, Cashman, Cathcart, Chonko, Cloutier, Coles, Constantine, Cote, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Gamache, Gean, Gould, R. A.; Gray, Hale, Heeschen, Hichborn, Høglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Martin, J.; Melendy, Mitchell, E.; Mitchell, J.; Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Poulin, Pouliot, Rand, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, L.; Tracy, Treat, True, Walker, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Campbell, Carleton, Carr, Carroll, Chase, Clark, Clukey, Coffman, Cross, Dexter, DiPietro, Donnelly, Farnum, Farren, Fitzpatrick, Foss, Greenlaw, Heino, Johnson, Joy, Kerr, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michael, Michaud, Morrison, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Plourde, Plowman, Reed, G.; Reed, W.; Richardson, Robichaud, Simonds, Simoneau, Small, Spear, Stevens, A.; Taylor, Townsend, E.; Townsend, G.; Vigue, Whitcomb, Winn, Young, Zirkilton.

ABSENT - Bowers, Clement, Hatch, Hillock, Kutasi, Martin, H.; Thompson, Tufts.

Yes, 73; No, 70; Absent, 8; Paired, 0; Excused, 0.

73 having voted in the affirmative and 70 in the negative, with 8 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Amending the Discovery Rule for Damage Resulting from the Placement of Foreign Objects in the Human Body" (H.P. 1345) (L.D. 1812)

Signed:

Senators: BERUBE of Androscoggin  
HANLEY of Oxford  
CONLEY of Cumberland

Representatives: LIPMAN of Augusta  
CARON of Biddeford

OTT of York  
SAXL of Bangor  
KETTERER of Madison  
COTE of Auburn  
PLOWMAN of Hampden  
FAIRCLOTH of Bangor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-959) on same Bill.

Signed:

Representatives: FARNSWORTH of Hallowell  
CATHCART of Orono

Reports were read.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of either Report and later today assigned.

**Divided Report**

Majority Report of the Committee on Banking & Insurance reporting "Ought Not to Pass" on Bill "An Act to Continue Health Care Reform in Maine and Prepare for Federal Reforms" (EMERGENCY) (H.P. 1429) (L.D. 1954) (Governor's Bill)

Signed:

Senators: McCORMICK of Kennebec  
CAREY of Kennebec

Representatives: PINEAU of Jay  
HALE of Sanford  
TRACY of Rome  
RAND of Portland  
ERWIN of Rumford  
JOSEPH of Waterville  
TOWNSEND of Canaan

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-960) on same Bill.

Signed:

Senator: KIEFFER of Aroostook

Representatives: KUTASI of Bridgton  
CARLETON of Wells  
CAMPBELL of Holden

Reports were read.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of either Report and later today assigned.

**Divided Report**

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-941) on Bill "An Act to Amend the

Role of the State Board of Education" (H.P. 82)  
(L.D. 112)

Signed:

Senator: O'DEA of Penobscot

Representatives: NORTON of Winthrop  
PINETTE of Fort Kent  
PFEIFFER of Brunswick  
STEVENS of Orono  
OLIVER of Portland  
CLOUTIER of South Portland

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

Signed:

Senators: LAWRENCE of York  
AMERO of Cumberland

Representatives: MITCHELL of Vassalboro  
SMALL of Bath  
SIMONDS of Cape Elizabeth  
AULT of Wayne

Reports were read.

On motion of Representative JACQUES of Waterville,  
tabled pending acceptance of either Report and later  
today assigned.

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**Divided Report**

Majority Report of the Committee on Agriculture  
reporting "Ought to Pass" as amended by Committee  
Amendment "A" (H-948) on Bill "An Act to Amend the  
Harness Racing Laws" (H.P. 1243) (L.D. 1670)

Signed:

Senators: PARADIS of Aroostook  
PINGREE of Knox  
MARDEN of Kennebec

Representatives: TARDY of Palmyra  
HUSSEY of Milo  
HEESCHEN of Wilton  
AHEARNE of Madawaska  
STROUT of Corinth  
SPEAR of Nobleboro  
NASH of Camden  
CROSS of Dover-Foxcroft  
KNEELAND of Easton

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

Signed:

Representative: ALIBERTI of Lewiston

Reports were read.

On motion of Representative JACQUES of Waterville,  
tabled pending acceptance of either Report and later  
today assigned.

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**CONSENT CALENDAR**

**First Day**

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

(H.P. 1155) (L.D. 1554) Bill "An Act to Prohibit  
Discrimination in the Assignment of School Attendance  
Areas" (EMERGENCY) Committee on Education reporting  
"Ought to Pass" as amended by Committee Amendment "A"  
(H-966)

(H.P. 1275) (L.D. 1723) Bill "An Act to Increase  
the Jurisdiction of the Loring Development Authority  
of Maine" Committee on Housing & Economic Development  
reporting "Ought to Pass" as amended by Committee  
Amendment "A" (H-974)

There being no objections, the above items were  
ordered to appear on the Consent Calendar of later in  
today's session under the listing of Second Day.

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(S.P. 676) (L.D. 1852) Bill "An Act to Correct  
Errors and Inconsistencies in the Laws of Maine"  
(EMERGENCY) Committee on Judiciary reporting "Ought to  
Pass" as amended by Committee Amendment "A" (S-531)

On motion of Representative COTE of Auburn, was  
removed from the First Day Consent Calendar.

Report was read and accepted. The Bill read  
once. Committee Amendment "A" (S-531) was read by  
the Clerk.

On motion of Representative JACQUES of Waterville,  
tabled pending adoption of Committee Amendment "A"  
(S-531) and later today assigned.

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**CONSENT CALENDAR**

**Second Day**

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

(H.P. 1083) (L.D. 1449) Bill "An Act to Make  
Statutory Changes to Implement the Recommendations of  
the Legislature's Total Quality Management Committee"  
(EMERGENCY) (C. "A" H-951)

(H.P. 1301) (L.D. 1756) Bill "An Act to Authorize  
a Department of Inland Fisheries and Wildlife Bond  
Issue of \$10,000,000 for Fish Hatcheries" (C. "A"  
H-962)

(H.P. 1392) (L.D. 1890) Bill "An Act to Authorize a  
General Fund Bond Issue in the Amount of \$14,000,000  
to Construct Environmental Protection Facilities and  
to Investigate, Abate, Clean up and Mitigate Threats  
to the Public Health and Environment from Uncontrolled

Hazardous Substances Sites" (Governor's Bill) (C. "A" H-963)

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

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**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act to Assist in Crime Prevention" (H.P. 1041) (L.D. 1393) (C. "A" H-855)

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

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**ENACTORS**

**Emergency Measure**

An Act to Clarify Plumbing Permit Fees (H.P. 1215) (L.D. 1634) (C. "A" H-876)

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. 109 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Amend Certain Motor Vehicle Laws (H.P. 1270) (L.D. 1697) (C. "A" H-886)

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. 103 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Modify the Workers' Compensation Board Assessment (H.P. 1278) (L.D. 1726) (C. "A" H-903)

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

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I would like to very briefly familiarize you with what this bill does and what has been transpiring and why it is before you, I think it

is important that we understand and realize that.

The Workers' Comp Board or system within the State of Maine operates on a budget of about \$6.5 million a year. That budget process is generated through our own state budget process. In other words, it goes before the Labor Committee, they discuss it with the Workers' Comp System or Board, they then discuss it with Appropriations and it is included in the budget, the Appropriations bring the entire budget in, obviously, and then an amount is earmarked for the Workers's Comp System. However, the Workers' Comp Board is not paid out of General Fund revenues of the State of Maine, it is paid out of assessments on those people who charge the employers and businesses of the state premiums. In the past year that amounted to about 1.7 percent a premium.

This particular bill came about because of the way that it was assessed by law — it was felt that it was an uneven assessment against the traditional private insurance companies and they asked that it be reconsidered how that assessment was made.

Now, you have three sources for that assessment. You have the self-insurers of the State of Maine, you have the private insurance company but one that we commonly call the Maine Employers Mutual, which is a mutual company and then we have the traditional private insurers. All three of them came together at the urging of the Labor Committee and sat down — I like to think of it in a small room with the door locked and pulled hair and everything else — until they came out and said that they had reached a consensus and were happy and felt that it was a fair and equitable assessment on all those involved in the assessment process. Consequently, that bill received a unanimous report from the committee and is now before you as an emergency measure and we hope that you will enact it as an emergency measure.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act Regarding the Workers' Compensation Residual Market Mechanism (H.P. 1291) (L.D. 1739) (C. "A" H-887)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Authorize Use of Civil Administrative Penalty Authority and Administrative Order Authority Against Violation of Federal and State Drinking Water Laws, Regulations and Rules (H.P. 1329) (L.D. 1792) (C. "A" H-864)

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

On motion of Representative TREAT of Gardiner, under suspension of the rules, the House reconsidered its action whereby L.D. 1792 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-864) was adopted.

The same Representative presented House Amendment "A" (H-975) to Committee Amendment "A" (H-864) which was read by the Clerk.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: This is a purely technical amendment which changes the word "Department" to "Commissioner." Please vote for it.

Subsequently, House Amendment "A" (H-975) to Committee Amendment "A" (H-864) was adopted.

Committee Amendment "A" (H-864) as amended by House Amendment "A" (H-975) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-864) as amended by House Amendment "A" (H-975) thereto in non-concurrence and sent up for concurrence.

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**Emergency Measure**

An Act to Amend the Tree Growth Tax and Open Space Voluntary Withdrawal Laws (H.P. 1349) (L.D. 1815) (H. "A" H-914 to C. "A" H-832)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Create Retirement Alternatives (H.P. 1362) (L.D. 1841) (C. "A" H-867)

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

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

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**Emergency Measure**

An Act to Implement the Recommendations of the Maine Sardine Council (H.P. 1386) (L.D. 1885) (C. "A" H-806; H. "A" H-850)

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. 105 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Clarify the Opportunity for Small Employers to Purchase Health Insurance (H.P. 1405) (L.D. 1914) (C. "A" H-904)

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. 111 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Establish the Municipal Cost Component for Unorganized Territory Services to Be Rendered in Fiscal Year 1994-95 (H.P. 1410) (L.D. 1920) (C. "A" H-890)

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. 107 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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An Act to Amend the Laws Governing Protective Custody (S.P. 240) (L.D. 733) (C. "A" S-469)

An Act Concerning Sexual Abuse Laws (H.P. 919) (L.D. 1243) (C. "A" H-898)

An Act to Reduce Energy Costs and Improve the State's Indoor Air Quality (S.P. 482) (L.D. 1480) (C. "A" S-485)

An Act to Require the Utilization of an Owner's Representative on State Government Construction Contracts (H.P. 1107) (L.D. 1494) (C. "A" H-871)

An Act Regarding the Custody of Remains of Deceased Persons (S.P. 553) (L.D. 1577) (H. "B" H-920 to C. "A" S-417)

An Act to Amend the Provisions Relating to Mental Examination and Observation of Persons Accused of a Crime (H.P. 1214) (L.D. 1633) (C. "A" H-897)

An Act to Amend the Laws Regarding Protective Custody (H.P. 1322) (L.D. 1784) (C. "A" H-896)

An Act to Promote the Continued Use of Private Lands for Recreation (H.P. 1342) (L.D. 1809) (C. "A" H-895)

An Act to Subject Motorists with Prior

Out-of-state Operating-under-the-influence  
 Convictions to the Sentencing Provisions of the  
 State's Operating-under-the-influence Laws (S.P. 669)  
 (L.D. 1837) (H. "A" H-923 to C. "A" S-484)

An Act to Enable Parents to Retain Custody in  
 Voluntary Placements (H.P. 1377) (L.D. 1864) (C. "A"  
 H-902)

An Act to Provide Equity in the Laws Concerning  
 Tax Exemptions for Veterans (H.P. 1413) (L.D. 1923)  
 (C. "A" H-837)

An Act to Continue Election Reform Efforts  
 (H.P. 1438) (L.D. 1964) (Governor's Bill) (C. "A"  
 H-900)

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

By unanimous consent, all matters having been  
 acted upon were ordered sent forthwith.

An Act to Create Statewide Arrest Powers for  
 Municipal and County Law Enforcement Officers  
 (S.P. 415) (L.D. 1324) (S. "A" S-487 to C. "A" S-463)

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

On motion of Representative GRAY of Sedgwick, was  
 set aside.

The same Representative requested a roll call on  
 passage to be enacted.

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. 287

YEA - Aliberti, Anderson, Bailey, H.; Beam,  
 Bennett, Bowers, Brennan, Bruno, Cameron, Campbell,  
 Carr, Carroll, Clark, Cloutier, Coles, Constantine,  
 Cote, Daggett, DiPietro, Driscoll, Dutremble, L.;  
 Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache,  
 Hichborn, Hogle, Jacques, Johnson, Joseph, Kerr,  
 Kneeland, Lemke, Marsh, Melendy, Michael, Mitchell,  
 E.; O'Gara, Oliver, Ott, Paradis, P.; Pendexter,  
 Pfeiffer, Plowman, Ricker, Robichaud, Rowe, Ruhlin,  
 Rydell, Simonds, Simoneau, Stevens, A.; Stevens, K.;  
 Sullivan, Taylor, Townsend, L.; Treat, True, Vigue,  
 Wentworth, Whitcomb, Zirkilton, The Speaker.

NAY - Adams, Ahearne, Aikman, Ault, Carleton,  
 Caron, Cashman, Chase, Chonko, Clukey, Coffman,  
 Cross, Donnelly, Farnum, Farren, Gould, R. A.; Gray,

Hale, Hatch, Heeschen, Heino, Holt, Hussey, Joy,  
 Ketterer, Kilkelly, Kontos, Larrivee, Lindahl,  
 Lipman, Look, Marshall, Martin, J.; Michaud,  
 Mitchell, J.; Morrison, Murphy, Nadeau, Nash,  
 Nickerson, Pendleton, Pinette, Plourde, Poulin, Rand,  
 Rotondi, Saint Onge, Saxl, Spear, Strout, Tracy,  
 Walker, Winn, Young.

ABSENT - Bailey, R.; Barth, Birney, Cathcart,  
 Clement, Dexter, Dore, Foss, Gean, Greenlaw, Hillock,  
 Jalbert, Kutasi, Lemont, Libby Jack, Libby James,  
 Lord, MacBride, Martin, H.; Norton, Pineau, Pouliot,  
 Reed, G.; Reed, W.; Richardson, Skoglund, Small,  
 Swazey, Tardy, Thompson, Townsend, E.; Townsend, G.;  
 Tufts.

Yes, 64; No, 54; Absent, 33; Paired, 0; Excused, 0.  
 64 having voted in the affirmative and 54 in the  
 negative, with 33 being absent, the Bill was passed  
 to be enacted, signed by the Speaker and sent to the  
 Senate.

An Act to Amend the Laws Governing Municipal  
 Elections (H.P. 1110) (L.D. 1506) (C. "A" H-901)

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

On motion of Representative BOWERS of Washington,  
 was set aside.

On further motion of the same Representative,  
 under suspension of the rules, the House reconsidered  
 its action whereby L.D. 1506 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-901)  
 was adopted.

The same Representative presented House Amendment  
 "A" (H-921) to Committee Amendment "A" (H-901) which  
 was read by the Clerk.

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

Representative BENNETT: Mr. Speaker, I would like  
 to pose a question to Representative Bowers of  
 Washington. Could he explain the purpose of his  
 amendment, please?

The SPEAKER: Representative Bennett of Norway has  
 posed a question through the Chair to Representative  
 Bowers of Washington, who may respond if he so  
 desires.

The Chair recognizes that Representative.

Representative BOWERS: Mr. Speaker, Men and Women  
 of the House: What this amendment does is the way  
 the bill was originally written if somebody wanted to  
 ask for a recount in a municipal election they would  
 have had to have a notarized request. Right now in a  
 legislative race all you need to have is a written  
 request. I thought it would be good to have some  
 uniformity and have a written request and that is  
 what it does, it gets rid of the notarized request.

Subsequently, House Amendment "A" (H-921) to  
 Committee Amendment "A" (H-901) was adopted.

Committee Amendment "A" (H-901) as amended by  
 House Amendment "A" (H-921) thereto was adopted.

The Bill was passed to be engrossed as amended by  
 Committee Amendment "A" (H-901) as amended by House  
 Amendment "A" (H-921) thereto in non-concurrence and  
 sent up for concurrence.



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An Act to Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws (H.P. 1311) (L.D. 1766) (C. "A" H-830)

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

On motion of Representative BENNETT of Norway was set aside.

The same Representative moved that the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: This bill is the bill that I spoke to you about before regarding the penalties that were included in the so-called "ballot tampering bill" of last year. I would urge you strongly to vote against the indefinite postponement.

I won't go through the whole bill as we discussed it at quite some length the other day but one of the important items that is included in this bill is several sections where we talked about the intent of the person who commits some of these crimes. In many of these crimes that were provided before, there was no intent suggested. For instance, if you carry your beeper into the polling place and even though the law says knowingly.....(Technical problems with the P.A. system)

Subsequently, on motion of Representative CHONKO of Topsham, tabled pending the motion of Representative BENNETT of Norway to indefinitely postpone the Bill and all accompanying papers and later today assigned. (Roll Call Requested)

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The House recessed until 3:00 p.m.

