

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 7, 1994 to May 23, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
44th Legislative Day
Wednesday, May 17, 1995

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

Prayer by Pastor Daniel M'Mutungi,
Richmond-Dresden United Methodist Church, Richmond.
The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 140)
Maine State Senate
State House Station 3
Augusta, Maine 04333

May 16, 1995

The Honorable Dan A. Gwadosky
Speaker of the House
117th Legislature
Augusta, Maine 04333
Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, Honorable Susan W. Calkins of Portland for appointment as Justice of the Maine Superior Court.

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

The following Joint Resolution: (S.P. 564)
**JOINT RESOLUTION RECOGNIZING THE ASSOCIATION
OF STATE FLOODPLAIN MANAGERS**

WHEREAS, the Association of State Floodplain Managers is an organization of professionals involved in floodplain management, flood hazard mitigation, the National Flood Insurance Program and flood preparedness, warning and recovery; and

WHEREAS, the association has become a respected voice in floodplain management practice and policy in the United States because it represents the flood hazard specialists of local, state and federal government, the research community, the insurance industry and the fields of engineering, hydrologic forecasting, emergency response, water resources and others; and

WHEREAS, the association is meeting in Portland at the invitation of the Maine State Floodplain Management Program and the New England Floodplain and Storm Water Managers Association; and

WHEREAS, this conference will provide an excellent educational opportunity to those individuals in New England who are involved in administering floodplain and storm water management at the local and state levels of government; provide an opportunity to network with others from other regions of the country; and provide an opportunity to get involved with helping to develop policy on floodplain and storm water management through the association's committees; now, therefore, be it

RESOLVED: That, We, the Members of the 117th Legislature of the State of Maine now assembled in the First Regular Session, extend our best wishes to the members of the Association of State Floodplain Managers and offer our warmest regards and high hopes for success in the advancement of the association's

goals to reduce the loss of human life and property damage resulting from flooding, to preserve the natural and cultural values of the floodplains and to avoid the actions that exacerbate flooding; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the Association of State Floodplain Managers for the conference that will take place May 22 to May 26, 1995.

Came from the Senate read and adopted.

Was read and adopted in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Business and Economic Development

Bill "An Act to Establish the Board of Licensure of Water Treatment Plant Operators" (H.P. 1090) (L.D. 1534) (Presented by Representative TAYLOR of Cumberland) (Cosponsored by Representatives: BAILEY of Township 27, BUCK of Yarmouth, CAMERON of Rumford, CLARK of Millinocket, DAMREN of Belgrade, DESMOND of Mapleton, DONNELLY of Presque Isle, GIERINGER of Portland, GOOLEY of Farmington, GREENLAW of Standish, HEINO of Boothbay, LEMONT of Kittery, LIBBY of Buxton, MADORE of Augusta, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick, NICKERSON of Turner, O'NEAL of Limestone, POIRIER of Saco, SIROIS of Caribou, STONE of Bangor, TRUE of Fryeburg, TUFTS of Stockton Springs, Senators: CARPENTER of York, McCORMICK of Kennebec)

Utilities and Energy

Bill "An Act to Require the Public Utilities Commission to Ensure Telecommunications Service in Economic Development Areas" (H.P. 1089) (L.D. 1533) (Presented by Representative DONNELLY of Presque Isle) (Cosponsored by Representatives: GOOLEY of Farmington, GUERRETTE of Pittston, JOYCE of Biddeford)

ORDERS

On motion of Representative LOOK of Jonesboro, the following Joint Resolution: (H.P. 1091) (Cosponsored by Representatives: BAILEY of Township 27, BIGL of Bucksport, BUNKER of Kossuth Township, DRISCOLL of Calais, LABRECQUE of Gorham, LAYTON of Cherryfield, PINKHAM of Lamoine, Senators: CASSIDY of Washington, LORD of York)

**JOINT RESOLUTION RECOGNIZING THE 150TH ANNIVERSARY
OF THE INCORPORATION
OF THE TOWN OF WHITNEYVILLE**

WHEREAS, the Town of Whitneyville is a small town that was settled on the banks of the Machias River as part of the Town of Machias until it was incorporated and named in honor of Colonel Joseph Whitney 150 years ago; and

WHEREAS, the Town of Whitneyville relied on the natural resources of the area and developed its economy by establishing several sawmills at the falls on the river; and

WHEREAS, the Town of Whitneyville contributed greatly to the rich and noble history of our lumbering heritage in the State of Maine by the generations of work in these sawmills; and

WHEREAS, the Town of Whitneyville exemplifies the special qualities and virtues of the small towns that populate our rugged and beautiful State; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Seventeenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 150th anniversary of the incorporation of the Town of Whitneyville and to commend the good citizens and officials of this town for the success they have achieved together for 150 years, extending to each our sincere hopes and best wishes for continued achievement over the next 150 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Was read and adopted and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Dana Grover, of Boy Scout Troop #340 in Eliot, who has attained the high rank and distinction of Eagle Scout, and in extending our congratulations and best wishes; (SLS 84)

On objection of Representative MARSHALL of Eliot, was removed from the Special Sentiment Calendar.

Was read.

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

Representative MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for not waiving the reading of this. This is a duplicate award. I will just move the indefinite postponement of this. It was put in by mistake.

On motion of Representative MARSHALL of Eliot, the Sentiment was indefinitely postponed.

In Memory of:

Benjamin C. Bubar, Jr., a former Member of the Maine House of Representatives from Weston and Danforth, a minister and superintendent of the Christian Civic League of Maine. We acknowledge his selfless dedication to his faith and his valuable contribution to the State of Maine. He will be greatly missed by his family and many friends; (HLS 251) by Representative CHASE of China. (Cosponsor: Senator BUSTIN of Kennebec)

On objection of Representative CHASE of China, was removed from the Special Sentiment Calendar.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: I rise in memory of the Reverend Benjamin C. Bubar of China. Mr. Bubar served in the 89th, 90th and 91st Legislature and was the youngest member of the Maine House of Representatives when he was elected in 1938. He ran for U.S. President in 1976 on a Prohibition Party ticket. Reverend Bubar is perhaps best known as a minister and a Superintendent of the Christian Civic League of

Maine, which he held for 30 years and retiring in 1983. His life was dedicated to public service and to religious life and Mr. Speaker I do respectfully request that when the Legislature adjourns this date it do so in lasting tribute to the deceased.

Was read and adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative PERKINS from the Committee on Inland Fisheries and Wildlife on Bill "An Act to Modify and Update Certain Laws Pertaining to the Importation and Possession of Wild Turkeys" (H.P. 855) (L.D. 1186) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-257)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-257) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Representative CLARK from the Committee on Criminal Justice on Bill "An Act to Amend the Maine Criminal Code to Ensure Fairness in Classifying a Crime Based on the Value of Loss or Damage" (H.P. 879) (L.D. 1234) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-260)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-260) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-242) on Bill "An Act to Increase the Property Tax Exemption for Farm Machinery" (H.P. 17) (L.D. 11)

Signed:

Senators:

HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec
TRIPP of Topsham
TUTTLE of Sanford
MURPHY of Berwick
GREEN of Monmouth
SPEAR of Nobleboro
DUNN of Gray
REED of Falmouth

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

Signed:

Representatives:

DORE of Auburn
KEANE of Old Town
RICHARDSON of Portland

Was read.

On motion of Representative TUTTLE of Sanford, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-251) on Bill "An Act to Exempt Owners of Shooting Ranges from any Civil or

Criminal Action Relating to Noise Pollution"
(H.P. 60) (L.D. 96)

Signed:

Senators: LORD of York
RUHLIN of Penobscot
HATHAWAY of York
Representatives: GOULD of Greenville
POULIN of Oakland
BERRY of Livermore
MERES of Norridgewock
GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

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

Signed:

Representatives: SAXL of Bangor
SHIAH of Bowdoinham

Was read.

Representative GOULD of Greenville moved that the House accept the Majority **"Ought to Pass"** as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority **"Ought to Pass"** as amended Report and later today assigned.

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought Not to Pass"** on Bill "An Act to Exempt Business Machinery and Equipment from the Property Tax" (H.P. 64) (L.D. 100)

Signed:

Senators: FERGUSON of Oxford
CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
RICHARDSON of Portland
GREEN of Monmouth
DORE of Auburn
SPEAR of Nobleboro
DUNN of Gray
REED of Falmouth
KEANE of Old Town

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "A" (H-243) on same Bill.

Signed:

Sensor: HATHAWAY of York
Representative: MURPHY of Berwick

Was read.

On motion of Representative TUTTLE of Sanford, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought Not to Pass"** on Bill "An Act to Amend the Law Relating to Municipal Service Fees and to Modify the Reimbursement Policy for Hospitals to Recover Service Fees Paid" (H.P. 550) (L.D. 746)

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec
Representatives: TUTTLE of Sanford
KEANE of Old Town

MURPHY of Berwick
SPEAR of Nobleboro
DUNN of Gray
REED of Falmouth

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "A" (H-244) on same Bill.

Signed:

Representatives: DORE of Auburn
TRIPP of Topsham
RICHARDSON of Portland
GREEN of Monmouth

Was read.

On motion of Representative TUTTLE of Sanford, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on Agriculture, Conservation and Forestry reporting **"Ought Not to Pass"** on Bill "An Act to Clarify the Board of Pesticides Control Authority Regarding Restricted Use Pesticides and Groundwater Contamination" (H.P. 690) (L.D. 941)

Signed:

Senators: CASSIDY of Washington
LORD of York
PARADIS of Aroostook
Representatives: KILKELLY of Wiscasset
KNEELAND of Easton
AHEARNE of Madawaska
SPEAR of Nobleboro
HICHBORN of Lagrange
TYLER of Windham
STROUT of Corinth
CROSS of Dover-Foxcroft
DEXTER of Kingfield

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "A" (H-247) on same Bill.