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(After Recess)

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An Act to Establish a Technical College in York County (H.P. 1313) (L.D. 1775) (C. "A" H-851)

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

On motion of Representative MITCHELL of Vassalboro, was set aside.

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted and specially assigned for Wednesday, March 30, 1994.

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An Act to Implement the Recommendations of the Maine Dairy and Nutrition Council and the Maine Dairy Promotion Board (H.P. 1434) (L.D. 1961) (C. "A" H-861)

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

On motion of Representative CHONKO of Topsham, was set aside.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1961 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-861) was adopted.

The same Representative presented House Amendment "A" (H-965) to Committee Amendment "A" (H-861) which was read by the Clerk and adopted.

Committee Amendment "A" (H-861) as amended by House Amendment "A" (H-965) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-861) as amended by House Amendment "A" (H-965) thereto in non-concurrence and sent up for concurrence.

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Resolve, Establishing the People with Disabilities Access Commission (H.P. 1321) (L.D. 1783) (C. "A" H-894)

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

On motion of Representative JACQUES of Waterville, was set aside.

On further motion of the same Representative, tabled pending final passage and specially assigned for Wednesday, March 30, 1994.

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Resolve, Authorizing the State to Release its Interest in Certain Real Property in Belfast (H.P. 1397) (L.D. 1906)

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

On motion of Representative JACQUES of Waterville, was set aside.

On further motion of the same Representative, tabled pending final passage and specially assigned for Wednesday, March 30, 1994.

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The following items were taken up out of order by unanimous consent:

#### SENATE PAPERS

Resolve, Authorizing Aroostook County to Issue Bonds for the Northern Maine Development Commission, Inc. (EMERGENCY) (S.P. 772) (L.D. 1992) (Governor's Bill)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Under suspension of the rules, and without reference to a Committee, the Resolve was read once.

The Resolve was assigned for second reading Wednesday, March 30, 1994 in non-concurrence.

Wednesday, March 30, 1994 under the listing of Second Day.

**SENATE PAPERS**

**Ought to Pass Pursuant to Joint Order (S.P. 765)**

Report of the Committee on **Housing and Economic Development** reporting "**Ought to Pass**" Pursuant to Joint Order (S.P. 765) on Bill "An Act to Amend the Date of Repeal of State Increment Financing Districts and to Allow the Finance Authority of Maine to Issue Revenue Refunding Securities" (EMERGENCY) (S.P. 767) (L.D. 1987)

Came from the Senate, with the report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-546).

Report was read and accepted. The Bill read once. Senate Amendment "A" (S-546) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Senate Amendment "A" (S-546) in concurrence.

**Non-Concurrent Matter**

Bill "An Act to Establish the Right of Grandparents to Act as Foster Parents for Their Grandchildren" (H.P. 1352) (L.D. 1818) which was passed to be engrossed as amended by Committee Amendment "A" (H-938) in the House on March 28, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-938) as amended by Senate Amendment "A" (S-544) thereto in non-concurrence.

On motion of Representative PARADIS of Augusta, tabled pending further consideration and later today assigned.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 700) (L.D. 1898) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$21,000,000 to Provide Funds for Improved Access to State Facilities for Disabled Citizens and Employees, for Safety Improvements at the Baxter School for the Deaf and for Long-term Lease Cost Savings" (Governor's Bill) Committee on **Appropriations & Financial Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-538)

There being no objections, the above item was ordered to appear on the Consent Calendar of

**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.

Bill "An Act Regarding Access to Property via Discontinued Roads" (H.P. 1238) (L.D. 1665) TABLED - March 24, 1994 by Representative WHITCOMB of Waldo.  
PENDING - Adoption of Committee Amendment "A" (H-809). (Division Requested)

On motion of Representative JOSEPH of Waterville, the Bill and all accompanying papers were recommitted to the Committee on **State and Local Government**.

An Act Imposing Real Estate Transfer Tax on Nongovernmental Entities in Transactions Involving Governmental Entities (EMERGENCY) (H.P. 1333) (L.D. 1796) (C. "A" H-814) TABLED - March 24, 1994 by Representative DORE of Auburn.  
PENDING - Passage to be Enacted.

On motion of Representative DORE of Auburn, under suspension of the rules, the House reconsidered its action whereby L.D. 1796 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-814) was adopted.

The same Representative presented House Amendment "A" (H-928) to Committee Amendment "A" (H-814) which was read by the Clerk.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I would just like to inform the members of the House that this amendment was added on at the request of the Department of Transportation. It has to do with allowing the Department of Transportation to negotiate privately when it is buying strips of land so that you don't necessarily have to pay one party along a roadway exactly what you are paying another party along a roadway.

I would also like to remind the members of the House this was a unanimous committee report and this improves the real estate transfer tax so that we now collect from the non-governmental end of a real estate transaction when you are having a transaction with the governmental entity, whether it is state, local, county or federal and it is going to result in about \$200,000 to the State of Maine and create better equity in our real estate transfer tax process.

Subsequently, House Amendment "A" (H-928) was adopted.

Committee Amendment "A" (H-814) as amended by House Amendment "A" (H-928) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-814) as amended by House

Amendment "A" (H-928) thereto in non-concurrence and sent up for concurrence.

An Act to Enable the Use of Former Exit 5 on the Maine Turnpike for Access to an Adjacent Liquor Store and Hotel and Conference Center Facility (S.P. 594) (L.D. 1653) (C. "A" S-448)

TABLED - March 24, 1994 by Representative O'GARA of Westbrook.

PENDING - Passage to be Enacted.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: I wish to pose a question about this Committee Amendment that is before us and have an explanation of this bill.

It is my understanding that this amendment, the language in this amendment, authorizes the Authority to erect and maintain signs that contain names, symbols, trademarks, logos, or other identifiers of specific commercial enterprises at Exit 5 only. Are we opening the billboard laws again by allowing the sign usage at Exit 5? Could I have an explanation of this please?

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

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: I will just answer the question. The answer to the question is no, we are not. I will go further than that and say that in fact the amendment does this, it allows the aforementioned to be used, as you have already said, as an access to the liquor store and other facilities.

It does require signs to be installed describing the services available at former Exit 5.

It specifies that one sign will be located northbound, one sign will be located southbound. The original request was for four signs, we reduced it to two.

The amendment also requires the Turnpike Authority to adopt rules for and to implement a logo signing program. It requires the Maine Turnpike Authority to report to the Transportation Committee by February 1st of 1995 on the development of a logo signing program, not a billboard sign, a logo signing program.

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

Representative OTT: Mr. Speaker, Men and Women of the House: While this isn't a billboard sign, and it came out on a unanimous "Ought to Pass" Report, I think it is important that we all understand exactly what is happening here. It is a sign bill, make no mistake about that.

Apparently the Committee on Transportation felt it necessary to carve out an exception to what has been our long-standing signage policy since the 1970's when we enacted the Information Travelers Act.

The proponents make out a case where the developer was not going to come on board to build the hotel conference complex next to the proposed site for the liquor store unless it could put up a logo sign, a logo sign that would advertise a national hotel chain. To me that sounds like somebody is holding a gun to our heads to allow someone (like the Marriott

chain or the Holiday Inn or the Sheraton chain) to get a leg up on competition.

Our predecessors in this body struggled long and hard back in the 1970's to get rid of what Maine was suffering under, the so-called billboard blight and litter on a stick, and we passed the comprehensive legislation which has been our signage policy since that enactment. It has been the charge of the Travelers Information Council to address a balance between the business interests and those concerned with the visual pollution and they have done a good job. The basis for that plan has been the criteria that all signage would be done in a uniform manner so that everybody in every commercial enterprise got treated uniformly and evenly. Large or small it didn't make any difference, we had what we referred to as the OBDS signs (official business directional sign).

Now, this bill would carve out an exception, give some big hotel chain an exclusive right to advertise their location because the developer said it was a deal breaker if it doesn't — get that right.

Never mind that the hundreds of independent businesses that have been the backbone of the state's tourism history, never mind that they don't have an opportunity to put their logo sign on the Turnpike. Never mind that our laws have apparently been working very well since the enactment of that signage law back in the '70's and that we now have some appearance of scenic beauty and elimination of the billboard blight and the signage visual pollution that once graced our landscape.

Passage of this bill opens up that door. There was an article in the Boston Globe, February 27th in which an opponent of expanding the signage law or allowing for this exception was quoted as saying, "Each time you reduce the controls along our roadside right-of-ways, there you are opening things up so the State of Maine will begin to look like every other state."

Those who have promoted this hotel project say we need this little exception. In fact, the information that comes from the Saco Mayor's Office indicates that just a small sign letting us tell the world about what we have got is all we need to make this a development project that will be the pride of the state in 1994." Just a small sign, think about it.

My understanding is there is about 22 or 23 other businesses out there that have already made applications to the Turnpike Authority to get their logo signs. There must be some consideration given to these demands because it is also my understanding that Paul Violette, who is the Turnpike Executive Director, has said that the Authority has decided out of fairness to consider allowing signs with company logo's at all the exits. To me that means that we might have possibly 32 signs down near the Kittery exit to advertise all the stores and motels that are along the Route 1 Mall. Perhaps we will also have those at Exit 6-A who want to advertise their stores and business locations at the Maine Mall.

Maine has been one of three states that has stepped up to the plate to address visual pollution. Only Hawaii and Vermont have done the same but it has been a valiant effort.

I would just like to close by quoting a couple of sentences from a Portland Press Herald Editorial on February 7th. "More than a decade ago, lawmakers committed this state to remove commercial signs from roads and highways. The purpose was clear, to

preserve as fully as possible Maine's beautiful and economically important visual environment. The surest way to invite ugly scenery blighting signs back to Maine roads is to riddle state law with exceptions."

And, referring to the blight that I alluded to that once was very apparent in our landscape — "Mainers don't want to see it return one well meaning exception at a time."

Ladies and gentlemen, I believe that this proposal is one well meaning exception, please think carefully before you grant it.

I ask you to turn down this request and vote "Ought Not to Pass."

Mr. Speaker, I request a division.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I really was hoping not to get into too much of a debate at this point in time but I do have to respond before you vote on this division. Some of you have known me for a very long time, some not as long as others. There is no question in my mind that the Turnpike does not want and will not allow the type of proliferation of signs that the previous speaker would have you believe will happen. I don't believe it will happen and I ask you — we considered this at great length, we see it as an unusual situation, we do not intend for it to be an open door to return to the days that the previous speaker would have you believe we would be. Forty-one other states have the same type of well controlled logo sign program that we are talking about here.

Earlier I had kidded two or three of my fellows by saying that I had the long form of a response and a short form and I really only planned on using the short form. If I am forced to it, I will offer more information but at this time, I urge you to support the committee's report and to accept my sincere belief that we will not be opening the door to the kind of thing that you are being told or were being told by the previous speaker.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question. Is this sign going to be a logo sign and is there going to be another sign on the building that houses the hotel, motel or whatever is going to be there — is there more than one sign? Is there going to be another sign on the building, I guess, is what I want to know?

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

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: The answer to the question is as I said before, there will only be two signs, two logo signs, one northbound and one southbound.

The building itself, as I understand it from everything I have seen so far, and the problem and the reason for the need of the sign is that unlike the liquor store, which is not an issue here because that has already been approved by this legislature in previous legislation, the convention center will not be visible, will not be as readily seen and whether

there is a sign on the building, frankly, I cannot answer that question, we have only been involved with the signs on the turnpike.

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

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

Either to Representative O'Gara or anyone else — let me preface the question by saying that I have nothing but the highest regard for Representative O'Gara but I am at the moment confused. In his comments a moment ago he spoke, I believe, to the effect that there would be only two signs.

My confusion arises from the following: on line 43 of the amendment before us, the language speaks to "signs" (plural) "which must be located along the northbound and southbound lanes at appropriate locations" (plural) "leading to and at" (more than one) "the former exit."

Then, if we proceed over into the second page of the amendment on line 6, it then specifically constrains, "one sign northbound and one sign southbound" as to its content. And, further down in line 32, "the Authority may charge fees for signs" (again plural) "that contains names, symbols, logo, et al".

Down in line 42 and 43, "The Authority may erect and maintain or allow to be erected and maintained signs containing names, symbols, trademarks, logos and identifiers." It seems to me that there certainly is adequate permissivity in this language to allow many more than two signs.

I would hope that someone would make me feel comfortable that the number is two and not more than two.

The SPEAKER: 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 Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: While I am not sure how much responsibility I have to make the Representative from Falmouth comfortable, I would say to Representative Reed that word two is in fact plural. There are two signs, Representative Reed, two signs (which I said before), one sign north and one sign south. I will say this as gently as I can, no matter how many times you make the references to signs (plural), signs (plural), we are talking about two signs, one sign northbound and one sign southbound and that is it.

I can assure you right now standing here that if there were any move on the part of anybody to locate more than two signs (plural), one northbound and one southbound, there are eight other members besides myself in this body plus three Senators that would be strongly preventing that from happening. Two signs (plural), one north, one south.

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

Representative OTT: Mr. Speaker, Ladies and Gentlemen of the House: Just one last comment, it is my understanding that the Authority to permit this signage already wrested with the Turnpike Authority and that they chose, perhaps because of the sensitivity of the subject matter and the complex that was planned for that location for that exit was such that they deferred the decision making to the Committee on Transportation and ultimately by us. I think that there was some idea by the Turnpike

Authority that we shouldn't be carving out an exception unless it had the blessing of this legislative body. I ask you, do not follow that route.

One exception leads to another, one well meaning exception will just find that that signage law, that I am sure, was hotly debated back in the '70's because there must have been a lot of people interested in the environment and there must have been a lot of people that had business interests that met head-on to craft out what has become our signage law and signage policy. I think if we decide to strike a blow for an exception with this vote, we then will make that rule or that law best known for its exceptions rather than for its law.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: A response because I feel it deserves a response. As we do so often here, as I was so often involved in in my ten years as Mayor of Westbrook, we take — I have always urged those people that I have been involved with to please not vote for something because of what might happen, you have to take the situation as it exists. We have a situation that we have worked very hard on, grudgingly, in fact, many times before we finally arrived at our unanimous decision.

If there are other requests later, those will have to be considered on their merits one at a time. I urge you to keep that in mind.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Simonds of Cape Elizabeth 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. All 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 Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I am fully in support of this measure and no, I haven't flipped out totally. As you recall, I fought the exception for certain signage a couple of years ago. This is not a billboard law. This is simply a logo-type identification measure. The reluctance that was alluded to, the reluctance of the Turnpike Authority, of the Executive Director specifically, was that we do not see in the statutes where we would do this automatically. If the Legislature addresses the issue, then we will act accordingly. I think that is only fair, I think that is only proper. That was that issue.

As Representative O'Gara has mentioned a couple of times, 41 states have this kind of service and I do consider this a service. Last summer, I was very privileged to take a cross-country trip and at certain hours of the day you are considering where do I get gas, where do I go for a hotel, which restaurant do I go to? These types of logo's are on highways in 41 states and it is actually quite a

service for the traveler. That is only what we are asking in this bill. We are asking to allow us to identify what type of service you have, nothing more, nothing less.

The number of two should stick out in your head, one northbound, one southbound, that's it.

I would urge enactment.

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

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I would like to ask the good Chair of the Transportation Committee if he would just give us a rather simple answer as to the dimension of the proposed signs.

The SPEAKER: Representative Aliberti of Lewiston has posed a question through the Chair of the Transportation Committee who may respond if he so desires.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: They vary. They are from 48 inches, one of the areas 48 inches wide across a sign that would have two side-by-side, whatever that would add up to, 96 inches across.

I wish I had enough — perhaps I should have passed these out to you but I don't have them. They are very similar to the size that Representative Nadeau was talking about, they are not as big as the billboard signs is what I am getting at. They may be 60 inches across, it might be 96 inches across, depending upon whether they put two side-by-side or three across or three up and down. It varies from 72, 96, they are not going to be the kind of sign that you are talking about. It could be about the size, I guess, to give you an example, of the signs that now say Burger King, that size, not as big as that, not as deep as that. Then you see within the confines of the big sign, there will be a smaller sign saying the name of the hotel, or the name of the convention center or whatever it might happen to be. They vary in size. I don't think they have pinned it down to the size yet.

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

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I don't think I got an answer. I think this is what concerns many people in this House. I have seen road signs, they are blue signs usually and I would say they are about no more than four inches wide and no more than three or four inches long, both north and south, tell you where a golf course is, tell you where some other area is — is that the type of sign you are talking about? I am really confused, you had a description of a large sign and other small signs within it. Then, you made the reference to Burger King, well, I have seen some pretty big Burger King signs. I am just confused and I would appreciate relieving me so I can intelligently vote on this issue.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: Perhaps I shouldn't have mentioned the Burger King sign but I am not talking about Burger King signs in any other state in the Union, I am talking about the signs that you have seen on our Turnpike, Representative Aliberti, our Turnpike.

The average width of all the ones that I have listed here is what I said before, 48 inches. Each sign is about 48 inches wide and there could be two

of those side-by-side which is 96 inches. They are certainly not four inches, I could never let anybody think we are not talking about four inch signs on the Maine Turnpike.

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

Representative PLOURDE: Mr. Speaker, Men and Women of the House: Let me just clarify a little bit on this particular bill. There was lengthy discussion about signage. The big issue was a logo. The Turnpike now has the authority to put signs and if you will notice when you take I-95 there have been many signs put up to designate certain recreation areas and etcetera. This particular incident, Exit-5, is an exception to the rule because it will probably never happen again where you have an access off the Turnpike to land to develop.

The City of Saco has been asked to develop a facility in that area and part of that was to have a sign. That is the reason why it is here. Right now on the Turnpike if you stop at the service areas, they put logo signs already, there is no exception. One of the things is that we tried to craft very carefully in this bill is that we would not have a proliferation of signs all over the Turnpike.

Ladies and gentlemen, this bill should have been a very simple bill, but because of certain special interest groups who fear that we are going to have signs all over the State of Maine and it is going to destroy our beauty and our vision, that it prevents people to expand and to build in this state.

This was a very, very simple bill. I urge you to support it, it is a good bill. The Committee on Transportation worked it very hard and carefully so that we would not offend anybody.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, I would like to pose a question through the Chair. If I may, I would like to present a question to the Chairman of the Transportation Committee — under this piece of legislation, what is the largest sign that could be built in this particular situation? What is the outer, upper limit?

The SPEAKER: Representative Heino of Boothbay has posed a question through the Chair to Representative O'Gara of Westbrook who may respond if he so desires.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: One of the things that I have found in the ten years that I have been here is that no matter how many questions you anticipate and try to prepare for, there is always one that you just aren't prepared for. Frankly, Representative Heino, I am not, except to say that my understanding of it is and from what I have seen of what they are recommending would be a sign that has side-by-side 48 inches each which would be the 96 plus whatever margin there would be. I don't know whether that means 100 inches across or what, but each of the signs that seem to be the appropriate ones are 48 inches — the actual sign itself and then being two of those side-by-side with what I assume would be a strip delineating between the two of them and a similar strip on each side on the outside, so whatever that would be — 48, 96 plus 2, 4, 6 or whatever. But, we are not talking about a 200 inch or a 300 inch sign here.

I really am sorry that I don't have a specific answer in exact numbers. I hope that that is not going to be a major issue because, if I am off by

four inches or three inches or two inches and that is what I believe what I would be off if I am off at all on it, I hope that would not be enough of an issue to change anybody's mind.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, I would like to pose another question through the Chair. Is there any limit whatsoever in this piece of legislation?

The SPEAKER: Representative Heino of Boothbay has posed a question through the Chair to Representative O'Gara of Westbrook who may respond if he so desires.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: I would say that the limits would be that they are going by the data that they have acquired after looking through all the 41 states and we have tried and they have tried to put together a compilation of all the information that is available to us from the states that have these signs. As I look at the chart that shows there, it is my judgment, and I would have to assume that I am accurate on this, that they do not plan, the Turnpike would not allow, a sign to be any wider than the signs that are already acceptable and considered to do the two things that we want to do that Representative Nadeau has said, to provide a service to let people know where things are and still at the same time not detract from a clear vision and the beauty of the area. These are not going to be garish in nature or they are not going to be outlandish in size. So, I would say that they are bound by the very same specifications that they have acquired from this survey of the country and none of them in here are any wider than 48 inches each individual block, none of them are any wider than 48 and I do not imagine that they — it is not my understanding that they are going to go any further than two of those which would be the numbers that I gave you before. But, I guess I have to say in answer to your question specifically that I don't recall seeing a set number "no larger than" but they are planning to go by specifications that are already set down in highways similar to ours across the country and none of those are larger than what I told you.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, I would like to pose a question to the Representative from Westbrook.

Does the liquor store plan to use separate signs on separate posts in separate locations?

The SPEAKER: Representative Greenlaw of Standish has posed a question through the Chair to Representative O'Gara of Westbrook who may respond if he so desires.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: No, there will be a sign that says, as we already have now, one of those spaces will say Discount Liquor Store, there will not be separate signs.

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

Representative ADAMS: Mr. Speaker, I would address a question through the Chair to the good Representative from Westbrook if I may?

There is just enough commotion back here so frequently we are missing portions of your answers so forgive me if perhaps I repeat a portion of a

question. In looking at what I presume is the final Committee Amendment (S-448), I do find in the amendment nothing that specifies or restricts, question number one, the size of any signs that might be erected. I believe that is what you said, first question.

Second question, it would seem upon page two of the above mentioned (S-448) Amendment that the committee proposes to establish an adoption of rules in accordance with the Maine Administrative Procedures Act to establish a logo signing program on the Maine Turnpike with the Authority thereby giving permission to charge fees if it so chooses? That would mean therefore that the committee is assuming that many more requests will be filed for said same kind of signs along the Maine Turnpike? Second question.

The SPEAKER: Representative Adams of Portland has posed two questions through the Chair to Representative O'Gara of Westbrook who may respond if he so desires.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: I believe I just answered the first question in trying to answer Representative Heino's question as far as the specific number. There is no specific number in the wording.

As to the second question, the Transportation Committee is not assuming anything. The suggestion that we have a study by the Turnpike to look at the whole entire 100 mile length of the Turnpike to see if in fact there are any other sites — and I agree with Representative Nadeau, it is our judgment that there aren't any other sites, but in fairness to everybody, the Executive Director, Mr. Violette, has requested and we have directed that they do a study of the entire 100 miles to see if in fact there are any other sites that would be possible for such a situation as we are describing here and debating here and if there are whether or not those are feasible. So, we are not anticipating any future signs.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I got to tell you as one member of the Committee that when we dealt with this it was not our intent to do any more than allow these two signs. I feel this committee, working with the Maine Turnpike Authority, has sent a message to them that that is exactly what we want to do is make this exception for that one particular purpose.

This afternoon, I want to tell you, that the Representative from Biddeford, Representative Plourde, in my opinion, gave you the best speech I have ever heard him give in this House. If you listened to what he said it is exactly what the committee intended to do, and that was to limit what is going to happen on that Turnpike. I think the Chairman has explained to you this afternoon also that we have no control of what may happen in the future but I have got to believe in all the times that we talked with the Authority that they are as concerned about this as we are and if any further requests come in they will handle them appropriately.

Before I sit down I want to tell you people in rural Maine that a few years ago we asked for some help on some other signs across this state that helped us on other situations, I think today that we ought to, for once, just help those people in York County.

The SPEAKER: A roll call has been ordered. 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. 288

YEA - Ahearne, Aliberti, Anderson, Bailey, H.; Bailey, R.; Barth, Beam, Bruno, Cameron, Campbell, Caron, Carr, Carroll, Cashman, Clark, Clement, Cloutier, Clukey, Constantine, Cote, Cross, Dexter, DiPietro, Driscoll, Dutremble, L.; Erwin, Farnsworth, Farnum, Gamache, Gean, Gould, R. A.; Hale, Hatch, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kneeland, Libby, James, Lindahl, Lipman, Look, Lord, Marshall, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pineau, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, W.; Ricker, Rotondi, Ruhlin, Saint Onge, Simoneau, Skoglund, Spear, Strout, Sullivan, Tardy, Thompson, Townsend, G.; Tufts, Vigue, Walker, Winn, Young, Zirkilton, The Speaker.

NAY - Adams, Aikman, Ault, Bennett, Birney, Bowers, Brennan, Carleton, Cathcart, Chase, Chonko, Coles, Daggett, Donnelly, Faircloth, Farren, Fitzpatrick, Foss, Gray, Greenlaw, Heeschen, Heino, Joy, Kilkelly, Kontos, Larrivee, Lemke, Lemont, Libby, Jack, MacBride, Marsh, Michael, Nash, Ott, Pfeiffer, Pinette, Reed, G.; Richardson, Robichaud, Rowe, Rydell, Saxl, Simonds, Small, Stevens, A.; Stevens, K.; Swazey, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Wentworth, Whitcomb.

ABSENT - Coffman, Dore, Hillock, Kutasi, Martin, H.; Martin, J.; True.

Yes, 90; No, 54; Absent, 7; Paired, 0; Excused, 0.

90 having voted in the affirmative and 54 in the negative, with 7 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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An Act Concerning the Payment of Medical Expenses in Controverted Workers' Compensation Cases (S.P. 605) (L.D. 1703) (C. "A" S-471)

TABLED - March 24, 1994 by Representative COFFMAN of Old Town.

PENDING - Passage to be Enacted.

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

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Bill "An Act to Improve Licensing Procedures at the Bureau of Insurance" (H.P. 1414) (L.D. 1924) (Governor's Bill) (C. "A" H-884)

TABLED - March 24, 1994 by Representative PINEAU of Jay.

PENDING - Passage to be Engrossed.

Representative PINEAU of Jay presented House Amendment "A" (H-931) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-884) and House Amendment "A" (H-931) and sent up for concurrence.

SENATE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-505) - Minority (5) "Ought Not to Pass" - Committee on Banking and Insurance on Bill "An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services" (S.P. 356) (L.D. 1070)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be Engrossed as amended by Committee Amendment "A" (S-505).

TABLED - March 25, 1994 (Till Later Today) by Representative PINEAU of Jay.

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

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: This bill would mandate that certain licensed counselors now be reimbursed for insurance purposes. It includes an additional four sets of counseling professionals including pastoral counseling. Some counselors, as you may know, are already reimbursable. This bill, if passed would extend that mandate to four additional classes of people with Master's levels training.

Each year, we see in Banking and Insurance five or ten bills that come forward on behalf of particular groups of medical providers, each seeking to insulate themselves from any changes in our health care system by writing into statute that they, under all circumstances, will be reimbursable for insurance purposes.

I have a problem with this method of activity. I think that given the plethora of different types of providers that are increasing as time goes by that this is the wrong way to travel.

The impetus from this bill did not come from consumers, it came from the providers themselves and you should know that once written into law mandates, and I believe it is true in Maine, a mandate that has been written into law in the State of Maine has never been repealed, so once it is there, it is there forever.

There are 13 or 14 different types of mental health care providers here in Maine. We have four or five types of counseling professionals. We have about four types of social workers all licensed under the laws of this state in addition to substance abuse counselors, psychiatrists, and psychologists, 13 or 14 different types of people who could provide service to people. This bill would not expand the coverage that is provided under our insurance laws, it only increases the number and types of counseling people who would get reimbursement for it.

The report by the Bureau of Insurance, which is required for any mandate, did not turn up any particular need for this type of mandate. It appears that no consumer groups have come forward to ask for it, arguing that there is not enough to go around, that is, there is no shortage of counseling professionals that are reimbursable, so there is no shortage of service in that regard in this state. So, I wonder why we need to have this at this point.

You will note that there is a fiscal note. Experience has shown that whenever particular groups become insurance reimbursable their bills for service

tend to rise.

So, I would urge you to ask the question whether or not we ought to write into law a grandfather of these particular groups at this time. I urge you to vote no on the pending motion.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I know it has been a long day and it is still going to be a longer one. Our committee only has another three of four divided reports up after this.

The reason I am on the Majority Report, and I ask you to support the Majority Report, is because this bill came in for a consumer need. No, it wasn't in fact the consumer who came to us, it was through the providers but the providers do serve the consumer.

In this, I believe what we are talking about is qualified professionals that are currently providing a service to Maine citizens, these Maine citizens that do in fact have insurance. This is a select group that we have, the Majority Report, the Committee Amendment, wants to put into law. I feel that this group isn't just another group, this group has to have a Master's degree, it has to have experience in the field of two years and it is serving the need.

I think this is a very clear bill. The Representative from Wells, Representative Carleton is right, what we are doing here is we are increasing our providers circuit that are going to be reimbursed for the services. Right now, ladies and gentlemen of the House, these providers are being reimbursed but it is from out of the people's pockets, people that have insurance, therefore, I feel that this bill does address that need.

Also, I do believe that this is an economic issue. What we are looking at is providers that are in fact lower paid by the hour than the providers that are now doing it. Of course, I am going to save the Representative from Wells, Representative Carleton, from getting up and saying "But, whenever we do this, they up their prices like everybody else." That might in fact happen but right now as it goes, these are lower paid providers by the hour, so they are more economical to use if you are looking at the industry as a whole. However, I tend to lean with Representative Carleton, and say yes, this probably will in fact happen but I believe that people who have coverage and these providers have proved themselves qualified, that they should be reimbursed.

I would appreciate your vote on this.

I ask for a division, Mr. Speaker.

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

Representative MORRISON: Mr. Speaker, Ladies and Gentlemen of the House: I will make several very brief points.

Number one, the current emphasis in the medical field is for early intervention and primary care.

Number two, this bill will allow for third party reimbursement for those professionals in the mental health field who are indeed serving the population who generally seeks early intervention.

Number three, this Legislature has a tendency to be concerned about the short-term. What is going to happen in this budgetary cycle and we tie all of our funding to that kind of thinking instead of ever considering that what does early intervention do for



you in the medical field down the road? Ten years from now this will save you a ton of money.

Number four, these professionals are already reimbursable by almost all insurance companies.

Number five, this merely allows Blue Cross and Blue Shield the opportunity to provide the same service that the other insurance companies do.

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

A vote of the House was taken.

63 voted in favor of the same and 21 against, subsequently, the Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (S-505) was read by the Clerk and adopted. Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-505) in concurrence.

SENATE DIVIDED REPORT - Majority (6) "Ought to Pass" as amended by Committee Amendment "A" (S-504) - Minority (4) "Ought Not to Pass" - Committee on Banking and Insurance on Bill "An Act to Ensure Quality Psychological Services" (S.P. 580) (L.D. 1624) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be Engrossed as amended by Committee Amendment "A" (S-504).

TABLED - March 25, 1994 (Till Later Today) by Representative TRACY of Rome.

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

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: This bill relates to health care organizations called PPO's. The term PPO stands for Preferred Provider Organizations. These types of health care delivery organizations are a hybrid between the standard fee for service type of plans that we are familiar with and HMO's. They provide that if a member of the plan obtains health services from providers that are part of the network, their costs and their fees are lower than if you go outside of the network. You can still go outside of the network to go to a particular health care provider but the co-pay might be larger. As such it fits a niche kind of midway between the traditional plan and the HMO's and the PPO's are popular in parts of the country and may become popular here.

In any health care organization in order to keep costs at a reasonable level and to keep quality high that organization does need some flexibility in how it chooses its providers and who it chooses for its providers. This bill would limit that flexibility.

Let me read to you the operative sentence of the bill. The bill says "a provider may not be required to meet licensing standards other than the requirements for state licensure." That language can be read two ways. Reading the language one way, it says nothing other than the obvious that in order to

meet the standards in order to be licensed, you have got to meet the licensing standards. However, it was not the intent of the sponsors to have that bill read that way. The intent of the sponsors was that this be a bill which comes close to being what is known as "an any willing provider" bill. In other words, health care organizations providing care would not be able to pick and choose who their providers might be. They could not pick them on the basis of the quality of care. They could not pick them on the basis of their efficiency in providing care, they could not pick them on the basis of anything that you can think of that would provide better care, everybody comes in.

This theory would destroy all of the good things that we think that PPO's can do. To make reference to licensing as being licensing only as being the standard by which people can become providers under this organization would simply destroy the organization.

If you go out and you need to get an electrician or a plumber, you may be happy that your electrician or plumber or whatever licensed person has a license, but generally speaking you are going to want to go to somebody who you know is good or you know provides the service at a reasonable cost. In other words, licensing is important but there are other factors to consider. Standards for licensing in any field that you want to talk about are minimum standards. Do we want to say that these organizations like PPO's that have promised to lower our health care costs and provide us good quality service must, as a matter of statute, come in if they have met only the minimum standards? I think the answer to that is no. I think we ought to give our health care systems the flexibility to choose providers on the basis of things other than the minimum standards.

I urge you to vote against the Majority "Ought to Pass" Report.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Minority "Ought Not to Pass" on this report and I want to explain my reasons to the House why I came down as I did.

This bill kind of sounds a little bit like the last one we talked about where we are talking about providers and we are talking about health care and we are talking about who is paying for what. The problem I have with this bill is as I see it and as the Representative from Wells, Representative Carleton, stated, "an any willing provider" bill. I don't see the criteria necessitated that would guarantee and improve quality that the PPO's would be delivering.

We are talking about if in fact this passes that the PPO's role is going to be changed rather dramatically from what they now do where they now have other criteria other than licensure.

I think the question you have to ask yourself here and it was a question I asked myself — am I comfortable that the licensing standards in the state for this provider group will guarantee me the quality that I want a PPO to be delivering? If the answer is yes, then vote with the majority. If your answer is you want more than what licensure is, then you vote with the minority. I think it comes down to that.

It was banged around in the committee in good shape, we had good deliberations on it and I just thought for the House that is where I stood on it and

I think those are the questions you have to answer with your vote.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I was on the Majority Report of this bill and I would like to clarify our intent in bringing it before you. The issue has arisen that certain HMO's or Preferred Provider groups in Maine are disqualifying professionals who are licensed to practice in Maine from consideration because the out-of-state manager of the group requires professional and licensing standards that are different than those set in Maine. The standards are not necessarily higher, just different.

This bill states that if professionals like psychologists are licensed by Maine standards to practice in the State of Maine they must be eligible to be considered for participation in the group. The HMO or Preferred Provider group can then select for participation any provider they wish, based on quality, geography, cost, scope of service, or a host of other characteristics. This bill does not require the group to use any or all providers. It merely states that the group cannot use licensing and professional standards different than Maine's as a way of arbitrarily screening out providers from consideration.