Signed:

Representative: HEESCHEN of Wilton

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 908) (L.D. 1284) Bill "An Act to Remove Outdated Provisions from the Public Utilities Law" Committee on Utilities and Energy reporting **"Ought to Pass"**

(H.P. 714) (L.D. 971) Bill "An Act to Require Special Care Program Disclosure by Entities Providing Alzheimer Care" Committee on Human Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-255)

(H.P. 819) (L.D. 1150) Bill "An Act to Authorize the Use of Loon Plates on Baxter State Park Authority Vehicles" (EMERGENCY) Committee on Transportation

reporting "Ought to Pass" as amended by Committee Amendment "A" (H-259)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 18, 1995 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

S.P. 421) (L.D. 1144) Bill "An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982"

(S.P. 504) (L.D. 1363) Bill "An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1995" (EMERGENCY)

(S.P. 411) (L.D. 1099) Bill "An Act to Combine the Sabattus Water District and the Sabattus Sanitary District" (C. "A" S-131)

(S.P. 460) (L.D. 1256) Bill "An Act to Permit Wire-tapped Conversations of or with Prisoners to be Used in Court" (C. "A" S-130)

(H.P. 554) (L.D. 755) Bill "An Act to Add the Prohibition of False Official Statements to the Maine Code of Military Justice"

(H.P. 739) (L.D. 1013) Bill "An Act to Facilitate the Regulation of Alcohol in Auditoriums"

(H.P. 833) (L.D. 1164) Bill "An Act to Clarify Recent Amendments to the Laws on Guardianship and Conservatorship"

(H.P. 840) (L.D. 1171) Bill "An Act to Correct a Fishing Zone Definition Error"

(H.P. 906) (L.D. 1282) Bill "An Act to Correct Obsolete References to Justices of the Peace"

(H.P. 938) (L.D. 1327) Bill "An Act to Expand Eligibility for the Maine Veterans' Homes"

(H.P. 961) (L.D. 1350) Bill "An Act to Repeal Boards That Have Not Filed Annual Reports with the Secretary of State"

(H.P. 788) (L.D. 1105) Bill "An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information" (C. "A" H-252)

(H.P. 905) (L.D. 1281) Bill "An Act to Clarify Notice Requirements and a Party's Opportunity to be Heard" (C. "A" H-249)

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

BILLS IN THE SECOND READING

Bill "An Act to Include the Emergency Medical Services' Board in the List of Boards Reviewing Criminal Convictions Before Licensing" (S.P. 346) (L.D. 951)

As Amended

Bill "An Act to Increase Safety in Highway Construction and Work Maintenance Areas" (H.P. 134) (L.D. 182) (C. "A" H-239)

Bill "An Act to Reestablish the Tax Credit for Intrastate Airlines" (EMERGENCY) (S.P. 245) (L.D. 642) (C. "A" S-112)

Bill "An Act to Exempt from the Sales Tax Automobile Equipment Necessary for Paraplegics or

People Who are Confined to Wheelchairs" (H.P. 540) (L.D. 736) (C. "A" H-241)

Bill "An Act to Amend the Trust Fund Provisions of Cemeteries and Crematories" (H.P. 561) (L.D. 762) (C. "A" H-248)

Bill "An Act Authorizing the Director of the Maine Forest Service to Dispose of Facilities and Properties of the Bureau of Forestry in Order to Streamline Operations" (S.P. 325) (L.D. 906) (C. "A" S-124)

Bill "An Act to Delete the Definition of Tanning Devices from the Laws Regulating the Board of Barbering and Cosmetology" (S.P. 394) (L.D. 1082) (C. "A" S-127)

Bill "An Act to Authorize a Multi-day Bass Tournament Permit" (H.P. 795) (L.D. 1112) (C. "A" H-253)

Bill "An Act to Continue the State's Dioxin Monitoring Program" (H.P. 823) (L.D. 1154) (C. "A" H-250)

Bill "An Act to Clarify the Definition of Escape" (S.P. 430) (L.D. 1198) (C. "A" S-125)

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

ENACTORS

Emergency Measure

An Act to Revise the Security Deposit and Reinsurance Requirements for Individual Self-insurers (H.P. 207) (L.D. 266) (C. "A" H-193)

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.

An Act to Amend the Sales Tax Exemption for Emergency Shelter and Feeding Organizations (H.P. 390) (L.D. 525) (C. "A" H-199)

An Act Concerning the Office of Geographic Information Systems (H.P. 861) (L.D. 1192)

Resolve, to Encourage the Harvest of Coyotes (H.P. 583) (L.D. 793) (C. "A" H-194)

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.

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

An Act to Revise the Security Deposit and Reinsurance Requirements for Individual Self-insurers (EMERGENCY) (H.P. 207) (L.D. 266) (C. "A" H-193) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

SENATE PAPERS

The following Joint Order: (S.P. 565)

ORDERED, the House concurring, that the Joint Standing Committee on State and Local Government report out legislation concerning procedures for municipal secession to the Senate.

Came from the Senate read and passed.

Was read and passed in concurrence.

Refer to the Committee on Inland Fisheries and Wildlife

Report of the Committee on Criminal Justice on Bill "An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs" (S.P. 323) (L.D. 904) reporting that it be referred to the Committee on Inland Fisheries and Wildlife.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Inland Fisheries and Wildlife.

Was referred to the Committee on Inland Fisheries and Wildlife in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 352) (L.D. 980) Bill "An Act to Amend the Charter of the Somerset Woods Trustees to Eliminate the Cap on the Value of Holdings" Committee on Legal and Veterans Affairs reporting "Ought to Pass"

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, May 18, 1995 under the listing of Second Day.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-175) - Minority (3) "Ought Not to Pass" - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (H.P. 729) (L.D. 1003)

TABLED - May 10, 1995 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - Motion of Representative KERR of Old Orchard Beach to accept the Majority "Ought to Pass" as amended Report. (Roll Call Ordered)

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KERR of Old Orchard Beach to accept the Majority "Ought to Pass" as amended Report and later today assigned. (Roll Call Ordered)

SENATE DIVIDED REPORT - Report "A" (8) "Ought Not to Pass" - Report "B" (4) "Ought to Pass" as amended by Committee Amendment "A" (S-117) - Report "C" (1) "Ought to Pass" as amended by Committee Amendment "B" (S-118) - Committee on Utilities and Energy on Bill "An Act to Release the Public Utilities Commission from Mandatory Participation in Welfare Programs" (S.P. 149) (L.D. 335)

- In Senate, Report "B" "Ought to Pass" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-117).

TABLED - May 11, 1995 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Motion of same Representative to accept Report "A" "Ought Not to Pass"

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KONTOS of Windham to accept Report "A" "Ought Not to Pass" and later today assigned.

Bill "An Act to Amend the Notification Requirements Regarding Automated Telephone Solicitation" (H.P. 100) (L.D. 135) (C. "A" H-214)

TABLED - May 11, 1995 (Till Later Today) by Representative CARLETON of Wells.

PENDING - Passage to be Engrossed.

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

Bill "An Act to Increase the Minimum Wage in Maine" (H.P. 108) (L.D. 143) (C. "B" H-67)

TABLED - May 11, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed as amended and sent up for concurrence.

Bill "An Act Investing the Joint Standing Committee of the Legislature Having Jurisdiction over Taxation Matters with Exclusive Authority to Review Legislation Relating to Tax Policy" (S.P. 195) (L.D. 504) (C. "A" S-79)

TABLED - May 11, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of same Representative to reconsider passage to be engrossed.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative MITCHELL of Vassalboro to reconsider passage to be engrossed and later today assigned.

Bill "An Act to Exclude Certain Parks from the Definition of Mobile Home Parks" (H.P. 372) (L.D. 507) (C. "A" H-142)

TABLED - May 11, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative NADEAU of Saco to indefinitely postpone Bill and all accompanying papers.

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

Representative KNEELAND: Mr. Speaker, Men and Women of the House: We debated this a couple of weeks ago and today I sent around a sheet to explain in more detail what this exemption would do.

The first three items it would exempt them from the 5000 square feet requirement per trailer, individual electric meters per trailer and certain specific construction for driveways. They are under OSHA and Farm Labor Laws and they are required to have 50 square feet per person and the floor space and window space has to be 10 percent. Fire detectors, extinguishers, waste containers, screens for doors and windows and it has to be a certain mesh, exhaust fans for cooking areas, and individual secured storage areas and all groups require a water test. There is a test taken each year before the employees move in. When the vote is taken I request the yeas and nays.

Representative KNEELAND of Easton requested a roll call on the motion to indefinitely postpone Bill and all accompanying papers.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: Yes indeed, we did discuss this bill two weeks ago. I also want to mention that approximately two weeks ago we held Welcome Back Day, where we thanked and acknowledged those predecessors that put together strong laws and policies that we could build on.

I see this bill as nothing more than a Newt Gingrich main style, lets tear everything apart. My basic premise is this is not a migrant worker bill. This is not a people that cannot speak the language to well versus those of us who might have a better command. This has nothing to do with the fact that some of these folks might have a tenth of the skin coloring and most of us are Caucasian. This bill is basically a human rights bill. If it is good enough for everyone else in the universe to have certain rights, privileges, health standards and safety standards, why isn't it good enough for this other group that is now suddenly trying to be isolated, trying to have different treatment. I would simply ask does that mean that those of us who are challenged somehow get different treatment than everyone else. Does that mean left handed people get different treatment than everyone else? I don't think so.

I think this is a bad bill and a bad policy. It is a lousy way to build on something that could create a total unraveling of every human rights bill we have ever seen. I just want to mention also that a couple weeks ago the Representative from Vassalboro, Representative Mitchell asked a couple of questions. What is it in this bill that the proponents are suggesting? What kind of regulations will break the camel's back. To my knowledge she never got an answer. We never did in committee and you never did in this House. I would just simply impure from that, that your intelligence is being basically questioned here. You are being insulted by being asked to vote for a bill that no one has told you why it is such a great idea. I was always taught that if you really don't know what you are doing, you probably want to vote no. That is the safest way. If you say yes to something, you don't really know what the consequences are and you could end up making a big mistake.

I think that is exactly what is being proposed. A bad bill with a bad concept. I think we ought to give it a nice burial and go on with our lives.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote

against the pending motion to indefinitely postpone. I think you need a little background on why these parks have come about. About 10 years ago, Aroostook County, especially Aroostook County, was looking for an additional crop to rotate with our potatoes. They tried sugar beets a few years ago and you know what happened with the sugar beets.

They have come up with a real good crop in broccoli. Broccoli is a very labor intensive crop and they have brought in seasonal migrant workers to harvest this crop. In order to do that they have to provide housing that has to meet the inspections by both OSHA and the U.S. Department of Labor. I think the paper that was handed out before you gives you all the answers that the good Representative from Saco was talking about.

You must remember that this housing is provided to these workers at no charge. When you have mobile home parks all around the state, the ordinary ones you receive rental charges and it is altogether different than what we are talking about here. The owner is providing all the housing and electricity, therefore, you do not need electric meters. You do not need all the space that is required and some of the other things to go with it.

I think this is real important, not only to the broccoli growers in Aroostook County, I do know of a lot of apple growers and other crop farmers around the state that definitely use these and it is a very important item, if we are to maintain the \$500,000,000 dollar agricultural industry here in the state of Maine. Once again I urge you to vote against the pending motion to Indefinitely Postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lagrange, Representative Hichborn.

Representative HICHBORN: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I would point out in addition to the comments that have just been made that the federal regulations concerning temporary housing for temporary workers and seasonal employees are very strict. If we can meet those regulations, we should not impose further restrictions on the people who are trying to make a living off the land.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Colleagues of the House: First of all I want to thank the good Representative, Representative Hichborn for bringing up the issue of the intense federal standards for temporary and seasonal workers, especially agricultural workers.

I will not take very long, I just want to make a few citations from the federal law and put your mind at ease when we are talking about this issue. We are not talking about a reduction in health and safety standards for these workers. What we are talking about is elimination of a level of regulation and it was mentioned by a previous speaker that we should not have different treatment or standards. That is what we currently have by the nature that there are at least three separate federal agencies that regulate in one manner or form. The housing and workplace safety, with regard to seasonal or migrant workers. There are currently standards of treatment, above and beyond, the state level.

Just one citation from the U.S. Department of Labor and Employment Standards Administration, Title 29, Part 500 dealing with migrant and seasonal agricultural worker protection, Subsection 133,

Subject to federal and state safety and health standards defined says, "Substantive safety and health standards include, but are not limited to, those that provide fire protection, an adequate and sanitary supply of water, plumbing maintenance, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require and reasonable protection for inhabitants from insects and rodents."

That is in the federal statute. There is another section also within the U.S. Department of Labor Wage and Hour Division, that deals with safety and health of housing, Section 203, except as provided in Subsection C, "Each person who owns or controls a facility or real property which is used as housing for migrant and agricultural workers shall be responsible for insuring that the facility or real property complies with substantive federal safety and health standards applicable to the housing, which refers to the other statute that I just read."

I will also draw your attention to our Maine Manufactured Housing Statute, which happens to be Title 10, Part 3, Chapter 213 and under Section 9081 of Subchapter 6 dealing with mobile home parks. It describes what a mobile home is. A mobile home is a structure transportable in one or more sections, etc., etc., without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. That is the type of housing unit we are discussing. Under mobile home park, which is the specific entity that we are discussing in this bill. This is the state manufactured housing statute. It says, "Mobile home park means a partial or adjoining parcel of land under single ownership that has been planned and improved for the placement of three or more mobile homes, but does not include a construction camp."

The issue I raise is, this is our state statute. This is what L.D. 507 is seeking to say, we do not need to go through the regulation of all this to manufactured housing board. It seems in the statute we have already made an exception for a certain type of temporary housing unit. That is a construction camp. I would place before you, ladies and gentlemen of the House, the question of whether or not we are going to exempt one type of temporary housing unit which also deals with employees and not exempt another one in which case the other one has three layers of federal requirements for health and safety. I would just raise that issue to you. Thank you very much.

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

Representative FISHER: Mr. Speaker, Men and Women of the House: There have been a couple of things said today and last week when we decided to discuss this that have troubled me.

First of all the expression "these people" or "those people". Who are "those people"? Those people are the ones who pick our potatoes, our blueberries, our apples and plant our strawberries. Those are the people who provide the food for our tables and do the work that many Maine people will no longer do. That is one thing that troubled me.

The other thing is on this piece of paper that we have today. It says, "We are subjected every year to inspections by both OSHA and U.S. Department of Labor." Why are we subjected? We are subjected

because for years the conditions for the migrant workers were atrocious. I recall back in the late 50's there was a program on television called the Sunday Series. One of the series was entitled "Harvest of Shame" and it was about the migrant workers and it showed the lousy conditions they lived in.

OSHA and the Department of Labor established standards to bring the quality of life up for those who harvest our crops. I would feel very bad if Maine was to take a step back by the passage of this law. Thank you.

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 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.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative NADEAU of Saco to indefinitely postpone Bill and all accompanying papers and later today assigned. (Roll Call Ordered)

SENATE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (S-126) - Committee on Business and Economic Development on Bill "An Act to Coordinate Low-income Energy Assistance Programs" (S.P. 270) (L.D. 721)

- 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-126)

TABLED - May 16, 1995 (Till Later Today) by Representative ROWE of Portland.

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

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative ROWE of Portland to accept the Majority "Ought Not to Pass" Report and later today assigned.

An Act to Establish Standards for Preadmission Assessments for Long-term Care Services (H.P. 804) (L.D. 1121) (C. "A" H-186)

TABLED - May 16, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

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

An Act to Modify Community Rating for Individual and Small Group Health Plans (H.P. 431) (L.D. 594) (C. "A" H-123)

TABLED - May 16, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

On motion of Representative MITCHELL of Vassalboro, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 594 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-123) was adopted.

The same Representative presented House Amendment "B" (H-246) to Committee Amendment "A" (H-123) which was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hope you will bear with me to discuss a rather complicated issue, but also a very important one. It is not my habit to tilt at windmills and I do understand the difficult odds that are before me today as I ask you to consider this amendment, but because I am one of the few people who was present at the birth of Community Rating in Maine, if it must die, I would like to at least give it a decent burial.

I want you to know that I am speaking as a former member of the Banking and Insurance Committee and was present when this compromise that is before us today was forged, the original legislation, that is the only relationship between Representative Carleton and me. It is not the fact that we are in the corners, as a matter of fact, when the bill was crafted we were not members of leadership, but rather members of the Banking and Insurance Committee, in a earlier session that tried to come up with a reasonable approach to Community Rating for small group health insurance for the state of Maine.

I don't want to make this overly complicated, but I do think it is an extraordinarily important issue that each of you must understand. When Community Rating was embraced by the state of Maine we, like other states, were trying to find a way to do health reform to make health insurance available by working with our private insurance carriers. We wanted to force insurance companies to compete, not on the ability to change different rates by age, gender, by other issues, but by good business practices, risk management, service and price.

That was the type of competition that Community Rating was set up to have occur. Before Community Rating, age was an issue for, not discrimination in the sense of a negative way, but different pricing. Let me choose my words carefully. I don't want to confuse anyone. For example, a healthy adult over 40 could be charged a whole lot more because of age than a young person who didn't take good care of themselves and had bad health habits.

It wasn't to do with how you take care of yourself, but rather age. That was a primary consideration. High risk and low risk in terms of what your occupation was. This was another issue that insurance companies used to price your premium for groups. For example, Prudential Insurance Company defined a waitress and a fisherman as more high risk, as say, an architect and guess what, an insurance agent. Those were considered low risk and would get lower premiums.

Finally, geography and how they come up with this I don't know. Presque Isle was considered a more high risk area than Bangor. Perhaps we should chat with those Representatives to see why. The whole notion was to narrow the differential between what insurance companies could charge for issues like this and make them compete on price and service. For example, the compromise that was crafted started out

saying that you would have bands of 50. That meant that you could charge if the medium was 100, a 150 for the highest risk and 50 for the lowest. You can see how far apart those issues were. The whole notion was to phase down until there was no differential based on these issues of age, occupation or geography.

The legislation that was presented to the Banking and Insurance Committee this session asked to freeze the differential at 33. The Bureau of Insurance came before our committee and they took the position that they were neither for or against freezing this differential. The reason they said they were neither for or against is they had no data to tell them whether or not this was a good idea.

The other issue that you will hear discussed as we debate this amendment, this was a unanimous Committee Report and you said on the committee, "How could you change your mind?" I would like to share that with you. There was another bill before our committee which was also very important to me and to others, which would give the protection of community rating to businesses between 25 and 50. It was supported by this chamber. Because it was so important and because there was fear if we shrank the differential to 0, I personally said all right I will go along with this compromise to stop it at 20, because people are very concerned about that and justifiably so.

However, the other legislation is no longer around and I rethought my position, but the only thing that I am asking you to consider to do today is not to stop the freezing at 20, but to freeze it at 20 for only two years until the Bureau of Insurance has some data, some data upon which to make the decision. How do we know it is 20, maybe it should be 50, maybe it should be 30, maybe it should be 10? I hate to see us undo with a single vote months of compromise which reached this approach which gradually narrowed the bands forcing insurance companies to compete on the right issues.

As a person who participated mightily in trying to create MIMIC, which is our self-insurance model for workers' compensation. I can tell you the things that make that work is competition and so if you can not worry so much about the bands, but if you can think about requiring insurance companies to compete on the right issues, I think that is the focus of your debate today. I am also going to put something on the table and I hope it is not insulting to anyone. It isn't meant to be. Insurance companies who have people here working for them are working in their own best interest and they are supposed to. That is their job, I am not being critical.

I must tell you, I did attend this hearing and I was on Banking and Insurance by the time the hearing came up to freeze the bands at 33. I was really shocked to find out that the very insurance company that had fought side by side with me and Representative Carleton to come up with this community rating band they wanted it desperately at the time. They wanted it at the time because they took everyone. They took the elderly. They took the sick. They took everybody. The complaint was other insurance companies were taking only the young healthy immortals. They wanted to level the playing field and Community Rating is the way you level the playing field for the right kind of competition. We struggled and we got this compromise.

You can imagine my surprise when this year, four years later, they found out that competition was just

a little to keen. We leveled the playing field just a little too much and they lost market share. When we passed Community Rating initially the charge was made that all the insurance companies would leave the state and there will be no one here to sell insurance. Ask your small business people, that is not at all what happened, in fact, many came forward and the business community is quoted as saying they have choices now that they didn't necessarily have before.

The only thing that this amendment asks you to do is to respect the concerns of the good representative from Wells, Representative Carleton that we need to take a good hard look at how quickly we compressed these bands on Community Rating. I am suggesting that we freeze the bands at 20. Leave the burden of proof to the insurance carrier to come back to the Bureau of Insurance to tell us why that is good or bad and if they don't we will continue the phase in to 10. I did take away zero in this amendment. It doesn't even suggest that we ever go to zero, because there is a lot of concern about the inability to charge any differences.