This is a small technical bill that allows Maine people and Maine regulators to set the standards of practice for our professionals.

I urge you to support the Majority Report.

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

Representative SIMONDS: Mr. Speaker, Men and Women of the House: As cosponsor, I would like to comment on the good Representative Carleton's suggestion that there is no way for the insurer to assure quality.

Frankly, I had some questions about the wording of the bill in its original form but I note that the amendment that you have before you, Committee Amendment "A", specifically adds quality to the criteria which the insurer may consider in selecting the preferred provider. That takes care of my concern and I urge you to vote with the Majority "Ought to Pass" Report.

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

A vote of the House was taken.

Representative CARLETON of Wells requested a roll call on the motion to accept the Majority "Ought to Pass" Report.

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 Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I do not agree that this is a

minimum technical change in our statutes. Either the language that I have read, and I will read it again, "a provider may not be required to meet licensing standards other than the requirements for state licensure" — either that language means absolutely nothing as being a statement of the obvious or it means that preferred provider organizations are going to be limited. For instance, in requiring continuing education of their providers or requiring any of the various things that our various licensing laws require for licensure they are going to be limited in requiring more than simply the minimum standards in order to be a member of the PPO. We have various professions out there and we have various minimum requirements in order to get licensed. In my particular profession, for instance, I get a license but I go and get continuing education. Many other professionals go out and do things that are not required for licensure but are required in order to improve the practice of their profession, it is done for personal satisfaction, it is done to increase the confidence in people that we serve, it is done to get more pay, it is done for various other reasons.

This bill is an attempt by the providers, who I think perhaps have been too influential for too long and who have helped cause the health care problem that they have to insulate themselves, to protect themselves, to grandfather themselves against methods and techniques and actions by this legislature to provide for lower cost health care services and to provide for health care services for all.

Enactment of this type of bill is going to severely limit PPO's which are one effective means of providing good health care services and I urge you to vote against it.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House: I urge you to accept the Majority Report on this. Whenever I hear the term preferred provider organization, it scares me as a provider. All they do is look at what is the bottom line that you want to provide your service for. They don't look at quality and all the other things they tell you they are going to look at.

I would call this the freedom of choice bill. As long as you are willing to provide the service and you are licensed by the State of Maine as a competent professional, you can provide that service and that is what this bill is saying.

Last year there were two PPO bills that went nowhere in this legislature. I urge you to do the same with this, this solely looks at cost, it does not look at quality as the Representative from Wells is trying to say.

When you look at the national health care debate, everyone is saying freedom of choice. This bill will limit freedom of choice. All you have to do is remember a year ago when Maine State Select said you will have to change your physician and what you went through in this House to look for another doctor, even though you might have been comfortable with the one that you had.

I urge you to accept the Majority Report on this.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: Just briefly. I believe — I am a cosponsor of this bill and it is my personal belief that all Maine psychologists want to do here is to

have the standards set here in the state rather than by outside agencies. I think it is a simple one sentence bill and that includes really the amendment. There is no attempt to circumvent PPO's whatsoever, I can assure you of that.

The standards set here in the State of Maine are very high, in fact higher than many other states. I feel very comfortable with this bill and I hope you will join me in passing it for enactment.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain to you the circumstances that brought this bill before the Committee. I signed on the Majority "Ought to Pass" on this and what happened was that Maine State Select contracted with Greenspring, an out-of-state corporation to supervise the utilization review service for their psychological services provided in this state. Greenspring decided that nobody could provide psychological services if their name wasn't in a green book which had been published some years before. As a result of this, there were licensed psychological professionals in the State of Maine who were not allowed to be compensated under Maine State Select.

One man that testified before our committee was from Piscataquis County because his services were denied by Maine State Select, there were no services provided, paid for under Maine State Select in Piscataquis County. His clients had to pay out of their own pockets. He was denied his living as a consequence of this situation. This bill was presented to correct that type of situation.

The SPEAKER: The pending question before the House is the motion of Representative Tracy of Rome that the Houser accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 289

YEA - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Cameron, Campbell, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Cross, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heeschen, Heino, Hichborn, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Joy, Kerr, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nash, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pinette, Plourde, Plowman, Poulin, Pouliot, Rand, Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Tufts, Vigue, Walker, Wentworth, Whitcomb, Winn, Young, Zirkilton.

NAY - Bailey, H.; Bailey, R.; Carleton, Carr, Clukey, Dexter, Donnelly, Dore, Jalbert, Ketterer, Libby Jack, Lipman, Nickerson, Pineau, Reed, G.; Reed, W.; Rydell, Treat.

ABSENT - Coffman, Hillock, Kilkelly, Kutasi, Martin, H.; Martin, J.; Nadeau, Thompson, True, The

Speaker.

Yes, 123; No, 18; Absent, 10; Paired, 0; Excused, 0. 123 having voted in the affirmative and 18 in the negative, with 10 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (S-504) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-504) in concurrence.

SENATE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (S-486) - Committee on Banking and Insurance on Bill "An Act to Require Disclosure of Minimum Bid Requirements at Mortgage Foreclosure Sales" (S.P. 567) (L.D. 1602) - In Senate, Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be Engrossed as amended by Committee Amendment "A" (S-486).

TABLED - March 25, 1994 (Till Later Today) by Representative PINEAU of Jay.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

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

Representative JOSEPH: Mr. Speaker, Women and Men of the House: First of all, you will notice this is a lopsided report. I must tell you this is not a partisan issue, it is a bipartisan issue. There was miscommunication between members of The Banking and Insurance Committee and the sponsor of the Bill, Senator Marden. Senator Kieffer and myself met with Senator Marden to try to communicate or to understand what he was asking for. At that point, the bill was signed out. So, the Senator from Caribou and myself signed this bill out.

I am referring now to the amendment. The amendment repeals or eliminates the word minimum and talks about an opening bid. Now, in a foreclosure auction or sale the Farmers Home Administration does in fact advertise the minimum bid. You will see on your desk (in goldenrod) an example of this from the Central Maine Morning Sentinel. Truly this is a business issue because people who do go to sales or auctions that are foreclosure sales or auctions know how much they can afford to bid. However, if they are unaware that the bank who is holding the mortgage on this property is going to raise this bid much beyond their means it seems to be, as Senator Kieffer has said, a waste of people's time.

By advertising the opening bid, you will now have created a more open process. Serious bidders will attend these auctions whereas they can be part of the process. So, when Senator Marden brought the bill he thought that he was asking for a minimum bid whereas the amendment is talking about simply an opening bid.

The objections to this may be that those holding the mortgage will say that they need to protect their lenders, but as long as that opening bid is high enough, they will be able to pay all the costs associated with that mortgage. Then, if they wish to bid at this auction or sale they could bid a certain

amount and the property that is going to be foreclosed on will be in the possession of those who hold the mortgage. It will then be resold on the open market so there will be profit in that because now you have a new mortgagee.

I would ask your consideration of this bill because in order to be consistent with the Farmers Home Administration, which the example on the handout shows you, that does show a minimum bid, I believe it will be fair to those persons who are interested in purchasing as well as to the auctioneers to know what the opening bid is.

If I might give you a brief example, I have a friend who is a young man, three children a restaurant owner and he went to a foreclosure auction or sale in Winslow. It was property without a building upon it and he was prepared to bid \$10,000 and he thought this was a great deal so he opened the bid with \$10,000. However, the person or the institution who was holding the mortgage bid \$22,500 and that was the end of everybody's bidding for this piece of property. So, as I just described, those who held the mortgage now have the land, they can sell this land and have another mortgage on it or whatever they please to do.

I would ask your consideration because this is not an anti-anything bill. This is a public service bill, similar to the bill we just passed dealing with signs which I know became much more controversial. Senator Marden was sincere in trying to communicate with the committee and Senator Kieffer and myself felt that we wanted to give him the opportunity to present this bill to you. I ask your consideration.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: After that last vote, I hesitate to stand. The committee did discuss this bill and I must admit, even being a person who is involved in real estate law and foreclosures, I had difficulty understanding just what the purpose of this bill was all about. The best I could come up with was an analogy with some other types of auctions. If you go and there is an auction advertised and there is a particular something that you wish to purchase, there may be a minimum opening bid to let you know what the general value of a piece, an article, is and if you do not — if you read the advertisement about this in this newspaper and decide that this is too rich for your blood, you won't hop in your car and drive 20 miles for nothing to go to this auction.

From the comments expressed by Senator Marden, I think that is what he had in mind. But, let's examine the bill a little bit more. All this requires is a minimum opening bid. What do you think the minimum opening bid is going to be if this bill is passed? The minimum opening bid is going to mean absolutely nothing because it is going to be set very, very low. Many times a foreclosing bank is going to have an idea about what it is going to be willing to let the property go for instead of putting in a bid itself. This bill would require them to make some kind of a decision about a minimum opening bid two or three weeks before — no, actually longer than that, if it has to be advertised it is going to have to be at least a month before the auction, the foreclosure sale, takes place. From experience, I know that a lot happens between that time and the time that the sale actually takes place.

I guess my big objection to this bill is what

purpose does it serve, does it advance any interest as it is going to work in practice. I can't see any, so I see no necessity for this bill.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to concur with the good Representative from Wells, Representative Carleton, he is absolutely right. Why this bill was in front of the Banking and Insurance Committee is because Mr. Marden had a problem, he wanted to know what the bank would go for the lowest minimum bid because the banks usually bid enough to get back the property and he was having a problem with that.

While I am up on my feet, Mr. Speaker, may I have the Clerk read the Report? I urge you to accept the Majority "Ought Not to Pass" Report.

Subsequently, the Clerk read the Committee Report in its entirety.

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

Representative MARSHALL: Mr. Speaker, I would like to pose a question.

I am wondering, does the opening bid automatically intimate or cause the bid to be an absolute? Will the property have to sell for the price if it goes over the opening bid?

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

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Women and Men of the House: The opening bid would be set by the mortgage holder. Therefore it would be set as to what the mortgage holder would have to recoup in order to pay the debts of the cost in that circumstance.

We heard two questions — why do we need this bill? Consistency seems to be one, if the Farmers Home Administration currently does, as the example shows here — that they advertise a minimum bid, I guess the question for Senator Kieffer and myself was what is the opposition to an opening bid which would be set by whomever holds the mortgage. And, will it work in practice? Well, it seems to work in practice because the Farmers Home Administration does do business in this state, is successful in dealing in real estate matters. It is not a technical bill, it is simply a bill which would allow the mortgage holders to recoup their investment in this property and also to the person, the mortgagee, whatever that person needs.

We had examples shown to us. I will agree with the committee members, the whole issue became convoluted because of the inability of the sponsor of the bill to accurately communicate what he was trying to achieve here. However, the sponsor of the bill, Senator Marden, did bring an auctioneer with him, a very prominent one in this state, and that auctioneer said it certainly would make his job a lot easier if he knew what the opening bid was. So, no, I don't practice real estate law, I am just simply trying to help out clarifying a problem, creating a public service that would allow everybody who wishes to go to a foreclosure auction or sale to deal with this minimum opening bid. I will also say that I see it only as a service and not anti or pro anything in particular.

The SPEAKER: The Chair recognizes the

Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a clarification on this yellow sheet or goldenrod sheet — it says government foreclosure sale. What the difference is between the federal government and Maine banks is that the federal government doesn't hold any first or second mortgages, whereas banks in Maine and lending institutes do and that is a very clear difference between the two. That is why the federal government has this minimum bid. I just thought I would bring that to your attention.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: FHA can have an opening bid advertised because it allows no junior lien holders to its mortgage. The foreclosure sale is not an arms-length sale. It is under the umbrella of the court. It is part of a court process, the foreclosure process. I am not an expert on foreclosure law but I stress that this is not your ordinary sale.

Perhaps Senator Marden did have a communication problem, I would like to think so. What he communicated to us as he heard the Majority "Ought Not to Pass" motion was "he should have known better," he said, "than to bring this bill to the Banking and Insurance Committee because he knew we were all in the pockets of the bankers." Then he said, if he presented this bill again, he would take it to Business Legislation where it would get a fair hearing. I hope that that was part of the Senator's communication problem and that he didn't mean what he said.

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

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: Not to unnecessarily prolong this, I would like to disagree with the good Representative from Waterville, Representative Joseph, when she said that the minimum opening bid meant something and that that something was the minimum price that the bank needed in order to recoup its costs and the like. There is no requirement in the bill that the minimum opening bid be such a particular price. As a matter of fact, any smart bank would not have the minimum opening bid be the price at which it gets back its costs. In a lot of cases that cost would be a figure which is above what anybody would pay, in fact it would be above what the fair market value of the property is. So, the minimum opening bid, if this bill were passed, would tell people exactly nothing about what the bank's position is with regard to the let-go price or anything else. It would simply add one more requirement to the foreclosure process. It would add just that amount more to the cost of doing a foreclosure, one more thing to look out for, one more thing to add to the cost to both banks and consumers.

I urge you to vote for the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Pineau of Jay that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

76 voted in favor of the same and 4 against, subsequently, the Majority "Ought Not to Pass" Report

was accepted in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

Bill "An Act to Impose Term Limits on Members of the United States Congress" (I.B. 2) (L.D. 1983) TABLED - March 25, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
PENDING - Further Action.

Subsequently, the Bill was referred to the Committee on State and Local Government and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-912) - Minority (4) "Ought Not to Pass" - Committee on Business Legislation on Bill "An Act to Create a Franchise Practices Act" (H.P. 1407) (L.D. 1916) TABLED - March 25, 1994 by Representative HOGLUND of Portland.  
PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative HOGLUND of Portland, tabled pending her motion to accept the Majority "Ought to Pass" Report and specially assigned for Wednesday, March 30, 1994.

HOUSE DIVIDED REPORT - Majority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-905) - Minority (5) "Ought Not to Pass" - Committee on Human Resources on Bill "An Act Authorizing Medicaid Reimbursement for Certain Providers of Counseling Services" (H.P. 1209) (L.D. 1628) TABLED - March 25, 1994 by Representative TREAT of Gardiner.  
PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill read once. Committee Amendment "A" (H-905) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-905) and sent up for concurrence.

SENATE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (S-470) - Minority (2) "Ought Not to Pass" - Committee on Marine Resources on Bill "An Act to Prohibit the Use of Gill Nets in the Kennebec and Androscoggin Rivers" (EMERGENCY) (S.P. 710) (L.D. 1918) - In Senate, Majority "Ought to Pass" as amended

Report read and accepted and the Bill passed to be Engrossed as amended by Committee Amendment "A" (S-470) as amended by Senate Amendment "A" (S-525) thereto.

TABLED - March 28, 1994 (Till Later Today) by Representative MITCHELL of Freeport.

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

On motion of Representative MITCHELL of Freeport, tabled pending his motion to accept the Majority "Ought to Pass" as amended Report and specially assigned for Wednesday, March 30, 1994.

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HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" Pursuant to Joint Order H.P. 1373 - Minority (2) "Ought Not to Pass" Pursuant to Joint Order H.P. 1373 - Committee on Marine Resources on Bill "An Act to Conserve Sea Urchin Resources" (H.P. 1459) (L.D. 1984) TABLED - March 28, 1994 (Till Later Today) by Representative ZIRNKILTON of Mount Desert. PENDING - Motion of Representative MITCHELL of Freeport to accept the Majority "Ought to Pass" Report.

Subsequently, the Majority "Ought to Pass" Report was accepted. The Bill read once. Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Representative SKOGLUND of St. George presented House Amendment "A" (H-979) which was read by the Clerk.

On motion of Representative MITCHELL of Freeport, House Amendment "A" (H-979) was indefinitely postponed.

Representative MITCHELL of Freeport presented House Amendment "B" (H-983) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-983) and sent up for concurrence.

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Bill "An Act to Establish the Maine School of Science and Mathematics and the Task Force on the Maine School of Visual and Performing Arts" (S.P. 733) (L.D. 1958) (Governor's Bill)

TABLED - March 28, 1994 (Till Later Today) by Representative KILKELLY of Wiscasset.

PENDING - Adoption of Committee Amendment "A" (S-511).

Subsequently Committee Amendment "A" (S-511) was adopted.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I move that this bill and all accompanying papers be indefinitely postponed. I request a roll call.

I find the motion and the situation actually very difficult, it is not that I disapprove of the concept or that I feel that it is necessarily the wrong thing to do, what I am concerned about is the timing.

I spent this afternoon with a group of people from the Whitefield School Department listening to them

talk about how difficult it is going to be for them to eliminate half the teachers in their school because of cuts in school funding.

I believe that the timing is not right for us to expand services to create new programs when we can't pay for the programs that we currently have.

All of us are dealing with the difficulties of school funding and while we are dealing with that and while we are watching the education system for our children be stressed for a lack of funding, we are starting new programs.

I understand that this program, this year, will not compete with GPA. However, it will in the future.

What we have heard repeatedly is that whenever we start a new program, we end up in a situation of having competing programs that need funding. Once something is started, it is very difficult not to fund it in the future.

I feel that in order to represent the constituents of my district that I must vote against this bill and I would urge others to consider that as well.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I invite you to take a moment to look at the unanimous committee report in support of the magnet school. I also deeply respect the concerns that the Representative has speaking about school funding. I hope we don't put ourselves in the position of a false choice.

When times are tough, it is also important to look at new ways (new ways) of delivering education. We have an extraordinary opportunity that was built out of a disaster, a potential disaster in northern Maine, handed to the people of the State of Maine, it is a building that is nonparalleled in the State of Maine, equipped with state-of-the-art science labs.

Our committee went through the same concerns that were just articulated so ably by the gentlewoman from Wiscasset. We were concerned that this school would serve only one percent of Maine's young people through its boarding facility. Quite frankly, as a parent, I wasn't sure I wanted my kid to go board anywhere, so I wanted to make sure, as did the members of my committee, that this school served more than just those two kids from each school but that every class in the State of Maine and the teachers would participate in short-term programs bringing back to the classroom that heightened experience, that wonderful access to laboratory opportunity that these one percent of the children would participate in by boarding in this school.

It is for this reason that I believe that the timing is now, the timing is perfect and it feeds into another opportunity for the future as we develop these highly complex classes in math and science so that Maine children can compete with anybody in the world. We will also try to that that out to other schools around the state using the ITV network. We simply have to begin thinking in new ways. There is never going to be enough money in this state to educate people the way we want to. Struggle as hard as we might, there are always shortfalls.

I am just encouraging you not to let this bill die at this time but even when times are really tough to be thinking about the future, to be planting seeds for the future and not turn your back on this extraordinary opportunity that is being offered to us out of the jaws of a potential disaster in northern

Maine. I encourage you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud. Representative ROBICHAUD: Mr. Speaker, Colleagues in the House: I urge you to oppose the pending motion. As you heard from the good Chair of the Education Committee, this was a unanimous report from the Education Committee.

Just to give you a little background, Limestone sits maybe about eight miles from Caribou so I am very familiar with the facility.

Let me also share with you that because of Loring Air Force Base closing and the generosity of the Limestone school system to share with the state their beautiful physical plant, we are also afforded a very special opportunity, that opportunity is the fact that because of the closure of Loring Air Force Base, there are certain funds for economic conversion available. \$1 million of that money could go to Limestone to pay off individual mortgages on peoples homes, it could go to repave all the streets, could go to anything the town chooses. The town has chosen to give that to the state for the magnet school. The town has offered to share their facilities. There is a potential for a grant of over \$1 million in addition to also go toward the magnet school.

I believe very strongly in the concerns expressed by the Representative from Wiscasset that GPA needs our full attention and support, but I feel that the magnet school proposals only strengthens our individual public schools as expressed by Representative Mitchell. With the connection between the ITV system and our individual schools, we will be able to share programs based at the magnet schools that our individual school systems could not afford to present on their own.

We are getting an incredible educational opportunity in this bill. We are getting the opportunity to provide for the young people of this state the very best in education in the areas of math and science. We are in the technological age and those are very important skills as we continue to get more and more computer based and other such activities in daily lives. The magnet school is a very important innovation to help prepare our children, the State of Maine's children for the 21st Century.

I believe that not only is the timing right for this type of curriculum but the timing is right financially because of the generosity of the Town of Limestone and of making the best of an unfortunate situation with Loring Air Force Base. I would urge you to oppose the pending motion.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Men and Women of the House: Last year, a good friend of mine that I have made here, one of the Representatives from Biddeford said, "You know, if you speak too much and speak on every bill you are going to lose your credibility." So, I haven't said one word all session long.

I want to take just a moment and explain some of the background on this bill, some of what it calls for.

The bill would establish a Maine School of Science and Mathematics at Limestone and would also establish a board to lay the foundation for the establishment

of a second school for the performing arts in Portland.

I am going to ask that you defeat the pending motion for indefinite postponement and instead go on to support the committee's unanimous "Ought to Pass" Report.

For the first time in almost 50 years, right now, the runway at Loring Air Force Base is covered with snow. There are no aircraft approaching or taking off. The facilities at Loring are quiet, it is a very eerie place.

The community of Limestone's school facilities were developed over the period of the cold war. The Representative from Caribou was speaking very eloquently about the bill and Caribou, you see, was the community that did all the retail business for Loring Air Force Base. Limestone's function as a municipality which was home to Loring Air Force Base, theirs was the responsibility to educate those thousands of young people and we benefitted from that responsibility. Perhaps more than any other community in the state of Maine, we were the beneficiaries of enormous federal generosity, including when times weren't so good for the rest of you in other parts of Maine. We had the best that money could buy.

I passed around a little picture to you that I would ask you to take a look at for a moment, something that ran in one of the Portland newspapers a few weeks back. It shows Limestone Junior/Senior High School up on a crest above the town (if you would hang on to those pictures for me, they cost a little bit of money and I am going to use them for something else later on — maybe if you could give them back to me I will recycle them myself). I was 12 years old when that school building was built in 1973, it was an enormous place, 150,000 square feet on 60 acres. I have been told by the Commissioner of Education there is no equal to it, not in the State of Maine nor in New England. It was an extraordinary place to be educated, young people from all around the world, one of the most multi-cultural, one of the most ethnically, linguistically diverse communities I would say perhaps in the entire state. Now that building is nearly empty. Those facilities will go unused. The cold war is over, Soviet threat has faded and sort of like a divorce settlement, the Air Force has left Limestone. As in many divorce settlements, they have left us with a little chunk of money to tide us over and lots and lots of facilities.

One of the things the Department of Defense left us was \$1 million in economic conversion or defense reconversion money. As the Representative from Caribou mentioned, we could do anything, almost anything, I guess, that we wanted to with that money including perhaps fiber optics among our houses, snowmobiles, one or two snowmobiles for everybody, sort of like a divorce settlement. They left us that school building, now valued around \$15 million with its laboratories and first-rate other facilities. That is what brought us to this proposal into this legislation. The people of my community, as a way of facing up to the problem and the challenge said that what they would like to do, and there is a bit of subjectivity here I must say, they decided that what they would like to do with these facilities and with this defense reconversion money is give it to the State of Maine.

The total value of the package, if you look at the \$15 million physical plant, the \$1 million which

would be used to convert the dormitory, what would be the current elementary school and would be converted to a dormitory, plus another \$1.5 million which is contingent upon federal money which is contingent upon the legislature enacting this proposal and then another three-quarters of a million dollars in housing which has just been turned over, adjacent to this facility and can be used for dormitories and resident faculty, the package comes to almost \$20 million. For this, the State appropriation would be \$400,000 in start-up costs. After that \$400,000, almost every dollar to follow in the out years would be used to educate the 300 young people that would attend this school from across the State of Maine. There would be no other start-up costs, no other physical plant costs, you couldn't afford to start this program in this economy in this day and age with these kinds of resources.

I believe the investment is minimal. It is a cost, it is an investment, but the benefits to be gained are two. First of all, as I mentioned, a resource we could not otherwise afford. There are a number of troubling statistics having to do with math and science education in the United States today and I will just quote a couple of them to you. "Since the mid-1960's, there has been a steady decline in American public scientific and math education. SAT scores have shown nearly a linear decline with only modest improvement in the last few years. Between 1981 and 1985, one-third of American patents were awarded to Japanese nationals and over 50 percent of the graduate students now attending American Universities and majoring in math and science are foreign nationals."

In addition to providing 300 of the top-notch young people from across the state with a first-rate educational opportunity, this facility will give us a new weapon in our economic development arsenal. Firms which are looking to use Loring Air Force Base as sites for research labs have said, "This is exactly the kind of thing that we look for when we relocate to a State like Maine."

I urge you to vote against the pending motion. There is no bill before the legislature today that is more important to me. I would be happy to answer any of your questions. I ask for your support.

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

Representative HOLT: Mr. Speaker, Friends and Colleagues in the House: I feel sorry to have to stand up but I pledged to myself I would speak on this bill. I know this looks like a wonderful place, this picture that the good Representative from Limestone has given us and I am sure that facility there will be used for some creative endeavor that will be good for all of Maine. I am speaking on this issue because of educational philosophy, I guess, and my own experience with education and the distress I have felt over perhaps tracking in Maine, my educational philosophy that tells me that I cannot vote for this is rooted in my feeling that basically it is somewhat elitist.

I see these wonderful letters on our desks from children who want to go to a special school because they are bored in school. Well, I understand about that, when I first came back home to Maine many years ago I had young children school age and I was so distressed by education at that time, particularly for kids who were bored in school, I started my own. But, before we did that as a family, we sheltered

disadvantaged children in a cooperative school along with some children who you might call advantaged and some you certainly would call gifted and talented. But, before we started our school I worked in another little alternative school and we took a demonstration project to the Harpswell Island School here in Maine. It was out of Newton, Massachusetts, it was called Sink or Float, it was an elementary physics program, sort of hands on. I had a little laboratory and laboratory helpers from our little alternative school. The teachers would come to me -- I did all the early grades, this is working up to this level of high school so it is germane to this bill, I do believe. The teachers would come to me and say, shall I give you the fast students or the slow students first? I said please mix them up. I soon learned that the slow students were the kids from down river who were allowed to play and run wild and they had grubby fingernails and fishy smelling clothes because their dads were fishermen. Oftentimes they didn't get clean clothes the next morning because the fishing wasn't so good even then. But, it was interesting to me to watch the kids who were tracked later on and did poorly in school all the way up through high school and to high school were so eager to learn and so bright and they were not afraid to dip their fingers in, they were the first ones to explore and to see this is salt water, that is why things float. When so many of the children who went on to be top students sat at their desks and looked at me waiting for clues to be given by the teachers so I began to feel that by the time children get to fifth and sixth grade very often they are turned off from learning.

I want us, in our care for education in Maine, to think about all the children. It has been my contention for years that if teachers (and there are so many wonderful teachers who are stifled by the system) were given the opportunity to teach the way they want to, more autonomy in the classroom, they would reach out as we did in our little school to people in the community. There was a wonderful kid who everyone thought was kind of dumb, he said he wanted to learn Norwegian. Well, he was kind of dumb because he didn't talk much, he was shy. So, we went out in the community and searched around, we found a Norwegian who was willing to coach and tutor him, he just took on. There was a young student from first grade level who was drawing all black pictures and painting black pictures, she hated school, she was miserable, she couldn't understand anything about reading or the alphabet and it turned out she was severely what we call today dyslexic, it is simply a coding and encoding lag, so we realized she liked numbers, we put Chrissie over in the corner with a little electronic doohickey that was just coming on the market and she was fascinated. That is all we had her do for a long time, she learned to read through her love for numbers. She ended up going back to public school and becoming the top math student in the state.

If we had given her the same kind of treatment she had probably gotten with teachers who are held back from doing what they know is right for individual students so often in the system we have today, Chrissie might not have been able to do what she did do.

I am very emotional about this because I really love children, deeply love children, and I feel we shortchange them all the time in our system which is



so rigid.

The children who are gifted and talented, I think these are children with very high IQ's (I don't believe in IQ's so much). I believe in giving children a chance to learn at whatever level. These people have, perhaps, families who have helped them outside of school. They would always be on top of the heap because of advantages outside school as well as in school in the way we — if you give a child the idea you think she is bright she will show a brightness, to give a child early on the idea that you think she is not very bright, she won't act very bright or respond very brightly to your tests and exams.

I feel sad about this bill because I want to help Limestone, we all do. I feel sad about the bill because I deeply feel that it is elitist and I also feel that it will take some hard-to-find dollars away from children who need them. You heard the music class downstairs today and many of the programs are having to be cut in one of my communities, Bath. We are worried about the budget so much and there are certain taxation situations that is going on there now, we may have to close a school earlier than we had thought we would have to do in the planning for the future of our education there.

My heart feels very sorry to have had to say I oppose this bill but those are the reasons I oppose it. I should be very happy if you would understand that we have to have the faith and have to have the sanguine feelings about this wonderful state of ours, to feel that we can do something extraordinary for the communities that are suffering the loss of income from this conversion that is going on in economics all over this country, and I dare say the world. So, for all the state's children, I beg you, realize that we can help extraordinary children in our schools, we have the ability in every community to do it. Don't forget that Einstein said that if he had to go to school he "never would have thunk up all those things," he wouldn't have had the time.

So often I find it is with bright children and all children are bright but some are more gifted in some areas than others. You find that they have a little more time to think, turn them loose in the environment and in the libraries and that we will be able to offer gifted and talented children, all our children, what they need.

The SPEAKER: The Chair recognizes the Representative from LaGrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me we are talking about two different subjects here today, one is economics and the other is education. There shouldn't be any conflict but we can't have both.

There is no question but what the facility at Limestone is an outstanding facility and we must make sure that some good use is made of it.

I applaud the sincerity and the eloquence with which the proponents of this measure have spoken but it seems to me that at a time when we have a GPA problem all over the State of Maine in almost every school district in the state that affects 32,000 juniors and seniors, that to place ourselves in a position where we are going to have unknown costs that are bound to be expensive if you are having people with master's and doctorate's for your instructors in a program of this kind, that we are not being fair to the majority of the 32,000 if we spend these sums on a number that they have said will

be 300 students who could go there. It seems to me that we have other institutions here in the State of Maine where mathematics and science can be taken as a major in our secondary and post secondary schools. And for the reason that lack of money to support GPA for all our 32,000 juniors and seniors being a major problem, it would be unwise at this time to pursue this further.

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

Representative PFEIFFER: Mr. Speaker, Members of the House: I was initially opposed to this project for many of the same reasons expressed by Representative Holt. I didn't like the idea of skimming off the cream and concentrating it in one remote area. I also felt that it might conflict with the Beacon's School program, which is the program funded by the National Science Foundation, designed to develop innovative ways of teaching math and science in the seven beacon sites and then in the leadership schools and then eventually fanning out to all the school systems. Thanks to a very creative idea propounded by our Committee Chair, Representative Mitchell, I have come to feel that this is a project that I can support. Her idea, as she mentioned to you, was to suggest that whole classes together with their teachers go to Limestone for short periods of time for very intensive work in math and science, which would enable the teachers to work with the faculty at the school as well as letting the kids have these intensive firsts, sort of the Chewonki idea. This, I think, is a very interesting idea. I think it would make the facility available to all the children in a very helpful way and therefore I came around to supporting it. I would urge you to vote against the present motion.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, Men and Women of the House: I suppose an educator standing up and speaking against this issue is somewhat like speaking against apple pie and motherhood. I am not really speaking against this issue, I just want to share with you a couple of thoughts.

I was superintendent of schools for some time out in the Town of Whitefield. I know what those people are facing right now. They don't have a lavish program out there, it is bare minimums. As I read in the newspaper last week, there is a possibility with the enormous increases they have had in educational costs out there, just to keep the doors open that they may have to cut as many as 20, which is half of their school staff.

The issue that we are discussing today on the proposed program at Limestone, I think, is probably not for this day at this time. Those of you who receive very little state aid would feel very little pinch in dollars and cents if four of your juniors and seniors went to Limestone, but those of you who received a considerable amount, it will hit you harder in the pocket book. For example, if four of your high school students were to go north, you are going to lose four times your subsidy. Let's assume that your loss was somewhere in the neighborhood of \$16,000 or \$18,000 and with those four students leaving your high school, does that mean you can teach with one less high school teacher? Of course not. Are you going to spend less for heat? No. Are your costs going to be decreased at all? I doubt it

very much. But you will have less subsidy.

What do you suppose would happen if you had the ability to take that \$16,000 or \$18,000, present it to your superintendent of schools and ask for a meeting with the head of your math and science department? Then say to the heads of those two departments, here is a check for \$16,000, now what can you do for these four outstanding students? They probably would do a lot for those four and maybe throw another four in just for good measure.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I really think that this bill is a bill for this time and place, right now. We are hearing much today about the teaching of various subjects in our schools, we read in the papers a lot about teaching science and math. Every day I seem to pick up a paper that says girls are not doing as well in science and math, boys aren't doing very well either and that our schools aren't concentrating on science and math.

I think this is an opportunity for all of the students in the state. This school, as Representative Pfeiffer has mentioned, will also serve many, many factors here. Teachers will go, as she explained to you, for training. Various students, various groups will go and take advantage of these outstanding professors who will be working with the students. We will have teachers with master's degrees, teachers with doctorate degrees and furthermore through ITV, the various programs will be channeled in to the different schools.

I think it is a wonderful opportunity for everyone and I would like to tell you just a little bit about the school and the Limestone people. The Representative from Limestone has explained somewhat about the school. It is a very large school, it has two wings, there is an Olympic size indoor swimming pool. As he has mentioned, there are wonderful science labs and computer labs and so forth. Under the plan, the math and science school would be in one wing; in the other wing would be the regular students from Limestone High School. They would be separate, the math and science school would have its separate board of trustees. However, the students who come to the math and science schools aren't going to study just math and science. They are going to be part of a regular high school curriculum with all kinds of activities. They will have the sports and the drama and the music and all of those things that are really important to the student development. So, they will intermingle with the other students who are there, which I think is very important.

Furthermore, Limestone is a lovely town. For nearly 50 years it has welcomed warmly the airmen and the officers who were stationed at Loring Air Force Base. People took those airmen into their homes, they were cordial to them and furthermore they know how to handle them.

The base received students from all over the world and they were all combined in this wonderful Limestone High School building. Consequently, I think the people would be much at home with a school there and it would be an excellent opportunity.

One of the arguments that some people make is that is way up there, but it really isn't. At my age, I drive that highway twice a week and if I can do it I really think people who are younger could do it too.

I think it really is a pleasant ride.

I think it will be just an excellent opportunity for students.