It is an attempt to respect the goals of Representative Carleton. It is an attempt to honor what this Legislature did to move toward competition in its best sense for insurance carriers. It is an attempt to recognize the fear of pure Community Rating. It is in this spirit of caring very deeply about our past and about our future that I offer this amendment and I hope you will consider it and accept it in the spirit in which it is offered. Thank you.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I understand from discussions in my caucus and from discussions with other people around here that the concept of Community Rating is a very difficult one. I hope you have listened to the Representative from Vassalboro for she has set forth some of the history of all of this enactment of Community Rating. She is correct. I did support it. However, all this bill does and all that the discussion is here this morning is who has the burden of proof of going forward to stop the so called rating band at 20 percent or not.

Most states that have enacted Community Rating have not gone below 20 percent. I will explain the significance of 20 percent or 30 percent in a minute. Most states and there are a couple of exceptions have not chosen to go below 20 percent, I think the burden of proof should be on those who want to go further. My bill would stop it at 20 percent and, of course, anyone in any future Legislature, if they think that it should go below 20 percent can always file a bill to do so. I think it is bad public policy and social policy to have a band that is narrower than 20 percent.

What a 20 percent band means is that any company that offers health insurance must file their rates for their particular policy and then they cannot charge anymore than 20 percent or any less than 20 percent below that filed rate. It has the effect along with some of our other laws of insuring that everybody is going to be able to obtain health insurance at somewhere near an average or a reasonable rate. This has done much good within this state.

One of the problems with narrow Community Rating bands arises out of a couple of circumstances. The

number one circumstance is that people who are older, 50 or 55, tend to use a lot more health insurance services than those who are relatively young. Probably about five times as many dollars are spent on health expenditures when you are that age as when you are age 20. The effect of having no band or a low band is people who are relatively young subsidize people who are relatively old. We are not talking about people over the age of 65, because they are in an entirely different system. Because we have a larger subsidy flowing from young people to older people, you have to look at the average income or ability to pay, within these age groups.

I think it is true and all the studies have shown that it is true, that as a class, as a general rule, people who are younger are less able to pay health insurance premiums than those who are in their 40s and 50s. The effect of all this in a situation where we do not have universal coverage is that our younger people will tend to drop their insurance coverage. After all, it is a rational thing for them to do, because they do not get as much in the way of services as they pay in on their insurance policy. This can lead to some major problems, because if the younger people drop out and don't get insurance the poor people who do get insurance tends to be older and the cost of insurance for them will go up.

I think it is bad social policy to bring the band down too much. The bill as the Representative from Vassalboro has said was the result of a compromise of sorts. There is a disagreement about just exactly what that compromise was. The original bill called for a band of 33 percent plus or minus. The committee voted unanimously to for a band of plus or minus 20 percent. I think that is reasonable under the circumstances and balancing all of the interests. Again, most states have not gone below 20 percent. I urge you to oppose the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Guerrette.

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I also rise today to urge you to oppose the pending motion. I am on the Banking and Insurance Committee and this was a 13 to zero Unanimous Committee Report. These issues were, in fact, debated in some length and as Representative Carleton has pointed out, the original bill he sponsored had a 33 percent band width. This is a complex issue and that may not make sense to you, but that is bigger than what this ultimate compromise has. There was discussion about it and to get a Unanimous Committee Report there was a compromise made where that band width moved down to 20 percent.

What a band width does is allow several things to happen. It allows for wellness issues to be taken into account. If people are less of a risk and live a certain kind of lifestyle, smoking or age, there can be a certain range on their insurance premium. In other words, a person who is older and smokes heavily would be able to be charged a slightly higher rate, 20 percent band width, than a person who doesn't smoke and may be younger.

Very, very few states have, only a couple I am aware of, have instituted a zero band width. Our original law that was crafted would anticipate. One of the states that have done this is the state of New York. The experience shows us that the state of New York when they moved to, what they call a pure

Community Rating, 500,000 to 600,000 people dropped off the insurance rolls and became uninsured, because insurance rates were too high. We do not want in Maine for people to drop off the insurance rolls. That is not our goal. The reason that we are trying to stop these band widths at 20 percent or originally at 33 percent is because we feel this is a reasonable range where we will keep people on the insurance rolls and we won't lose people on the insurance rolls.

In its current form going down to 10 percent as this amendment would envision, you have a very, very, very heavy subsidy of low income people subsidizing higher income people. I don't know why in this body we would desire to have low income people subsidize higher income people, but I don't want that to happen. I want lower income people to not be punished as asked to pay the insurance bills of higher income people. If you vote for this amendment, you will be putting more of a burden on lower income people.

Lastly I would point out that all the competitors that sell health insurance supported this bill. Blue Cross and a competitor that had previously supported the community rating came around and realized that the others were right and that a zero band width or even something so narrow as a 10 percent width was, in fact, not healthy for the market. Therefore, they have come out and now gone with the others and realized that it helps people keep insurance coverage. The bottom line is I would ask you to vote against the pending motion and support the Unanimous 13 to zero Committee Report. A well crafted compromise that protects low income Maine people and keeps people on our insurance rolls. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: Judging from the attendance in the House, I can tell that this is one of the most important issues to come down the pike for most of us. Rather than continue a sort of endless and esoteric debate about Community Rating, I would really like to just focus my remarks, I hope, on three points and maybe I will forget the third by the time I am done.

The first is very simple for all of us although tricky to explain. That has to do with a Unanimous Committee Report that my good friend and seatmate the Representative from Pittston, Representative Guerrette has pointed out to you a couple of times. This absolutely was a Unanimous 13 to zero Committee Report, but as the Representative from Vassalboro, Representative Mitchell has pointed out, this was the result of a compromise. The compromise was not only on this bill, in itself, a compromise from where it was originally presented to where we went, but a compromise with yet another bill, which shall remain unnamed, because the committee was unable to debate one without the other. We would try to work one bill and we would immediately start to talk about the other.

What most of us did was to accept some of the notions of the bill before us, that is that we should be able to have the time to study Community Rating and slow down the band. Particularly if we could extend Community Rating to other employer groups. That bill will not be smiled upon by both bodies before we are through. What we have left is half of a compromise before us.

The Representative from Vassalboro, Representative Mitchell has pointed out that all this amendment

does, that I urge you to support, is to hold the ban at the 20 percent that the Representative from Wells, Representative Carleton thinks is a good place to hold it. All it does is hold it there until 1997. Hopefully by that time we will know the effect of Community Rating in the state of Maine, not in the state of New York or the state of Massachusetts, but what the effect is on our citizens and more importantly on our employers.

Which brings me to my last point. The calls and the letters I have gotten in support of the bill we won't see to extend Community Rating to other employers has been from small employers and from employers who are in the category of employing between 25 and 50 employees. They want their policies Community Rated. It will improve the policies for the employers and ultimately then for employees.

With that in mind and with that sort of support, we are not debating Community Rating here. We are debating the amendment. What the amendment does, again, briefly, is simply hold us to the 20 percent band until 1997, by which time we will hopefully have more information from the Bureau of Insurance which has, unfortunately, not been able to give us much on the subject. For that reason I urge you to please support this amendment.

Representative CARLETON of Wells requested the Clerk to read the Committee Report.

The Clerk reported that this was a unanimous Committee Report.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I am quite surprised to be here debating a Unanimous Committee Report. I didn't intend to stand and debate this at all. I do have to say a few words. The agreement was to allow the reduction to 20 percent on the Community Rating. The report time on Community Rating has not come out yet. A few states that have introduced a form of Community Rating, some have given it a decent report, because of a short period of time. The main report is still not out and we are looking for nine months of reports. We really don't have a good hold on what Community Rating will do.

The New York report has been terrible. It has driven out the young people. Community Rating will, maybe, solve some of the problems that we have. We may have problems that we are not finding out. If we allow, just the way the bill is, to go to 20 percent, believe me, if the Community Rating idea is so good, I will bring it down to zero so fast that there will be no question that it is a necessary and good part of coverage for our people. I would urge you to oppose the pending motion and stay with the original bill. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I made a mistake today and I will probably make another one. I did find that Unanimous Committee Report and I hope none of you ever have to go home stuck with a vote that after you think better of, you can't stand up and say, "I goofed". I should not have signed the report. I signed the report because of as Representative Chase has articulated there was another extraordinarily

important piece of legislation that really tied into this substantially, not politically, substantially.

Two final points and I will not rise. I know this goes in the top ten list of things you say. I will not rise again. One is this amendment does exactly what the Committee Report did. We are not talking zero. We are not talking anything. We are talking 20 percent for two years. Everyone has said there has been no data in Maine, we made a decision with no data. My amendment says make your decision after you get the data.

Because the New York report has been mentioned, let me tell you about the New York report. I have in my hand a story entitled, This is the Story of the Vested Interest, that Hired the Firm, that Fronted the Study, that Steered the Numbers, that Spread to the Press and Finished Off a Vital Piece of Health Care Reform. This was written by Trudy Lieberman, a senior editor at Consumer Reports. The New York study that is so often quoted by those who want to deal with issue and it is quoted as being done by the prestigious firm of Milliman and Robertson to give it a stamp of objectivity. There is a disclaimer in the report that says it was actually the work of two of their actuaries, Mark Lethow and Drew Davidoff.

In a carefully worded hedge the report noted that the work represented the personal opinions of the author and not those of the major firm. Lethow as it turns out is a Vice President of the Council for Affordable Health Insurance, a Trade Association of small and medium size insurers who support only the barest market oriented reforms. They wrote another book about mandatory Community Rating, the most dangerous game for health care reform. I would suggest that study may not be totally objective.

As Representative Chase said, I really don't care about the study in New York. I care about Maine. I care about our small businesses and I care about the people who need health insurance. The only thing this amendment does is it accepts the 20 percent for two years. Ask us to get the data before we pull a number out of the air and if we can't prove that we are on the wrong course then it goes to 10 not to zero. Please focus on the issues. Please forgive me for going against a Unanimous Committee Report.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: I also didn't want to rise on this. We have discussed Community Rating and the effects and the concepts. I assume if you don't understand it by now you really don't have any interest. Community Rating has been effective over the years. As it has been discussed, the band went from what was unlimited prior to the previous legislation to a 50 percent band to a 33 percent to a 20 then 10 and possibly zero in the future.

The committee deliberated long and hard on this particular issue. Based on the merits of this particular bill and this particular bill alone, from my perspective as a member of the committee, we decided to narrow the band to 20 percent. A compromise on behalf of the sponsor of the bill. Unfortunately some bills find their demise in other bodies and sometimes they find their demise here. This is not an issue on other related bills. This is an issue on long hard deliberation and a Unanimous Committee Report on this particular bill.