Last week, the State National Honor Society had a meeting down in the southern part of the state. There were 35 or 40 students there. They discussed this school in Limestone as to whether they would want to go there or not. After they had discussed it, someone asked the question, "How many of you would go to this school if it was developed?" Half of them raised their hands. So, I think that you are going to find there will be a lot of interest in that school.

I do want you to know that the funding does come from the Department of Education. The school will be funded much like the Baxter School for the Deaf is funded. We know how important that really is. I think these specialized schools are one that will be forthcoming in the southern part of the state on the arts. The task force under this bill will be developing that and I think that that is going to be a trend for the future.

Ladies and gentlemen, I hope you will support this school for education of our students in this state. I hope you will pass it today so we can send it to the table and let it take its place there.

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

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: I rise mainly because I was the major opposition to this proposed idea on the Education Committee. Those of you who attended the various workshops realized that I was concerned with the level of funding for GPA. I was certainly concerned about the possibility of elitism, but I am the latest of the converts. I have read all the material, I have talked to a lot of people, I certainly have talked to educators and I am convinced, especially with the amendment and changes that our Chair, Representative Mitchell, has put in that opens it up, makes it more accessible for more teachers and more students so that it is not an elitist school.

I think the thing that impressed me very much was the extreme dedication of the people from the county who came down time after time after time, participated very creatively in the work shops, were open to new ideas, opened their arms to the changes that Representative Mitchell suggested to open the school for more teachers and more children. So, I think it impressed me.

There was another thing that impressed me, it didn't at first, it was the task force that was to work toward a visual art school in the performing arts. Yet, at the same time, before our committee, we kept hearing that we were losing emphasis on art and music, that so many of our rural schools could not afford it, did not have the facility, did not have the teachers, were cutting those programs.

This is a way back. And, talking to the people who are concerned, the teachers who are the visual arts and performing arts instructors in my area, they have convinced me very strongly that this is a way to put new emphasis on the arts. This is a way to encourage the arts. This will encourage more of our students to participate and go on in the arts as a profession.

Here we have a situation where we have a facility, it is already paid for and it has the support of the town and the people. It has the support of the

majority of educators. It has the support of the Department of Education in this administration and now it has my support.

I hope that you defeat the motion that is before you and vote in favor of this project.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I am happy to go on Record in strong support of the magnet school in Limestone. I had occasion this past weekend to visit Aroostook County and talked with a number of people there and was frankly amazed by the excitement among ordinary citizens about this concept.

I would like to briefly touch on the benefit for economic development that this will have in a struggling area. By passing this bill, we will not only be making prudent use of an excellent facility, but we will also be creating a hub of tremendous intellectual energy that will reside among the instructional faculty as well as the students there. That energy, I think, coupled with the resourcefulness and perseverance of the people of Aroostook County will undoubtedly create many small enterprises, many small businesses. This is a powerful force for economic development that will grow and create jobs and create hope and create opportunity for that area. That area is desperately in need of those things.

I encourage you to vote against the pending motion.

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

Representative JOHNSON: Mr. Speaker, Men and Women of the House: I too am one of those who is just a recent convert. I suppose an example of why debate is good is because I had one mind when it started, and through the good auspices of some people who broke their silence after many, many months, that was — thank you for breaking your silence.

I just want to say that I grew up in Brooklyn, New York which is a far piece from — I am from away. I went to school there in the 1930's and into the 1940's and Brooklyn, New York had a high school system of offering to all the students in that lovely town a variety of high schools, not just a general high school but a high school for science and math, a high school for the arts and, if I remember, meeting people later on through the years, they have come forth out of those high schools and done marvelous things in the world.

I support this idea.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I think this has been very thoroughly debated and clearly stated by two people in this same row. I think we should split them up so we can get the debate fully from those — Representative Oliver and Representative Young have made the absolute best case for this today.

I do want to mention when we heard about the cost of this school, there is an opportunity cost here. The monies that we hear about that are available only to the small town of Limestone will not be available each and every year. The building which exists in incredible repair for a school of its age, the students have had tremendous respect for the buildings and its grounds, will not stand in the

condition it is in forever. As we all know, things that are not taken care of run down and there will be greater costs to starting something like this at that location in the future. When you have millions of dollars available to start something which is clearly a good idea for education and a good idea for those gifted students that are not gifted at everything but are gifted at math and science to allow them to develop those skills, to allow them to develop our state and clean industries, it is looking forward to the future.

I am not sure who said it but there is a quote that says, "It's a politician who looks forward to the next election and it's a statesperson who looks forward to the next generation." In voting for this, I am looking forward to the next generation of Mainers.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of 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 Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: There are two or three points I would like to make here. Number one, I agree with Representative Hichborn that we are separating education and economics. I mention it for a different reason. The amount of money that would start this school amounts to three-tenths of one percent, hardly enough to do a whole lot anywhere, especially spread out throughout Maine. When you take the total state local allocation it comes out to double that, still far less than one percent.

I want to say that in advocating this I am also going to stand up and advocate for General Purpose Aid and you are not going home to your towns with the same deal that you could be. I know my committee is dedicated to that principle and I hope that that doesn't blind you to the possibility of putting a model curriculum in place in one place in this state that all places can go and look at. We need something that will jump-start this education system of ours into the next century.

I believe that ideal program can be attained and I believe we can recapture the interest and enthusiasm we had for math and science back under the old National Defense Education Act of 1958. That set up a scientific explosion in the 1960's. I think in part it put us on the moon before the end of the 1960's. I believe we can rekindle that kind of spirit but we must have a place. I am not even speaking about the relatively few students who will go there. I am thinking of the many staff development spin-offs for all our kids in all our schools throughout the State of Maine.

I hope you will vote in opposition to this indefinite postponement.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I find it rather difficult to rise and oppose something that after 22 years of serving education I should probably be supporting.

I also find it extremely difficult to rise right

after my good friend from Winthrop, Representative Norton, and disagree with him, but I must. I am going to tell you exactly why and I will do it as briefly as I possibly can.

We had a young lady from my hometown of Greenville, who just won the top math award down in Bangor. She did this from a little school called Greenville — by the way, Representative Norton said that that \$400,000 represents three-tenths of one percent, which just happens to be exactly what Greenville is going to be short next year, \$400,000, three-tenths of one percent. That is what we are going to be short.

It is possible where Greenville, as many other school systems around this state have cut to the bone, we are going to have to cut out curriculum that is not curriculum for anybody special, it is just curriculum for the common everyday students. Maybe it is going to be that this girl won't have a chance to be the top math student anymore because maybe that teacher that had taught her isn't going to be there. They actually discussed this last night at home about perhaps closing the Greenville school system and going to Guilford to BCHS. Now, that is a possibility.

Will this rectify Greenville's problems? Of course not. I am not that idiotic to realize that this won't rectify Greenville's problems, but it seems to me that we have one pot of money in the State of Maine and when we can't fund the school systems that we have now, when we cannot fund Baxter School for the Deaf the way it should be and haven't done for years, we should not be starting a new system until we can take care of the system that we have now. I shouldn't be building a new house if I can't take care of the one I have now.

I urge you to vote against this school.

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

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

To anyone who can answer this — for a point of clarification, if we pass this measure to have this school, will that take monies from the overall school funding amount or will it only take the money from those schools whose students may choose to go to this school?

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

The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This money does not come out of GPA, rather it comes from a General Fund appropriation.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: Although Representative Mitchell was correct, it does not come out of GPA; however it would have an effect on how much money we can put into GPA. So, it would have an effect, ultimately, because it is all General Fund dollars and this will be that much less that we can try to put in for GPA, which is my understanding the Education Committee would like to have another \$10.7 million for the 70/30 proposal.

I did not intend to speak on this issue because we

do have to prioritize. Although this might be a good proposal, and I applaud the Education Committee for presenting the proposal, however, we do have to set priorities. Although this will not affect GPA it will be that much less that we will have to put into the General Purpose Aid formula because it is going to be extremely tough to come anywhere near that \$10.7 million that the Education Committee is dealing with as far as GPA.

Not only that, but it is my understanding that this will cost roughly another \$2 million once this program gets going and there is no way that we can afford that at this time because we cannot even afford the programs we have now, let alone to establish some new programs.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House: Before I was elected to this august body, I happened to serve two terms as a school committee chair for Raymond, Maine. We are a town that does not have a high school, but yet, we pay tuition out to other districts.

When I left Raymond, we paid to 19 different high schools where we had children going. Nineteen different high schools. This is just another option of where you want to send your child. We had people going to Carrabassett Valley, we had people going to Deering, we had people going to Westbrook, we had them going all over the place.

We thought that it was in the best interest of the child to know where he or she wanted to go. It is for their own personal development if they choose to go to Limestone.

Sure, it will impact your GPA by one high school tuition, but do you place a price on a child's head or do you let that child reach his full potential?

How many of you here have a gifted and talented program? Not everyone qualifies for a gifted and talented program but if you do, those people can reach their potential and not sit in a classroom and be bored.

You have seen letters come across your desk, these kids want a school where they will be challenged. Don't put a price tag on it. If you could help one person in the State of Maine, one child, become a better student, you have done a great service to the state. I would ask you to defeat the pending motion and support the magnet school.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: Money going into the GPA effort (I hesitate to call it a formula) is not as critical as how we disburse that money this year.

I can predict that no one is going to take a hit as severe as the one that my good friend from Greenville says. I think that that would be above and beyond the call. I think that the Education Committee will sit and make a measured fair judgment. I have seen no other evidence than that thus far and I don't expect in the next couple of weeks to see anything but the most caring effort in that regard given. So, I think that is one thing.

I will tell you what this really points out. If we don't form this Education Commission, free standing, to look at how we are going to raise our money and prove or disprove my hypothesis, that because of serious disparities in how we raise our money throughout the state, I believe there is as

much (I will be very conservative here) as much as \$100 million going in that disparity that exists.

I can name houses and put them in one place — I think this has a bearing Mr. Speaker on the subject — I could take a house in one community and put it in another and give you a tax that will range from \$400 to \$2,500. As long as I can take that house value comparatively in that regard I believe it has a bearing on this case because it proves how much we ought to be able to ignite a spark that would improve the quality of education, not only up there for those few students but statewide and illustrate the need to frame a different system of how we raise money to fund education in the first place. It is a dilemma, we won't let everyone go home devastated under GPA, I guarantee it. I think I am speaking for the Committee. I looked at the Chair especially to see if she is shaking her head yes. We are going to give that every shot, that has not happened yet, so I wish no one would make that as an assumption. It will be a compromise of sorts, probably no one will be happy, but I believe all will be served.

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

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I wish the Education Committee could clarify some areas of concern, not that I would have as a father of a student, but perhaps as a grandfather of several students, that may be qualified for this program. I am concerned about the distances that may be involved if they were gifted and talented in math. I am concerned about the living conditions and the responsibility of these super, super, active teenage minds. What language is there to assure us about the environment that they will be exposed to? That would be one concern.

I think Representative Norton and I have a great deal in common here, the education of our total population.

The problems seem to be too great to assess at this time. The projections — whenever you start a new program, remember the new math? I am sure Representative Norton remembers it, what happened to that down the road? The great concept and how to address it without making provisions for any longer terms than perhaps 36 months. Education does not develop in one year, concepts do not develop in one year, commitments do not develop in one year, they go over a period of time.

I would appreciate it if the good Chair from the Education Committee could address the future funding of this program and to what extent there is a commitment to fund it. I personally would rather see this money distributed to the many communities of this State of Maine that could justify establishing a better gifted and talented program. I agree it needs to be addressed but to use this because the federal government devastated an area as a major reason for establishing this program, I am sorry, the educational philosophy behind it is not valid.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Men and Women of the House: I will be brief, I just want to answer the good Representative's questions. Before I do, something very interesting, in fact I hadn't known the good Representative from Gray, Representative Carroll, just pointed out to me the similarities that when the University of Maine at Orono was first opened and apparently speaking from experience here,

I didn't realize that he went back that far, but that was out in the middle of nowhere and people managed to get by and survive okay.

The 300 students who would be selected from Maine's juniors and seniors, first of all, these are people who choose to attend. They will apply, there will be an application process, they will be nominated by their faculty and there will be an application process. So, I would suspect that any parent, before they send their child there is going to travel with them to see what the arrangements are going to be before they ever allow the child to apply for this or to be involved in it.

Reading from my notes, recognizing the need for adult support, the residential life staff will include a live-in counselor, 15 resident assistants, (this is in the new dormitory which is going to be built) 15 resident assistants, a recreation activity director, and a security special. The purpose of the residential staff is to coordinate special host family program, matching each of the students with one of the host families in the Limestone community. Believe me, after 15 years of playing host to one of world's largest strategic air command bases, we know how to take care of people from outside the community.

I don't think you could find a community that would be safer, more wholesome, or a more reliable place for these young people to go.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I promised the Representative I would be brief. Two weeks ago, the Housing and Economic Development Committee went to Loring Air Force Base for a public hearing. It was my first trip to Loring. I loved the terrain up there because it is a lot like the mid-west where I grew up, so it felt comfortable until we got on the base. It goes beyond description to see what the absence of activity feels like up there. We immediately just felt sad.

Some of you have heard me talk in the past about the issue of defense conversion. You know defense is our third largest industry in this state. What is happening at Loring is in direct proportion to the defense downsizing that we have seen at the federal level and we as a state have not yet figured out how to address that issue in any formal organized, predictable, orderly way. So, places like Limestone are having to respond in what I see as a somewhat piecemeal attempt to deal with the base closure at Loring.

Those of you who live in Bath/Brunswick, those of you who live in Portsmouth/Kittery are going to be looking at some of these same issues if the day comes that the bases in your communities are also closed and you too will be challenged to be creative and figure out ways to use those facilities that the federal government will give you with a little pittance of money to try to make it go for a short period of time.

I have labored all afternoon on this issue because as an educator and as a parent of children still in school, my first concern is always adequate funding for public education. Simultaneously, like many of you, the dilemma is that we are faced with a decision between an economic recovery initiative and adequate funding for education.

The Representative from Winthrop is absolutely right, this is really an issue about the way we fund education in this state. As long as we depend on

property tax, we are going to be faced with this issue over and over again.

This is the second vote today that pits these two factors against each other, it is uncomfortable. I wish I had a yellow light, but sadly I learned in the 115th during my first week here, there ain't no yellow light. So, I will be voting against the pending motion because I believe that the issue of economic recovery, not just in Limestone but throughout the entire state, means we have to take a chance, means we have to be bold, means we have to be visionary and means we have to trust each other that funding will be available and that those logistics will be worked out. I hope you will follow my light.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. It is clear from what Representative Norton said that I had misled you people and maybe it doesn't mean anything to you to mislead, it does to me, because my integrity is the only thing I have got. So, I am going to get up and correct it when I have misled. I said that we were losing \$400,000, not through state subsidy, it is a combination of things that we are losing \$400,000 on, not just state subsidy. I apologize but I am not going to deliberately mislead.

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

Representative TOWNSEND: Mr. Speaker, I would like to pose a question through the Chair. To Representative Mitchell, I am confused about how — one of the positives of this debate has been the idea that entire classes from schools from other parts of the state might travel to Limestone. I am confused about how that trip would be paid for. Would that come from the local funding of the home school? Could you please explain?

The SPEAKER: Representative Townsend of Portland has posed a question through the Chair to Representative Mitchell of Vassalboro who may respond if she so desires.

The Chair recognizes that Representative.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hope I can answer your question to your satisfaction. The committee who brought this proposal to us had spent months and weeks and hours of endless debate determining how it was going to go forward. The proposal that we threw at them had not had that time for analysis and how it would be paid for. It is the assumption of our committee that that too is an expenditure (and I think Representative Michaud pointed out there are future costs to this bill), but it seems to me that those are part of our school funding responsibilities but there is a planning period, this does not happen immediately. I am sure it will be back before this Legislature for a final resolution of that. We simply did not have time to work out all the finer details of that particular piece in the short time that we had the bill. I am not trying to evade you, I just want to make sure that you understand that those details have not been totally worked out.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Kilkelly of Wiscasset that the bill and accompanying papers be indefinitely postponed.

The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, pursuant to

House Rule 7, I wish to pair my vote with Representative True of Fryeburg. If Representative True were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Kilkelly of Wiscasset that the bill and accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 290

YEA - Adams, Aliberti, Bowers, Brennan, Chase, Clark, Coles, Constantine, Erwin, Faircloth, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heeschen, Heino, Hichborn, Holt, Ketterer, Larrivee, Lemke, Lindahl, Look, Michaud, Morrison, Poulin, Pouliot, Ricker, Rotondi, Rydell, Saint Onge, Saxl, Skoglund, Spear, Swazey, Tardy, Townsend, E.; Townsend, L.; Tracy, Walker, Wentworth, Whitcomb.

NAY - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Carroll, Cashman, Cathcart, Chonko, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Farnsworth, Farren, Fitzpatrick, Foss, Gamache, Gean, Hoglund, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Kneeland, Kontos, Lipman, Lord, MacBride, Marsh, Marshall, Melendy, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Plowman, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Rowe, Ruhlman, Simonds, Simoneau, Stevens, A.; Stevens, K.; Strout, Sullivan, Taylor, Townsend, G.; Treat, Tufts, Vigue, Winn, Young, Zirkilton.