I find it unfortunate that we have our corners debating this. They have more history in terms of

Banking and Insurance. This, to me, should not become a political issue. It should be an issue based on long hard hours of work in a committee that works very well together. I would highly recommend that we oppose the pending motion and get on with the Unanimous Committee Report. Thank you.

The Chair ordered a division on adoption of House Amendment "B" (H-246) to Committee Amendment "A" (H-123)

A vote of the House was taken. 51 voted in favor of the same and 73 against, House Amendment "B" (H-246) to Committee Amendment "A" (H-123) was not adopted.

Committee Amendment "A" (H-123) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-123).

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

An Act to Enable the Department of Corrections to Share Information with Canadian Criminal Justice Agencies (H.P. 846) (L.D. 1177)

TABLED - May 16, 1995 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - Passage to be Enacted.

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

An Act to Allow Certain Employees of the Maine State Liquor and Lottery Commission and Their Families to Purchase Lottery Tickets (H.P. 530) (L.D. 726) (C. "A" H-141)

TABLED - May 16, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

The Chair ordered a division on passage to be enacted.

A vote of the House was taken. 98 voted in favor of the same and 18 against, subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Representative JACQUES of Waterville, the House recessed until 4:30 p.m.

(After Recess)

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-134) on Bill "An Act Preventing the Increase of Any Processing or Permitting Fees in the Department of Environmental Protection" (EMERGENCY) (S.P. 113) (L.D. 288)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-134).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-134) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-139) on Bill "An Act to Change the Restricted Area around Aquaculture Pens from 500 to 300 Feet" (S.P. 268) (L.D. 719)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-139).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-139) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-138) on Bill "An Act to Further Restrict the Illegal Harvest of Cultivated Oysters" (EMERGENCY) (S.P. 363) (L.D. 989)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-138).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-138) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-140) on Bill "An Act to Repeal the Salmon Aquaculture Monitoring and Research Fund" (EMERGENCY) (S.P. 366) (L.D. 992)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-140).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-140) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Report of the Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-141) on Bill "An Act to Amend the Law Concerning the Pricing of Discontinued and Test-market Liquor Items" (S.P. 372) (L.D. 1049)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-141).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-141) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-132) on Bill "An Act Regarding the Schedule of the Distribution of Funds from the Maine Environmental Trust Fund" (EMERGENCY) (S.P. 468) (L.D. 1264)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-132).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-132) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass as Amended

Report of the Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-136) on Resolve, to Establish a Paper Industry Council (S.P. 382) (L.D. 1059)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-136) as amended by Senate Amendment "A" (S-146) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-136) was read by the Clerk. Senate Amendment "A" (S-146) to Committee Amendment "A" (S-136) was read by the Clerk and adopted. Committee Amendment "A" (S-136) as amended by Senate Amendment "A" (S-146) thereto adopted and the Bill assigned for second reading Thursday, May 18, 1995.

Ought to Pass

Report of the Committee on **Human Resources** reporting "**Ought to Pass**" on Bill "An Act to Amend Laws Regarding False Claims for Payment or Approval by the Department of Human Services" (S.P. 462) (L.D. 1258)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-147).

Report was read and accepted. The Bill read once. Senate Amendment "A" (S-147) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 18, 1995.

SENATE PAPERS

Divided Report

Majority Report of the Committee on **Utilities and Energy** reporting "**Ought Not to Pass**" on Bill "An Act to Facilitate Charging Electric Utility Customers Based on Actual Usage" (S.P. 31) (L.D. 61)

Signed:

Senators:

CARPENTER of York
HARRIMAN of Cumberland
CLEVELAND of Androscoggin
KONTOS of Windham
TAYLOR of Cumberland
O'NEAL of Limestone
POULIN of Oakland
STONE of Bangor
HEESCHEN of Wilton
POIRIER of Saco

Minority Report of the same Committee reporting

"**Ought to Pass**" as amended by Committee Amendment "A" (S-142) on same Bill.

Signed:

Representatives:

ADAMS of Portland
GIERINGER of Portland
LUTHER of Mexico

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

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Limit Copayments for Participants in Medicaid Managed Care Demonstration Projects" (H.P. 233) (L.D. 313) 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-198) in the House on May 11, 1995.

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

The House voted to Adhere.

Non-Concurrent Matter

Bill "An Act to Allow Election Officials to Request Identification from Prospective Voters" (H.P. 251) (L.D. 353) on which the Majority **"Ought to Pass"** as amended Report of the Committee on Legal and Veterans Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-43) in the House on May 11, 1995.

Came from the Senate with the Minority **"Ought Not to Pass"** Report of the Committee on Legal and Veterans Affairs read and accepted in non-concurrence.

The House voted to Adhere.

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

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.

An Act to Protect the Integrity of Seawalls and Retaining Walls (EMERGENCY) (S.P. 72) (L.D. 160) (C. "A" S-36)

TABLED - May 16, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative CARLETON of Wells to reconsider failing of passage to be enacted.

Subsequently, the House voted to Reconsider.

On motion of Representative MARSHALL of Eliot, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 160 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" (S-36) was adopted.

The same Representative presented House Amendment "A" (H-97) to Committee Amendment "A" (S-36) which was read by the Clerk.

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

Representative MARSHALL: Thank you Mr. Speaker, Colleagues of the House: This amendment simply removes the emergency from this bill. Thank you.

House Amendment "A" (H-97) to Committee Amendment "A" (S-36) was adopted.

Committee Amendment "A" (S-36) as amended by House Amendment "A" (H-97) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-36) as amended by House Amendment "A" (H-97) thereto in non-concurrence and sent up for concurrence.

SENATE DIVIDED REPORT - Report "A" (8) **"Ought to Pass"** as amended by Committee Amendment "A" (S-88) - Report "B" (4) **"Ought Not to Pass"** - Report "C" (1) **"Ought to Pass"** as amended by Committee Amendment "B" (S-89) - Committee on Labor on Bill "An Act to Reimburse Former Temporary Hearing Officers of the Workers' Compensation Board for Lapsed Vacation Time" (S.P. 234) (L.D. 599)

- In Senate, Report "A" **"Ought to Pass"** as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-88).

TABLED - May 16, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative HATCH of Skowhegan to accept Report "A" **"Ought to Pass"** as amended by Committee Amendment "A" (S-88).

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: This issue came before us and it is certainly another issue involving special interest legislation. It involves three past Workers' Compensation Commissioners. It seems that they had anticipated that they were going to be hired by the successive Workers' Compensation Board. They were asked to stay on board and take care of all the cases that were still pending so that they could wind done one board and then start to operate under the other.

In the process they did not take vacations or leaves. They stuck with it and got it done. That is commendable. In the process, however, they wound up with some hours of vacation time that they did not take. The new board decided that they would not rehire these Commissioners and these people were terminated. A couple of them hung around for a while under the assumption they might be rehired. They didn't get rehired and consequently they were paid for their vacation benefits up to the allowable amount. What happened after that was two of them went back to work for the state and this piece of legislation was put in to try to grant them payment for the unpaid vacation time that they didn't get. It seems that the Workers' Compensation Commission has the money to pay them for these unused days and it will amount to somewhere in the excess of \$13,000 dollars.

I have a little bit of a problem with an agency that has that type of money just laying around to pay out for something that nobody else in this situation is eligible for. These people did work very hard. We have some problems with this bill and one of the problems is that there is an amendment on this which would reinstate these employees so that they would have continuing employment status. That presents a little

bit of a problem down the road. If the Governor's Productivity Task Force should run into this situation and these jobs should be terminated, then these people would have bumping rights.

It appears that this may present some serious problems when it comes to renegotiating contracts for the state employees, because many of these state employees have lost vacation time that they didn't get paid for. I think that we are setting a bad precedence by paying these individuals for that lapsed vacation time. I know that those of you who have been in the military know that they used to have a process where you could accumulate up to 30 days and you could get that as part of your mustering out pay. You couldn't accumulate any more and you didn't get paid for any more than that. I think this is the same situation.

I present that as the situation that exists for these three people and you can make your own decision as to how you are going to vote for it. I am on the Minority Report and I will continue to vote that way.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I am in support of the "Ought to pass" and I think I want to mention that this is a very unique situation. When these hearing officers were brought on as temporary hearing officers, they were former Commissioners. They were in hopes of the verbal promise from the department to be kept on as permanent workers. The vacation time was not something they did not take, they were told not to take it. They worked very hard to dispose of old cases that would eventually have been relitigated and would have cost more money and created a lot of financial and emotional distress.

I don't think we are setting a precedence. I have a Superintendent in my city who says a precedence is only a precedence if I say it is a precedence. I don't think we have to worry about that part. I think the fiscal impact which is \$13,528 dollars, the board has adequate funds to cover this increased cost. I urge you to support the "Ought to Pass" Report. Thank you.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of accepting the Majority "Ought to Pass".

In a memorandum which I distributed earlier this week from a staff person in the Executive. It appears as though the Bureau of Human Resources is of the opinion that many other state employees have lapsed vacation time under circumstances as compelling as the former temporary hearing officers. However, in that memorandum from the Executive, no examples were given. I would suggest that this is so because other state employees did not act in a capacity similar to Administrative Law Judges, as did these temporary hearing officers. These officers had huge case loads, which had to be decided by December 31, 1993. The effective date when their appointed positions ceased to exist.

Additionally, the hearing officers essentially were told by the Workers' Compensation Board's Executive Director not to take vacation time, but to decide their pending cases. Many of the hearing officers, at that point, were under the impression that they would be rehired and therefore there would not be a problem. In their combined 36 years of

dedicated state service, they are unaware of any other group of employees that have been placed in similar circumstances.

In the aforementioned memorandum from the Executive, the Bureau of Human Resources states that it would be unfair to all other state employees to change a policy for a very few, when equally good reasons exist to change it for many unnamed and unspecified others. If this were so and the unnamed many others are similarly situated, then it would appear to most of us to be in admission that the policy itself is both, ill conceived and unfair and should be dispensed with. The Bureau of Human Resources further argues that the passage of this L.D., L.D. 599 will give rise to countless similar future requests. Again, if these requests are prompted by unfair treatment, similar to that given to the temporary hearing officers, then the Bureau of Human Resources should have been and should rectify the situation.

You have heard that these employees are like many others in state employ. That is not really correct. They were Gubernatorial appointees and their jobs were terminated by a decision of this body and they were asked by their boss to forgo vacations. You have heard that this bill may effect Collective Bargaining by establishing a precedence. These people were not union employees. One further point that you should understand, many of us who follow the work of the current Workers' Compensation Board know that many votes end up in a four to four situation. This particular vote by the Workers' Compensation Board to award these people their just vacation time was on a eight to zero vote to approve.

There have been very, very few unanimous votes by this body since it was constituted. I would urge people on both sides of the isle to support the "Ought to Pass" as amended Report.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: It gives me no great pleasure to stand up here and ask you to vote against the pending motion. This is one of those darn if you do and darn if you don't bills. Frankly, these are five wonderful individuals, they work hard for the state and to say no to them does me no pleasure. But to say yes to these people, what will I say to the other 14,000 other state employees that we value their labors less than these five former gubernatorial employees. You've heard the details surrounding their employment and their situation.

My Republican colleague, Rep. Mayo indicated that the Department of Human Services has failed to indicate that this problem is unusual. The fact of the matter is, they just completed a survey of state workers and it indicates that a minimum of 2,088 employees are now carrying over their maximum allowed vacation hours. One in fact has over 700 hours over his maximum. Payrolls hours involved are 186,100 hours. I say that to show that the situation is not isolated to a few employees of the Workers' Compensation Commission.

I am told that it is not unusual for people to lose time each year, so ask yourself, what are you saying to these 2,000 other employees when you give a special privilege to three former gubernatorial appointees who earned over \$70,000 dollars. Are you saying that one person's efforts are less valuable than others? There is another issue and that

involves the getting special privileges under the bargaining agreement. Two of these former commissioners have been reemployed by the state after a break in service.

They have gone from confidential status to a MSEA bargaining unit. They are now covered by the bargaining unit contract and they are requesting continuous employment status under that collective bargaining agreement. Under the contract, they have to be employed for three years to regain their seniority. They do not want to wait as the contract requires.

This bill, if passed, will give them seniority status in case of reduction in force, the increased actuality rate for their vacation time and other benefits. I ask you is this fair to their co-workers who have to continue to follow the contract in all ways. Men and women of the House, I do not quarrel with the supporters of this legislation, to the individuals involved, this may seem as a personal tragedy they worked long hard hours, they held jobs of high status, they enjoyed friendships with several members of this body and upper management throughout the state. But ask yourself, please, is this situation really any different than the five confidential employees recently discharged by Commissioner Peet?

The Commissioners at least had almost two years warning of their potential change in status. Is their personal situation any different than the hundreds of long term hard working state employees being laid off at Pineland Center? Or the 500 or so that will be discharged in the next year. I believe that each and every employee involved in reduction of force will have a very personal and tragic tale and can this body give each of these a special severance package tailored to those individual needs. I think it would be very nice to be able to do, but I don't think that we can. Thank you and I ask you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from China, Representative CHASE.

Representative CHASE: Thank you, Mr. Speaker, Men and Women of the House: I will only make two points. I'm very pleased to hear my co-labor committee member, the good Representative from Norway, Representative Winsor be concerned about state employees, but I would request this body to support state employees particularly when state employees ask us to support them.

The representatives of the state employees did not testify against this bill, nor has anyone spoken to me about this bill, in the halls, no one has spoken to me about this bill over the telephone. My understanding is, that the representative of state employees have absolutely no problem with our doing what's right with respect to the former Workers' Comp Commissioners. The second point, is this is a unique situation, this is not quite the same situation as a new commissioner coming in and firing a hand full of people who used to work in that department. This situation is that former Worker's Comp Commissioners were asked to work as temporary hearing officers.

In that capacity they were asked not to take their vacations. We were redoing the Workers' Comp Board, it was a period of adjustment these were experienced people, they were asked to do the job. The job legislatively ended at a certain point. One of them was so certain of rehiring we have the notes from the Board that person's name was put forward to the Board

to be hired as a deputy director. This is an unusual unique situation where people forwent their vacation time in order to serve Workers' Comp Commission, the injured employees in the state of Maine.

I do urge you to please support the Majority, "Ought to Pass" as amended by Committee Amendment "A" Report. Thanks very much.

Representative JOY of Crystal requested a roll call on the motion to accept Report "A" "Ought to Pass" as amended.

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

Representative HATCH: Thank you, Mr. Speaker, Men and Women of the House: I rise to support the Majority "Ought to Pass" Report. I just have brief remarks to make in regards to testimony that was given at that hearing by the Executive Director of the Workers' Comp Board. The Workers' Compensation Act of 1992 effective date, January 1, 1993 provided that the former Workers' Compensation Commission Commissioners serve as temporary hearing officers through the end of the calendar year 1993, for the purpose of resolving claims assigned to them as Commissioners and to serve as members of the appellate panels as necessary.

Given this statutory mandate, it was unusual for individuals to request vacation time during 1993. There were also questions asked whether or not they would have okayed that with the amount cases that were given, in his own words he told us that they probably would not have allowed it. The accumulated amount of unpaid accrued vacation equals 376 hours for a total of \$13,500 dollars. This one time cost can be absorbed by the boards current budget, and the reason for that is they have realized salary savings.

It's nothing to do with having over amounts of money, people retiring and whatnot is the reason for that. It also says in this that this is a unique circumstance and hopes you will take this into account. I believe it was very unique, due to the circumstances with the Workers' Comp and I hope that you will help us pass the "Ought to Pass" Report. Thank you.

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 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 Glenburn, Representative WINN.

Representative WINN: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I wanted to express the reason why I am going to be voting against this motion and it has to do with the monetary issue. As many of you know, we have been spending a great deal of time with the Governor while working on the education funding formula and he presented some information yesterday which I thought was very enlightening and I would like you all to please pay close attention to this.

He asked the State Planning Office to run some projections for not this session, but for next session based on two different scenario. One scenario is what most people would consider a very high growth rate of four percent I haven't met anyone yet who really thinks we are really going to have a four

percent growth rate. At four percent growth rate, we would have \$180,000,000 dollars total increase. It's only \$180,000,000 dollars if we have a very high growth rate. If we have a growth rate which more people think is more realistic which is about one percent growth rate, we would end up with a grand total increase \$40,000,000 dollars.

Now I realize to most people in this state \$40,000,000 dollars sounds like a lot of money, but for those of you who have been desperately trying to balance the budget for your giving committees, you realize \$40,000,000 dollars doesn't go nearly as far as you would like it to, especially when you have to bear in mind that there are going to be all sorts of mandatory increases for salaries and benefits for state employees and what not. So I just want you to all bear that in mind when you make decision to send money to churches and to repeal different taxes and to fully fund different commissions and to reimburse people for different issues and benefits and what not.

I want it to be very clear that I'm not anti-labor. I not anti-state employees. The issue is that we just don't have enough money to do everything we want to do and maybe it's only a few thousand dollars here and there, but I tell you if you watch the millions, the billions will take care of themselves. Thank you.

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

Representative SAMSON: Thank you, Mr. Speaker, Men and Women of the House: I'm a member of the Labor Committee, I heard the testimony. I'm not going to reiterate what has already been said, but I want everyone to know that these people entered into oral agreement with the state to get this work done in a timely fashion and to save the state some money and some time. If this vote fails, it tells me that you can't have an oral agreement with the state, you'd better get it in writing, you'd better have a contract. Vote Yes.

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

Representative KEANE: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: There are a few things here that are very disconcerting to me. The first is, number one, this body is being asked to resolve an administrative issue. It seems to me that there should be some type of redress or grievance procedure in the executive branch that takes care of issues like this.

The second that bothers me is, given the fact that there is no redress procedure, the legislation is brought before this body and we are asked to make an administrative decision here, which in my estimation is micromanaging and really not the function of the Legislature. But given the fact that we have personnel policies and evidently the policies are either violated or adhered to and in this case evidently they've been violated. Then given that fact if we are the body that is suppose to adjudicate this issue, than I would say we vote in favor of "Ought to Pass" on this and give those people their money, if they are justly due that money.

I don't like sitting here and taking care of this type of business before the Legislature. Thank you, Mr. Speaker.

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

Representative WINSOR: Thank you, Mr. Speaker, Men and Women of the House: Just want to be very,

very, perfectly clear. There was no personnel policy that was violated under this whole thing. These people were gubernatorial appointees that served six terms. The Legislature changed the law in 1972 that terminated those positions in December 31, 1993.

The laws that were in effect the day they were terminated were in effect, the same personnel rules were in effect the day they started their job. These are good men, they worked hard, but the rules are the rules. They're asking for special exceptions and if it were my private company, you want to work for a little organization, than I think that people can make separate deals. Had they continued through the end of their appointment, they would have no guarantees that they would have been reemployed.

People that serve in appointed positions, and many of them serve at the pleasure of the appointing authority. In fact, the current Workers' Comp Commissioners, or hearing officers serve at the pleasure of politically, very political, Board at the Workers' Comp Commission. I just want to be very, very clear, there has been no personnel policy. This is in absolute violation of the Collective Bargaining Agreement between the State Employees Association and the employees in the state and the long term personnel policy that is published yearly and given to each confidential employee. I urge you to vote no.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Ought to Pass Report, Report A. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 97

YEA - Ahearne, Ault, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Guerrette, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kneeland, Kontos, Lemaire, Lemke, Lemont, Luther, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vollenik, Watson, Wheeler.

NAY - Aikman, Barth, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Labrecque, LaFountain, Lane, Layton, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Whitcomb, Winglass, Winn, Winsor, Yackobitz.

ABSENT - Adams, Dexter, Fisher, Lindahl, Martin, Marvin, O'Gara, Rotondi, Truman, The Speaker.

Yes, 75; No, 66; Absent, 10; Excused, 0.

75 having voted in the affirmative and 66 voted in the negative, with 10 being absent, Report "A" "Ought to Pass" as amended was accepted.

The Bill was read once. Committee Amendment "A" (S-88) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 18, 1995.

On motion of Representative JACQUES of Waterville the House recessed until 6:30 p.m.

(After Recess)

SENATE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (S-119) - Committee on Utilities and Energy on Bill "An Act to Clarify the Intent of the Electric Rate Reform Act" (S.P. 253) (L.D. 691)

- In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED - May 16, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Acceptance of either Report.

On motion of Representative MITCHELL of Vassalboro, tabled pending acceptance of either Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-208) - Minority (2) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Repeal the Snack Tax" (H.P. 144) (L.D. 192)

TABLED - May 16, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative DORE of Auburn to accept the Minority "Ought Not to Pass" Report.