ABSENT - Farnum, Hillock, Kutasi, Lemont, Libby Jack, Libby James, Martin, H.; Martin, J.; Michael, Small, Thompson, The Speaker.

PAIRED - Kilkelly (Yea)/ True (Nay).

Yes, 43; No, 94; Absent, 12; Paired, 2; Excused, 0. 43 having voted in the affirmative and 94 in the negative, with 12 being absent and 2 paired, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-511) in concurrence.

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Representative CAMERON of Rumford moved that the House reconsider its action whereby the House accepted the Majority "Ought Not to Pass" Report on Bill "An Act Concerning High-speed Chases" (EMERGENCY) (H.P. 1294) (L.D. 1742).

On further motion of the same Representative, tabled pending his motion to reconsider and specially assigned for Wednesday, March 30, 1994.

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The Chair laid before the House the following item which was tabled earlier in today's session:

SENATE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on Judiciary on Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions" (S.P. 293) (L.D. 880) which was tabled by Representative COTE of Auburn pending acceptance of either Report.

Representative COTE of Auburn moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Once again we are looking at a bill to limit the noneconomic damages in medical malpractice actions or in tort action, this time medical malpractice actions.

The noneconomic damages were explained to you the other night when I was talking to you, that they are for pain and suffering and damages that are not related to the economic damages which are wages, future earnings, medical and future medical.

We would like to point out to you that every health care reform bill out there is talking about tort reform. We would like to see you defeat the Majority "Ought Not to Pass" Report and accept the Minority "Ought to Pass" Report.

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

Representative COTE: Mr. Speaker, Men and Women of the House: Back in 1987, St. Paul, the country's largest insurer of medical malpractice coverage, wrote to the Trafton Commission. I do have a copy of their letter. The letter states: "St. Paul has not joined other insurance companies or trade associations in their promotion of changes in the civil justice system. In fact, we have urged fellow insurers and trial bar leadership to reexamine whether their roles in the current debate are truly appropriate. Although we cannot speak for those insurance companies which have lobbied for tort reforms, the St. Paul's has always made it clear that it is impossible to conclusively price any given reform. While passage of proposed reforms may have an impact on lost cost, it simply is not possible to predict with any reasonable degree of accuracy the extent of dollar savings which might result from any given change in the tort system or when that savings might be realized." Further on St. Paul's states: "Whether or not any resulting reduction in recovery will be sufficient to produce an actual rate reduction over time is uncertain."

That letter comes from Shirley Bramingham from St. Paul.

In keeping with that philosophy, the St. Paul, in 1992, filed a rate increase request with our Bureau of Insurance. The St. Paul, in its request, failed to indicate that any of the reforms thus far enacted in tort reform had had or would have any beneficial effect in terms of premiums. In his order, Brian Acheson, the Superintendent of Insurance, determined that the recent tort reform initiatives in Maine had a 3.5 percent impact on rates. Those reforms included the change in the collateral source rule, the changes in the statutes of limitation, the prelitigation screening panels and the establishment of practice parameters. The total percentage of reduction in premiums for all of those changes, again was only 3.5 percent. Assuming a family practitioner pays just under \$10,000 a year for his medical

malpractice insurance, the 3.5 percent savings on his premium amounts to \$350 a year or approximately \$30 per month or approximately the cost of one patient's office visit per month. And, for saving the family practitioner \$30 per month, Maine citizens have already given up substantial legal rights. For example, with respect to the prelitigation screening panel, it takes ordinarily twice as long for an injured person in Maine to get to court, thanks to the existence of these panels. Should we enact the cap on noneconomic damages, we will further limit the injured persons right to recovery and we will do so in exchange for a few dollars benefit on the family practitioners insurance premium. That is assuming that again the superintendent of insurance allocates a percentage of rate decrease to that particular initiative. Certainly the insured won't discount rates on its own.

Men and women of the House, \$30 a month is not a lot of money to exchange for the rights to full recovery for Maine citizens.

Finally, the other day in a very eloquent rebuttal to Senator Cianchette, the good Senator from Hancock, Senator Foster, said that the victims are not to blame. She said that full recovery should be decided by a jury of our peers. And, she said that the wrongdoer should pay the cost. I can't say it as eloquently or as passionately as she did, but I agree wholeheartedly with her that we should not change the civil justice system which we inherited from our forefathers without substantial justification.

Men and women, I urge you to vote for the Majority "Ought Not to Pass" Report.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: As I mentioned to you the other night on noneconomic caps, this is not an unusual step for the State of Maine, we already have caps. We have caps when you sue the State of Maine or you sue the county or the state that you live in, there is a \$300,000 cap. There is a \$75,000 wrongful death action. Should someone be killed, you can't recover more than \$75,000, that certainly does not replace a person.

We also have the cap on the liquor liability. This cap would be \$250,000, not small change in my pocketbook, hopefully not small change in most of your pocketbooks.

The tort action is to make the person as whole as possible at the time of the accident, the occurrence, the negligence, whatever you would like to call it. The award that is given is based on making the person whole, but please don't be under the impression that the person is made whole when they receive their award because the first one-third goes to the trial attorney and only two-thirds goes to making the person whole.

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

Representative CARON: Mr. Speaker, Men and Women of the House: We heard much testimony from different special interests groups. What I would like you to look at here is - I will give you an example of how a problem can arise. As you know, I just had a little boy born a month and a half ago and I was there when the child was born, but being with my wife at the time while she was in labor, the pain became very strong and we had to have an anesthesiologist come in and they had to give her a spinal. In that

particular circumstance, it really affected me because I thought of the problems that could arise. Thank God it didn't, but had the anesthesiologist come in and been negligent — he might have been a drug addict, he might have been an alcoholic or some negligent act that he committed and had he done it wrong, she would have been paralyzed for life. You can think of this woman now who is paralyzed for life, who now has a child, she can probably never hold that child again, she may never be able to change a diaper or feed the child (I guess maybe it wouldn't be too bad at that point, I have changed a few of them) but you can see that the suffering that this woman would go through, the suffering the children would go through and the husband and these are problems. Now, with noneconomic damages because she is not working, she is only a housewife, she would not be able to get at least some monetary compensation for that, neither would the family of her child.

I would ask you — it really affects women a lot more and it would affect the children. Had I been the one getting the spinal at the time and been paralyzed, there would be an outrageous amount of economic benefit because they would give me lost wages, future lost wages, but because she is a woman she would not get that and I would ask your support of the Majority "Ought Not to Pass" Report.

Representative Plowman of Hampden was granted permission to address the House a third time.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: In researching this question as to how it would affect women and discriminate against women, I spoke with a woman who works for the Displaced Homemaker's program who told me that she has testified as an expert in court cases as to the value of a woman who doesn't work, but what her economic value is to her household and to her family, and that there are awards based on and compiled into the economic damages part of an award. So, please don't be under the impression that there is not an award to a woman who just happens to be a "housewife" because her economic value to her household and to her family is taken into account.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Carr.

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question, Mr. Speaker. It seems to me that Maine was singled out and emulated in the construction of the Clinton Health Plan because we had established parameters in medical malpractice — does not this bill destroy the very foundation of which this praise was caused?

The SPEAKER: Representative Carr of Sanford 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: I am sorry, I didn't hear the last question so I can't respond to that.

I just wanted to make the point that one of the chief reasons that has always been given for the need for the cap is that the insurance costs for the doctors has been steadily rising. I just wanted to point out to you that we have handed out, in the last few days, materials from Medical Mutual of Maine which is the largest insurer in Maine, a physician owned insurance company here which based on their

rate filings from '85 to '93 and their rates are not going up anymore, their rates have been steadily going down. In fact, they avoided the appearance of that when you look at the rates because this last year they gave a dividend, I believe it is a 14 percent dividend, but it is applicable as a credit against next year's premiums. I think the facts are that the insurance costs are going down. The bottom line is that, although \$250,000 or \$350,000 is a cap may not be much change in one's pocketbook that is envisioning it as though you were going to walk around with this lack to spend it on. The fact is that we are talking about people taking care of themselves if they were paralyzed as Representative Caron pointed out. To do that you need around the clock attendance, you may need special equipment, you need all kinds of things in order to even remotely have the chance of living anything like a normal life.

I urge you to accept the Majority "Ought Not to Pass" Report on this.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Carr.

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House: That is precisely my point. It shows it is working. We have been able to establish a basis by which we can contain health care costs through the insurance. The doctors, as I recall, had to formulate their own insurance program in order to get insurance because of the escalating cost of malpractice. Through these parameters of the very bill that we are trying to repeal (or part of which we are trying to repeal) through the efforts of this, the parameters that we were able to establish, we were able to contain those costs to the extent that their premiums became less and less, it became very effective even to the point that they could get back some of the money they had to invest because no other insurers would take it. I think that is to be applauded and not to be brought out and held against them.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Ketterer.

Representative KETTERER: Mr. Speaker, Ladies and Gentlemen of the House: I am one of the signers of the Majority "Ought Not to Pass" Report and I urge you to accept that report for the following reasons. The proposed legislation would limit the recovery for noneconomic damage. It is a phrase that is easy to say but I wonder if all of us have a full appreciation for what noneconomic damage consists of.

This essentially is what lawyers would refer to as reduction in enjoyment of life, pain and suffering and items for which there is not a price tag that can be affixed to what you are going through as a result of the injury.

Ask yourselves if \$250,000, or as I understand it there is an amendment of \$350,000 floating out there as well, whether or not you would want to exchange that for your constituents if some 18 or 20 year old female, as a result of medical malpractice could not have children. Would you say that's okay? You've got your \$250,000, that is noneconomic damage, how many days out of work as a result of that medical malpractice, do you think that that is fair to treat the plaintiff in that fashion? That is what we are talking about with noneconomic damage. I would ask you to seriously consider whether or not you want to put a lid on that.

The current system, a jury decides that issue and a jury decides it based on the evidence and they



fully and fairly consider all the evidence and then they make a determination.

Jurors, just like the people in this room, aren't always correct. So, we have a system in place to attempt to remedy that situation. We have a judge who has listened to all the evidence and upon motion made by the medical side, the judge in his or her wisdom can reduce the amount of the verdict, notwithstanding the fact that it is a unanimous verdict or six out of eight people in a civil case have returned a verdict in favor of the plaintiff and it can still be reduced. In case you don't think that that is enough, the aggrieved party after getting that reduction if any is warranted based on the evidence, they can take and appeal. That is how it works right now.

I would suggest to you that that is exactly how we should leave it. We do have caps in place in certain limited instances. It was mentioned when someone sues the state, there is a limit of \$300,000. This is a somewhat different situation when you are suing the sovereign and the sovereign makes those laws, you can have a public policy which applies some limitation.

Also, there are limitations on what can be recovered in liquor liability cases but in those instances it is derivative liability, meaning that the liquor provider is providing liquor to someone else who then goes and is negligent. So, the liquor service provider is someone who is afforded some measure of insulation simply by virtue of the fact that the liability is derivative rather than direct.

This legislation, in my judgment, will not affect the availability of insurance for physicians and surgeons nor will it affect the cost, but it will dramatically affect the few people who happen to live in the State of Maine and some of whom will live in your district who as a result of unfortunate and unplanned medical malpractice suffer enormous harm and for an arbitrary reason have a cap placed on what they can recover by members of this body. I ask you to resist that temptation, leave it alone.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: Two years ago when this same issue was before the House, I had been encouraged to, and had agreed to, support the caps. I was encouraged to explore the possibility of how much those caps were going to reduce the cost. When I started checking into Medical Mutual, I found that the two preceding years they had been able to reduce their costs by about 35 percent. That year that we were voting, instead of reducing the cost, they decided to take a ten percent dividend. I was outraged at that because if the bill was truly designed to eliminate medical malpractice costs, then it would seem to me that they would be continuing to reduce the cost rather than taking dividends. For the two years since that date, they have taken 14 percent and now this year a 15 percent dividend. It just seems to me that the good faith effort to reduce cost has been one-sided.

I would urge you to support the "Ought Not to Pass" Report until the profession does the right thing and reduces the cost rather than return dividends.

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

Representative OTT: Mr. Speaker, Men and Women of the House: I rise just to remind this body that short of a week ago we debated this very issue and it was defeated in this body. Although it admittedly involved civil cases in general, it is the same issue that we are considering here this evening.

I think the points have been made by those who are speaking as proponents for the "Ought Not to Pass" Report. I just want to follow up on one point made by Representative Ketterer. If we are sitting here as a body and recognizing that there is a considerable amount of injury that can occur from medical malpractice cases, who are we to make an arbitrary decision on what those damages are? It has been explained to you that we have a jury system, a judicial system that is in place that has been functioning well over these years, that rises to a level of providing a fair compensation for the injuries sustained by someone, a victim of medical malpractice. Don't shackle their effort, support the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Cote of Auburn to accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative PLOWMAN of Hampden requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

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 Cote of Auburn to accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 291

YEA - Adams, Ahearne, Aliberti, Bailey, H.; Beam, Birney, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chonko, Clark, Clement, Cloutier, Coffman, Cote, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Gamache, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Hussey, Jacques, Johnson, Joy, Kerr, Ketterer, Kontos, Larrivee, Lemke, Lipman, Look, Lord, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, Oliver, Ott, Paradis, P.; Pendleton, Pfeiffer, Pineau, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Spear, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Wentworth, Winn, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, R.; Bennett, Bruno, Campbell, Carr, Clukey, Cross, Dexter, Donnelly, Foss, Gray, Heino, Kneeland, Lindahl, MacBride, Marsh, Marshall, Nash, Nickerson, Pendexter, Plourde, Plowman, Poulin, Reed, G.; Robichaud, Simonds, Simoneau, Small, Stevens, A.; Taylor, Tufts, Walker, Whitcomb, Young, Zirkilton.

ABSENT - Barth, Cameron, Chase, Coles, Constantine, DiPietro, Farnum, Hillock, Jalbert, Joseph, Kilkelly, Kutasi, Lemont, Libby Jack, Libby James, Martin, H.; Martin, J.; Michael, Murphy, O'Gara, Pinette, Pouliot, Reed, W.; Thompson, True.

Yes, 88; No, 38; Absent, 25; Paired, 0; Excused, 0. 88 having voted in the affirmative and 38 in the negative, with 25 being absent, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

On motion of Representative BENNETT of Norway, the House reconsidered its action whereby Bill "An Act to Make Changes in the Manufactured Housing Laws" (EMERGENCY) (S.P. 461) (L.D. 1453) was passed to be engrossed.

On motion of Representative DAGGETT of Augusta, the House reconsidered its action whereby Committee Amendment "A" (S-530) was adopted.

The same Representative presented House Amendment "A" (H-992) to Committee Amendment "A" (S-530) which was read by the Clerk and adopted.

Committee Amendment "A" (S-530) as amended by House Amendment "A" (H-992) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-530) as amended by House Amendment "A" (H-992) thereto in non-concurrence and sent up for concurrence.

BILL HELD

SENATE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (S-493) - Committee on Utilities on Bill "An Act to Protect the Interests of the Town of Otis in Certain Ponds" (EMERGENCY) (S.P. 630) (L.D. 1747)

- In Senate, Majority "Ought Not to Pass" Report read and accepted.

- In House, Majority "Ought Not to Pass" Report read and accepted in concurrence.

HELD at the Request of Representative COFFMAN of Old Town.

On motion of Representative COFFMAN of Old Town, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I thank you for the opportunity to address you on this bill, a bill that I consider the most important bill that I have spoken on. I would appreciate you reading the handout that was sent around to you.

I am not doing this for me but doing this for the town of Otis. Something happened down here that I feel, and the town of Otis feels, should not have happened. The bill in question, "An Act to Protect the Interests of the Town of Otis in Certain Ponds" is very simple in what it is asking for.

This bill amends the Charter of the Bangor Water District to prohibit the District from taking by eminent domain any land in the town of Otis.

Let me give you a little background. The Bangor Water District pumps and treats an average of 6 million gallons of water each day. This water comes entirely from the town of Otis, outside of the Bangor Water District. The water is delivered through 180 miles of pipeline ranging in size from four to thirty inches in diameter, the District supplies more than 56,000 people in the greater Bangor area, including 8,430 residential accounts, 1,216 commercial and industrial accounts, 583 government entities and more than 300 fire suppression sprinkler systems. The water comes from Floods Pond in Otis and is piped under the Penobscot River to reach Bangor.

The District is a separate municipal corporation, not part of the city of Bangor as approved by voters in 1957. The only source of revenue is money raised through water bills, public and private, fire protection and other utility services. Total annual revenues amount to \$2,600,000 a year, all from the water that comes from Otis which they pay absolutely not one penny for.

In 1957 when this Charter was written, Bangor had to switch its water supply from the Penobscot River, which was heavily polluted by upstream dumping of sewage and mill waste, to some other source. After the Maine Legislature in 1957 created the Bangor Water District and was approved in a city referendum, the title to the city water system after formation of a new Board of Trustees was handed to the new water District. In essence, the Act authorized the District to control the number of ponds to supply water to Bangor and surrounding towns. All those ponds are in the town of Otis.

Floods Pond in Otis was chosen following careful testing over a number of years by the District. With the new system in operation in 1959, the water powered Dean pump, located in the old waterworks building on the Penobscot gave way to electric turbine pumps at Johnson Station. The new water from Floods Pond was of such high quality that it did not require extensive treatment to place it in a ready state for consumption.

The source of supply for the Bangor Water District is Floods Pond in Otis. The pond lies 15 miles east of Bangor in a rocky, rugged area which was caused by the retreating glaciers. The pond supplies an excellent source of water that is clear, soft and palatable year-round.

The users of this water — first of all, the Bangor Water District sells its water to neighboring towns. Orono and Veazie buy 1.2 million gallons per day of water from the Bangor Water District that they get from the town of Otis. The PERC plant, the industrial incinerator plant, uses 400,000 gallons per day. Otis is a member of the group that sends their trash to PERC and they have a contract with PERC that many feel that they are getting double billing because not only do they pay what other towns pay at the same rate, but they also supply the water, 400,000 gallons a day that Otis supplies in essence to the PERC plant. They supply 300,000 gallons a day to L.C.P. Chemicals, a private company. They supply to Hampden Water District, they supply all the water to Eastern Maine Medical Center, the Bangor Housing, which has 140 units, the city of Bangor, all the properties in Bangor, the Bangor Mental Health Institute, Grant's Dairy, Birch Hill Estate, St. Joseph's Hospital, Husson College, it goes on and on — all the water the city of Bangor uses and sells to the surrounding towns comes from the town of Otis.

The Bangor Water District — we have tried repeatedly to get information from them. Here is the file that I have collected so far on the Bangor Water District — quite extensive. The problem is that we never get, whether it is myself or the town of Otis requesting information, we never get what we are asking for. We are always getting a bunch of junk. We look through there and sometimes we find some information that gives us some insight on the internal functionings of the Bangor Water District but usually we do not get answers to the questions we are asking.

But we find out things like they just built a storage building, 60 feet by 80 feet, not insulated or anything that cost \$250,000. They buy plow trucks, \$35,000 brand new. Backhoes — they trade in their old backhoes and buy new ones, \$35,000 plus a trade-in. They recently completed renovations to their offices, \$60,000 worth for three administrative offices. They conduct numerous studies, studies such as salary studies to see if their employees are being on the same level as other water districts around the country. We can't find out exactly why they are doing this but that is where the money is going. They do a lot of water quality studies, they have a bill here for \$50,000 in legal fees where they fight the rate increases. Some of the trustees of the Bangor Water District are attorneys that fight this. Their administrative costs, which they will not explain down to where the money goes or they won't itemize it, amounts to \$500,000 and that's it. That's all we can get out of them. So much for the Bangor Water District.

Now the town of Otis — Otis was incorporated on March 19, 1835. The town has a year-round population of 355 and a seasonal population of approximately 1,700. All Otis has for its tax base is its land and one General Store there, that's it.

The problem that has occurred is that the purity of the water supply that comes from Floods Pond is so pure that Bangor is saving a lot of money because they don't have to treat it, they don't have to build a \$20 million dollar plant to treat the water but what happens is, in order to protect the purity of the water supply, they buy land, they buy more and more and more and more and more land to protect the watersheds, the purity of the water.

Back in '57 when the Charter was written, the Bangor Water District by eminent domain took land that belongs to the town of Otis. They took land that fronted the Floods Pond, they took a road, they took land that accessed that and never paid a penny for that. That's illegal and that's still a question that is ongoing but the Bangor Water District refuses to talk about it.

The Bangor Water District's Charter states that the District has the water rights to Beech Hill Pond and Springy Ponds which are also located in Otis. There are camps on Beech Hill Pond, the people are very worried there because the Bangor Water District has intent — they have purchased land on Beech Hill Pond and they are going to use that to further increase their water supply. The Bangor Water District has within its power the ability to bankrupt the town of Otis. My heart went out to this town when I was asked to check with LURC about becoming an unorganized territory. One time already in my time down here I officiated over one of my towns, Greenfield, that became an unorganized territory, after enjoying over a hundred years of existence. It

is very traumatic and I don't find pleasure in it. And now Otis is thinking about doing the same thing.

The Bangor Water District possesses the power to cause a town to become a burden upon the state. The District is not motivated to consider the impact their decisions may have on the welfare of the citizens of Otis. Even if the Charter was to be amended, the District has the resources to purchase land within the town, thus allowing it to further erode the tax base. Therefore, compensation in the form of a user fee for water supplied to the District's customers is justified. Without even exercising the power of eminent domain, they are at this time able to divert water from Beech Hill or Springy Ponds. If the District were to divert water from either pond, the cost to the town would be astronomical. Any restrictions upon recreational uses of either pond would jeopardize the current tax base and any future growth potential.

Recently, the District purchased 518 acres in Otis for the purpose of controlling human activity and decreasing non-point source pollution in the Floods Pond watershed. Today the District controls 4,500 acres which is located within Otis. They informed the townspeople that there are another 1,100 acres in the watershed and if it were available, they would purchase it. The water district has also been granted the privilege of tax exemptions. Every acre of land purchased by the District or taken by eminent domain is a cost passed on to the taxpayer.

Since 1957, the Bangor Water District has grown steadily, grossing \$2.77 million in revenues just this past fiscal year alone; yet the town of Otis does not receive any compensation whatsoever for the use of one of its most valuable resources. The District levies user fees against its customers; however it is exempt from paying even a small fee to the town which the resource is taken from. In effect, the town subsidizes the supply of water to profit-making entities located within the service area of the District. The Bangor Water District was given its power by the legislature in 1957 because of an emergency which existed within the city of Bangor. The continuing deterioration of the city's water source presented very serious health problems and required the legislation immediately for the preservation of the public peace, health and safety of the inhabitants of the city. The District is also granted the right to sell water to other communities and water districts. It currently serves 6 other communities besides the city of Bangor, among them Clifton, Eddington, Orrington, Hermon, Orono, Veazie and Hampden water districts.

I apologize for the length of this but this is very important to the town of Otis because they came down here and nobody seemed willing to listen to them. They felt snubbed and that is something that I was appalled at and I will tell you a little bit more about that later — hopefully not too much later.

The District recently informed the town of an ozone facility to be constructed within the boundaries of the town. The District's annual report indicated that they were aware of this project since 1989; however, the town was only notified in July of '93. This facility will house a large supply of chemicals, which is another burden to the town's already limited resources. If an emergency were ever to occur, the town would be liable. Whether the emergency were to occur does not lessen the liability of the town — I know everybody wants to go home —

but this facility will cost \$7 million and several hundred thousand dollars in annual operating costs. Upon questioning of Bruce Shibles, the Assistant City Solicitor of Bangor, we found that the Bangor Water District, because of the purity of the water and not having to get into a real high-tech water purification system, was saving from \$12 to \$20 million.

I want you to keep this in mind when the city of Bangor comes before you as they did in the Utilities Committee — right before this bill was presented, there was another bill that they came to us with and that bill was asking that the public right-of-way, like AT&T just laid 8 miles of fiber-optic cable in the public right-of-way in Bangor and the city of Bangor wanted to tax that. They wanted a user fee on that, I can't remember what it amounted to per foot but it would have amounted to \$200,000 annually so it is okay for them to put a user fee on, but when they use something that belongs to somebody else, they don't want to pay user fees. As a matter of fact, they have another bill request that is coming up, 1782, titled, "An Act to Clarify the Tax Exempt Status of Non-Profit Rental Housing" — they want to tax this rental housing.....

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee, and would inquire for what purpose the Representative rises?

Representative LARRIVEE: Mr. Speaker, I would ask for a ruling regarding House Rule 27a, the relationship of debate to the issue at hand?

The SPEAKER: The Chair would remind the Representative from Old Town, Representative Coffman, that while the title of the bill before us 1747 is "An Act to Protect the Interests of the Town of Otis in Certain Ponds" it would be appropriate to confine his comments to those provisions that are allocated within the bill itself and would encourage the Representative to confine his comments to those specific provisions within the bill.

The Chair apologizes for interrupting the Representative.

Representative COFFMAN: Thank you Mr. Speaker. Perhaps I will take this opportunity to read to you two letters from the town of Otis. On March 5th, the town of Otis came here — well, before that happens — okay, on March 5th, the town of Otis came here, five citizens from the town of Otis led by the town clerk who acts in the capacity of town manager, they came to the Utilities Committee, they passed this letter to the clerk of the Utilities Committee to be passed out. They wanted an opportunity to speak on this and to have their concerns addressed.

I was seven minutes late for this meeting. One of the representatives on the Utilities Committee, within seven minutes, made a motion to kill this bill. The town sat there and watched this occur, all the while that there were five members present that did this, there was not even a quorum present. These townspeople were in shock. They came out of this meeting very depressed. I came within seven minutes, seven minutes after one o'clock.

Here is the letter that they had to pass to the committee: "In response to the letter you recently received from George Eaton, Board of Trustees of the Bangor Water District, dated March 1st, I would like to set the record straight. Before I respond, I must ask if Mr. Morrison and Mr. Taylor are going to vote. I am concerned about the apparent conflict of

interest which exists because of their previous affiliation with the District. Mr. Eaton states that the selectmen at the meeting in the town.....

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark, and would inquire for what purpose the Representative rises?

Representative CLARK: Mr. Speaker, I believe that the testimony being given is not germane to the bill, particularly names being used.

The SPEAKER: In reference to the comments that were made by the Representative from Old Town, Representative Coffman, in regards to the concern expressed by the town regarding a potential conflict of interest — on the Record, the Chair would like to state that the Chair has discussed with the Representative from Cumberland, Representative Taylor, and the Representative from Bangor, Representative Morrison, there is no conflict of interest that exists that would have disallowed them the opportunity to vote in committee. The Chair would also suggest, as he articulated to the Representative from Old Town, Representative Coffman, that there is no conflict of interest that exists that would prohibit them from voting on this issue at this time.

The Chair would ask the Representative from Old Town, Representative Coffman, to confine his remarks and his comments to the provisions before us. The motion before us is acceptance of the "Ought Not to Pass" Report. The Chair would ask the Representative to confine his comments to acceptance or not acceptance thereof.

Representative COFFMAN: I don't know quite how to proceed because this letter was given to the Utilities Committee from the citizens of Otis which was never heard. I have a hard time understanding how citizens can come down here — this is supposed to be part of the process where they can voice their concerns. I explained previously the whole history behind this and what was happening and nobody wants to listen to the citizens of Otis. I will bypass this letter but I would like to read to you from the town of Otis their letter of March 28th, which they faxed down here. Would that be proper? Then I will just let it go.

The SPEAKER: The Chair would respond that having no knowledge of the contents of the letters, the Chair would only hope that the Representative could contain his comments to the provisions located in the bill before us. The pending question is acceptance of the "Ought Not to Pass" Report.

Representative COFFMAN: To the town of Otis, this is germane to the bill. How am I supposed to decide if it is germane or not?

The SPEAKER: The Chair has no knowledge as to whether it is germane at this time. The Representative may proceed if he so chooses.

Representative COFFMAN: Mr. Speaker, Members of the House: When I came to work in Otis as the Administrative Assistant, I found a townspeople who still grieved the loss of Floods Pond in 1958. They have grieved this loss, not just momentarily, but more importantly, symbolically. The people of Otis lost part of themselves when they were overtaken by the Bangor Water District. They felt the heavy hand of the legislature come down upon the community. Now it seems all regard for the concern for the inhabitants of the town of Otis, once again, are being dismissed.

On March 7, 1994, the Public Utilities Committee held a workshop. L.D. 1747 was scheduled later that day. Two residents of Otis, Theresa Davis and Barbara Gridden and myself drove to Augusta that day to present additional testimony in response to a letter written by George Eaton, the Director of the Board of Trustees of the Bangor Water District to the committee.....

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy, and would inquire for what purpose he rises?

Representative TRACY: Mr. Speaker, hasn't this bill had a public hearing already? Now we are supposed to.....

The SPEAKER: Will the Representative please state his inquiry?

Representative TRACY: Is Representative Coffman reintroducing a public hearing which I assume we've already had a public hearing on this bill? It seems it to me.

The SPEAKER: The Chair would respond by saying that the Chair can only assume that the concerns reflected deal with the issue of germaneness of the letter and the Chair, once again, cautions the Representative if he has to abbreviate the letter to please deal with those issues that are represented in the Majority "Ought Not to Pass" Report. Please confine your comments to acceptance or lack of acceptance to that report.

The Representative may proceed.

Representative COFFMAN: Would the Speaker like to read this letter to judge for himself if it is germane to the bill?

The SPEAKER: I think that the Representative, having had the opportunity singularly to read the letter, is aware of the contents and the Chair would suggest that the pending question before the House is the motion to accept the Majority "Ought Not to Pass" Report.

The Chair is aware of the sensitivity of Representative Coffman and the issue and the manner in which it was proceeded, the Chair would suggest that the public hearing and/or work session discussions conducted on this are not appropriate at this time. It would be appropriate to have a discussion of those reasons and a rationale to accept the Majority "Ought Not to Pass" Report.

Representative COFFMAN: So I will make copies of the letter and I will circulate it. Would that be okay, Mr. Speaker?

The SPEAKER: That certainly would be appropriate if the Representative so wishes.

Representative COFFMAN: The only thing I would like to say here is that this bill, all it asks for is to do away with the eminent domain provision of the Charter of the Bangor Water District.

We feel that a lot more should be done here. We feel that the bill should probably go back to committee. The town has been slighted, they have not been offered the opportunity to speak but I think everybody can see that there was a grave injustice done here by the Bangor Water District upon the town of Otis. You can't keep continuing to protect a watershed and gobbling up all the land and have it all tax exempt. Everything is tax exempt that the Bangor Water District owns. You are impoverishing an entire community. That resource belongs to that community. Bangor says that Bangor wants to grow — well, so does Otis. This is a David and Goliath here type of situation and somebody should look at this

and straighten out the problem. We have people who, for whatever reasons, do not want to look at this.

I would just ask that somehow somebody make an effort here to address the needs of the town of Otis. Thank you.

The Speaker: The Chair will order a division. The pending question is acceptance of the Majority "Ought Not to Pass" Report.

A vote of the House as taken.

Representative COFFMAN of Old Town requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

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 acceptance of the majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 292

YEA - Adams, Ahearne, Aikman, Ault, Bennett, Bowers, Brennan, Caron, Carr, Carroll, Clark, Cloutier, Clukey, Coles, Cote, Daggett, Donnelly, Dore, Erwin, Faircloth, Farnsworth, Fitzpatrick, Foss, Gray, Hale, Hatch, Heino, Hoglund, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lipman, Lord, MacBride, Marsh, Melendy, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Plourde, Plowman, Poulin, Rand, Reed, G.; Robichaud, Rotondi, Rowe, Saint Onge, Saxl, Simonds, Simoneau, Spear, Stevens, K.; Strout, Sullivan, Swazey, Taylor, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, Whitcomb, Young, Zirkilton, The Speaker.

NAY - Bailey, H.; Bailey, R.; Campbell, Carleton, Clement, Coffman, Cross, Dexter, Farren, Hichborn, Joy, Marshall, Michaud, Murphy, Nickerson, Reed, W.; Ruhlin, Stevens, A.; Townsend, L..

ABSENT - Aliberti, Anderson, Barth, Beam, Birney, Bruno, Cameron, Cashman, Cathcart, Chase, Chonko, Constantine, DiPietro, Driscoll, Dutremble, L.; Farnum, Gamache, Gean, Gould, R. A.; Greenlaw, Heeschen, Hillock, Holt, Jalbert, Kilkelly, Kneeland, Kutasi, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Look, Martin, H.; Martin, J.; Michael, O'Gara, Pineau, Pinette, Pouliot, Richardson, Ricker, Rydell, Skoglund, Small, Tardy, Thompson, True, Tufts, Vigue, Winn.

Yes, 81; No, 19; Absent, 51; Paired, 0; Excused, 0. 81 having voted in the affirmative and 19 in the negative, with 51 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

On motion of Representative NADEAU of Saco, the House reconsidered its action whereby Bill "An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement" (H.P. 1387) (L.D. 1886) was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1886 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-853) was adopted.

The same Representative presented House Amendment "A" (H-978) to Committee Amendment "A" (H-853) which was read by the Clerk.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: For those members of this House who are wondering what this floor amendment is all about, it is strictly a series of technical corrections that were made and we thought the most expeditious way to do this was with a floor amendment.

Subsequently House Amendment "A" (H-978) to Committee Amendment "A" (H-853) was adopted.

Committee Amendment "A" (H-853) as amended by House Amendment "A" (H-978) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-853) as amended by House Amendment "A" (H-978) thereto in non-concurrence and sent up for concurrence.

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On motion of Representative PENDLETON of Scarborough, the House reconsidered its action whereby the Legislative Sentiment recognizing the Scarborough High School Academic Decathlon Team and the coaches, (HLS 912) was passed.

On further motion of the same Representative, tabled pending passage and specially assigned for Wednesday, March 30, 1994.

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Representative Small of Bath was granted unanimous consent to address the House.

Representative SMALL: Mr. Speaker, earlier this evening we debated the "Act to Establish Maine School of Science and Mathematics" which was L.D. 1958 and although I sat through all 22 speakers, when it came time to vote, I didn't press my no vote long enough so I was not recorded and had my vote been recorded, I would have been voting no.

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On motion of Representative HATCH of Skowhegan, adjourned at 7:40 p.m., until 9:00 a.m., Wednesday, March 30, 1994.