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

Representative DORE: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I move the Minority "Ought Not to Pass" Report. Let me give you a few reasons. If you look at this bill carefully you're going to notice that it has a fiscal note of a couple of million dollars. Oh gee, only \$2,000,000 dollars and we can remove a tax and what a great thing that will be to go home and tell our constituents that for \$2,000,000 dollars we removed a humongous tax burden. Well take a look on page three of this bill and the statement of fact, effective April 1, 1997.

Ladies and gentlemen of the House, this is unprecedented, if you want to reduce taxes, reduce them effective July 1, 1995 and pay for them. Don't reduce a tax and send the bill to the next Legislature. Maybe you'll be in the next Legislature, maybe you won't. I won't be. And I've started to add up the tax reduction measures that are going to come before us. Snack tax is 26 to 30 million dollars, machinery and equipment is 100 million, that's \$126,000,000 dollars on the low end so far. \$82,000,000 dollars on an income tax reduction, somebody do the math for me. That's \$126,000,000 dollars plus \$82,000,000. Here's a cheap one farm machinery and equipment, \$250,000 dollars to the state, \$250,000 dollars to the communities.

Folks if you want to reduce taxes, reduce it as of July 1, 1995 and pay for it, because we were elected to be leaders and that's what the grown-ups do. We lead. Our communities assumed that we had the capacity to lead and to make the tough choices. I may vote with you. I may not vote with you, but pay for your promises. Is the snack tax a bad tax? Oh I think Representative Murphy will explain to you

how horrendous and ridiculous and silly tax it is, and I would concur with her.

If she wants to reduce taxes, why don't you amend it to July 1, 1995 and pay for it in this budget and go home and do to your communities, whatever you have to do to your communities to pay for this, because don't fool yourself, with all these tax reductions you've got to take less money home. If you think that's what the people want, by all means vote for it, July 1, 1995. Thank you.

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

Representative MURPHY: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: This is a reduction in taxes. It's labeled snack tax, that's not really what it is. We all know that the snack tax isn't going to be reduced by this. This is the food tax that we have in Maine. The food tax that we put on back in 1991. When the economy of Maine was really hurting.

In fact, the actual fact is, that some of the things the snack tax includes, but is not limited to, corn chips, potato chips, fruit snack, fruit rolls, fruit bars, popped pop corn, pork rind, pretzels, cheese sticks, roasted nuts, but we do not tax nuts, just roasted nuts, doughnuts, cookies, crackers, pastries, marshmallow creme, artificially flavored powder or liquid drink, ice cream sauces, ready-to-eat puddings, whole cakes, whole pies, a big bag of chips. A little bag of chips is a snack. A pound bag of chips, in my opinion is not a snack, a whole cake is not a snack. A whole pie is not a snack. A half-dozen muffins is not a snack.

These are part of a meal and we are taxing food. Food that we eat with a meal. Now if you went into a store and wanted to buy some croissants, if they're frozen we don't tax them, but if they're thawed, we tax them. I don't understand the rationale, but that's what we do. We don't tax tea, but we tax instant tea. We tax a loaf of banana bread, but if we slice it we don't tax it. We can slice it and wrap it in a package to sell and we don't tax it and this is the way it is. There's certain items we tax and certain items we don't tax. There is no rationale for the tax whatsoever. When we presented in committee, I had all these things to show that we taxed and we didn't tax. No one there could understand why we did it the way we did.

Back awhile there were Maine Research Services that did research on the snack tax in Maine. In addition of snack food to Maine's list of taxable goods engendered a good deal of controversy. Certain parameters guided the evaluation of tax policy. A state's revenue system generally includes such elements as reliable revenue sources and substantial diversification. In addition, the system should be relatively easy to understand and taxes should be administered uniformly. The snack tax quickly came under fire as a tax which did not meet some of these key criteria.

In Maine there were questions about what items for sale constituted a snack and uneven application was suspected. Anecdotal evidence pointed to some level of confusion at retail outlets in the state. There were three primary objectives for this survey. One to determine if the snack tax is being applied. Two to determine if the snack tax is being applied equitably. Is it being charged to all purchases no matter where they shop? Third to determine if the

snack tax is being applied uniformly. Is it being charged to all snacks as defined by the statute?

The research findings, overall the results were somewhat surprising. First, clearly the tax is being applied since in all stores the tax was charged at least some of the time. Nevertheless almost all of the stores made errors in snack tax applications. In this survey seven out of the eight stores sampled made snack tax errors, to the extent that the eight stores in the sample are representatives of small and medium size stores in Maine. It is probably safe to assume that the majority of Maine's other stores are making snack tax errors as well. We can see that it is just mass confusion out there on this food tax.

There again I want to say I am not taking the tax off candy bars, twinkies and such things as that. I am only taking it off what we put on in 1991 when we did the big tax increase in this state. Also, this tax does not go into effect until the last quarter of this biennium, April 1, 1997. In the next Legislature, if they so choose, has a right to put it back on, but at least it will be debated and the people it effects will have a chance to come up and relook at this tax.

Believe me the reason that I put the snack tax in is because of a little business down on the border. As you all know those little businesses down on the New Hampshire border and you soon will be hearing more about it when you get the reformulated gas because you are creating another Maine and New Hampshire border with gasoline, so you are going to get a little taste of what we live with everyday. I can't wait. Businesses do not pay taxes. Businesses pass on that tax to be paid by individuals.

In the state of Maine from 1980 to 1991 Maine state and local government spending increase was greater than 50 percent. Only three other states increased more than Maine during those years. They were 75 percent Connecticut, 61 percent in Florida and 55 percent in New York. Maine was fourth in increased spending. We all know that taxes or at least some of us know that taxes reduce economic deficiency, especially down where we have cross border hopping to get away from taxes. I firmly believe that higher taxes bring in less revenue. If our taxes were less, more people would not cross the border.

I think it is interesting to note that it is not just York County people who cross that border. Fifty-one percent of York County people cross it. Fifteen percent of Cumberland County people cross it. In all other counties it is 29 percent. As you can see, it is not just York County people who go into the other states to shop. The cross border activity that fails an excise tax differential induce are often very considerable, particularly in small states where a large portion of the population can easily overcome the small transactions cost of buying products in another state.

New Hampshire's retail sales are considerably enhanced at the expense of its neighbors. We certainly all know that. Higher taxes can bring in far less revenue than expected and we are not the only state that has this problem. A lot of other states in this country have the same thing and the same statistics. Especially if lower taxes in neighboring jurisdictions increased cross border activity attracts out-of-state buyers. Also, this can result in job loss and more decline in revenues.

New Hampshire gained \$1.5 billion dollars in retail sales from cross border activity as a result of its lower taxes on tobacco, cigarettes and wine. My good chairman of Taxation says if you want to remove the tax, pay for it. I agree. Businesses in this state have said to us that we have to lower taxes. We cannot afford to stay in this state and do business. Also my good chairman says find the money. Take it from somewhere. I believe in that. We have not reduced state government. That is what the people out there have said to me that they would like to see done. They would like to see a less burden on business so that they can afford to do business.

This tax, especially on a little store down there in York, who every time I go in he has asked me, especially in the summer when he sees a tourist coming in front of his store because he is right across the parking lot from the beach and what he is saying is they open their trunks and they brought in all their drinks, snacks and some of those people used to come in here and buy from him, but when they realize that they have been paying a tax on some of those things they refused to do it. I say it is hurting business and I think it is time to at least start.

There is a note on this of \$2,000,000 dollars, but it is at least a beginning. It is a beginning to give the people back in Maine faith that we really said when we campaigned, we want to help you. We want your business to stay in Maine. We don't want you moving across the border into New Hampshire. I really believe that the time has come, at least to start, and this is the beginning. I realize that it is going to be very controversial. I realize that a lot of people here who do not want to reduce taxes. They want to keep the status quo and I respect that. I can't go back home and tell the people that I represent that I have done nothing to try to help you keep a business in the state of Maine.

I just had a little medal business who moved across the border into New Hampshire, because he couldn't afford to pay the personal property tax in Maine. These are the things that hurt us. We just had a business move across the border, because of other problems in Maine and 350 jobs went over there and 175 of those are people working in New Hampshire. We are losing their income tax. We lost corporation tax. We have to do something in this state to help the business people so they can grow and hire people. Even these little convenience stores do hire people and they pay taxes. I wish that you would vote with me tonight and vote "Ought to Pass" on the motion before us. Thank you.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I didn't plan on speaking on this item this evening and I think you have all heard that many times before. I really didn't. I didn't even know this item was on the calendar. The only reason why I am speaking on this item is because back in 1991 I was the person that decided that snack items should be taxed. The reason for that was not that I would like to collect more taxes for the state of Maine, but the state of Maine was in serious trouble, just as we are today.

We needed more revenues. We all voted for more programs. We all voted to spend more money, but

where it comes from is from the people out there in the state who send it to us. I want to tell you that this is not the time. Today is not the time for us to decide not to collect taxes on snacks anymore. Snack tax is not a good tax. It is not the best tax. It is a tax that I felt, at the time, that we needed and that everyone would share into it. I can grant you that the good Representative from Berwick doesn't like to because she is on the border line. I am sure if I was on the border, I wouldn't like it either.

The fact is it isn't \$2,000,000 dollars that we are talking, we are talking \$28,000,000 dollars for a two year period. That is \$14,000,000 dollars per year. If the good Representative from Berwick can tell me where we can find that kind of money, I would be more than happy to listen. I don't think that this Governor is going to be interested in passing any kind of a bill that is going to cut revenues. We need all the revenues we can possibly get. I say to you, follow the good chair of the Taxation Committee and let's move on. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House: This is really a matter of setting priorities. When I campaigned the people in my district told me they are concerned first of property taxes. When I toured both the Southern Maine and Northern Maine, I met with a lot of business people and not one of them mentioned to me that the snack tax was high on their priority. Since then the hospital sick tax, has become a huge problem. In the next biennium if we cut out the hospital sick tax, we are talking over \$300,000,000 dollars. We have to be willing to set priorities on which taxes we deal with. If we are not willing to do that, then we are not doing our job.

Are you going to help your local economy by helping out on property taxes, hospital sick tax or on the snack tax? You have to think about that and set your own priorities. If this is your number one priority, go for it. I find it hard to believe that this is your number one priority of the taxes that are there that have to be dealt with.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: There have been some good remarks and I will focus my remarks on two issues.

The Chief Executive of this state has committed himself and his administration to reviewing taxes, fiscal policy of looking where the economic damage is the worst and where the economic gains would be the best in terms of what we would do. Of course, we will have our input and in a sense our final say in the next session of the Legislature. The simple reality is that we are carrying on the tax expenditures of this state a number of expenditures that could have funded this snack tax with a \$2,000,000 dollar fiscal note that is actually on this. Let alone the \$28,000,000 dollars over the two fiscal years following.

We could have looked at some of those issues, but for a variety of reasons the Taxation Committee has not done so. At least one of the more public reasons for that is we are looking for the kind of fiscal policy analysis we expect to immerge from the administration this fall. Then we will have our

input in it. I think that good tax policy demands, as the previous speaker said, analysis of the economic impact and the equity issues in tax policy.

I also think good government means paying for what you want to do. We could have looked in the tax code for many items that I consider to be tax expenditures, some would argue giveaways from the 1980's that have never been examined and we are still giving the money away in our tax policies. It wouldn't be germane of me to run through a laundry list of those now. Suffice it to say that analysis could be brought to bear on that. The Chief Executive has committed himself to doing that. We should be doing good tax policy. It is ironic, because one of my earlier speeches in another session of the Legislature was to attack a tax that would tax six doughnuts, but not tax seven.

This tax doesn't make sense, but we can a lot better in fiscal policy in Maine and we can fund it.

Representative GUERRETTE of Pittston requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Dunn.

Representative DUNN: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I rise to urge you to vote against the Minority "Ought Not to Pass" Report. The bill that we have before us is a bill to eliminate taxes on food. We have talked a lot about good tax policy, but it is my understanding that a good tax policy should be equitable and easy to understand and easy to administer. In the case of the tax that we have on the snacks and the food, it certainly is not equitable. It is not easy to understand. You can ask anyone who sells the so called snacks and it certainly is not easy to administer.

As to setting up priorities, other taxes have been talked about such as the hospital tax. I also agree that is a priority, at least it is for me. However, I think we have to look at the total budget. It is my understanding that the budget we have before us increases the spending over the current level by \$221,000,000 dollars. I do not think the \$2,000,000 dollars we have in this biennium is something that we cannot handle. I also believe that we need to be looking ahead. In long term there is no question, but what the snack tax needs to be repealed and it doesn't bother me that we have so called saddled the next biennium with this decision. It will give us time to plan ahead. Thank you.

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

Representative MURPHY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: First of all I would like to make it very clear to some of my colleagues on the Taxation Committee, they did come out of committee "Ought to Pass", but I have to be in all fairness there were three who wrote me a note and told me that they could not support it. I don't want this body to think that it was actually that way, because there were three members who I thought were very fair and I respect their decision. I also was very happy that they wrote and told me, before we got up here tonight that they were not going to speak on it, but they were not going to support me on it. I want this body to know that.

I would just like to say that Maine is the only state left with a snack tax or a food tax such as

this. California repealed theirs. Maryland repealed theirs. Since its beginning, it has been a burden to Maine consumers and grocers and as a result consumers are being taxed on many items which may not be thought of as snacks and those are the ones I mentioned as food. This does not do away with the snacks. All this does away with is the food part of it. I would not do away with the snacks at this time. I would like to eventually, but not at this time.

Maryland and California took steps to eliminate the taxation of food items and it is time for Maine to repeal its food tax and take it out of the snack tax. Please vote "Ought to Pass". I request the yeas and nays when the vote is taken.

Representative MURPHY of Berwick requested a roll call on the motion to accept the Minority "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 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 East Millinocket, Representative Rosebush.

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I just want to reflect one small thing. When we came in this term we have had quite a few million dollars thrown at us, all of a sudden, that wasn't there before we got here. I feel what we are going to do with this snack tax when this takes effect, if it goes in 1997, is going to start off the same way with the next session. It is just a small ball that will keep rolling. I don't go in a store looking to buy something and see snack tax written on it.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative GREEN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to first thank the Representative from Berwick for being so gracious. I really appreciate that, especially as a new legislator. I would like to say that after reconsideration I felt that I have to agree with the Representative from Auburn, but I would like to thank the Representative from Berwick.

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

Representative FARNUM: Mr. Speaker and Members of the House: I would like to again repeat to you what I have been doing for the past ten years and what taxes have done to South Berwick and North Berwick. When I moved into South Berwick there were three appliance stores, one good men's clothing store, five grocery stores, three so-called snack bars and now we have one grocery store and one snack bar left. That is all. At that time there were over 20 people in employment that no longer have jobs. What are we gaining by taxing especially along the border? Thank you.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I don't want to belabor this item. I

will be as brief as I can. I would just like to point again that tonight we have on the calendar over \$212,000,000 dollars worth of tax reductions. None of which include proposed sales tax reductions, hospital tax reductions, income tax reductions or nursing tax reductions. All of these will probably be coming your way in the future.

If you are new at this, the average budget is \$3.2 billion dollars. Where do you get \$500,000,000 dollars. You have to prioritize. I think you have to say to yourself, what we are dealing with here is a bad tax. Let me tell you about a few other bad taxes. The nursing home tax is not an easy tax to swallow and it wasn't created by the Taxation Committee. The hospital tax isn't an easy tax to swallow and it wasn't created by the Taxation Committee. We are kind of like a shovel at the end of the parade. We just get to clean up the mess that gets created in other places when times get desperate.

Let me not kid you with what you are dealing with in all of these future date reductions. You are dealing with Fritos, in this case, versus your schools. Cheetos versus your hospitals. Sodas versus your property tax. You are going to have to go home and tell people how you thought Fritos was overly burdensome and you thought they could take the hit on their property tax. I wish you luck with that.

As far as other taxes that are a little silly, in this state and I think in many states in the country we tax bibles, but we don't tax Playboy. Is the snack tax silly? Sure. Do I joke about it? Absolutely, because bagels aren't taxed. I always say that I covered my religion, bagels aren't taxed, but you Christians can pay for doughnuts. Obviously that decision was administrative. It wasn't done by the committee. Obviously it is a silly tax, but it still is \$26,000,000 dollars over the biennium.

I would contend that even though it is not always the most sensible tax, it is by far not the least sensible tax on our records either. It is an entirely discretionary item. If you skip the snacks, maybe you will be a little more fit.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I am not sure this is the best time for me to stand and speak on this issue considering the reference to following in the parade from the Representative from Auburn. However, I think it is important that the third member who is still in this body who served on the Taxation Committee at the time finally speaks. The Representative from South Portland, the Representative from Auburn and myself are on that committee when we created this wonderful little gem that taxes food.

I beg to differ with the Representative that we knew exactly that we were taxing certain food items and not other certain food items. As I remember some of the debate that occurred at the time, those taxes that we created then were the crisis management taxes that we had to do them under great protest in order to solve a problem that was upon us, the massive budget short fall. I remember so well the debate that we had in this place about smoke and mirrors kind of taxation policy and gimmicks and all those kinds of phrases that were appropriate then when we did this, but now can be pushed aside when we say well we need this money.

Although we have barred from the rules about referring to the Chief Executive in the debate, I was pleased to hear both the Representative from Portland and South Portland discuss what the Governor's policy might be in regards to tax matters. I only say that we ought in our own mind decide what we think is good tax policy.

As I understand the mission of the Taxation Committee as it was when I served there and I think when you still served there, it is to look at tax policy and not appropriations policy or the policy that you have in your committees in regard to what good programs should and should not exist and there we put it all together. It seems to me that every speaker that has stood on the floor tonight has talked about how this tax is bad tax policy. Why do we keep it? We keep it because we need it.

Is there one of you who doesn't think that there is money in that budget that could be cut to meet a \$2,000,000 dollar problem that this tax relief effort seeks to create in the budget. Is there one of you who can look your constituents in the eye and say, "Oh no, there isn't \$2,000,000 dollars of waste in state government." I think not. We have had suggestions that there are a number of other items to come before us that create problems. Maybe they will and maybe we need to argue those when they get before us. This tax makes no sense, is not administered fairly, is poor policy and we are the last in the nation to have it. I guess we deserve and have notoriety in some instances.

It is the first test of this body as to whether we are willing to commit to cut any taxes. It comes as no surprise to me with the statement from the good Representative from Auburn, I think there isn't a desire to do that. This is a test of us, not the Chief Executive. The Chief Executive can issue statements and do whatever he or she wishes to do. This is our test. We look at our bad tax and say we should not have it anymore. It was created in a time of chaos and crisis. We don't have that now. We have a budget that we are managing. We have a budget that has increased spending. We have a lot of discussion to go through before we finally arrive at what our budget priorities are.

Tax policy here tonight is the decision we are making. This is a discussion about tax policy and this is poor policy. It makes no sense to have this tax on the books. If you really think this tax is worthwhile, you vote for it. It doesn't talk about the spending side of it, it talks about tax policy. If you really are committed to cutting taxes, this is the first vote. This is where you start. The choice is fairly clear, I think. Tax policy is what you are charged to set in this instance. You put aside your other committee responsibilities, but look at tax policy. This is a poor one.

If there was ever a tax that you should vote to get rid of, this is it. Not necessarily to help the border communities, but because it makes no sense, is poor policy, is not here to solve a crisis that we have or that we had then and in the words of so many of you back at that time is part of smoke and mirrors solutions. I have heard the work gimmicks thrown around. This has to be the grandfather of all gimmicks of revenue collection and needs to be gotten rid of. Thank you.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I was glad to hear the Representative from Waldo mention the issue of poor public policy.

First of all, I want to be very clear with you all that the price tag on this bill is not \$2,000,000 dollars. It is \$26,000,000 dollars or if you add them together perhaps \$28,000,000 dollars, because in this biennium it will only cost \$2,000,000 dollars to address it. In the next biennium it means a loss of \$26,000,000 dollars to the state. I thought it was interesting to hear the committee report from the Taxation Committee. Perhaps if I sat on the Taxation Committee, I would have voted for the tax. I doubt it, but the reality is I sit on the other committee which must truly come along behind the parade, because we have to clean up the mess left us.

Some of the messes we have found since I have joined that committee were \$4,000,000 dollars of unpaid telephone bills, simply left in a drawer and \$28,000 dollars worth of interest paid on new furniture for the Department of Economic and Community Development. They had to buy the new furniture, because the old furniture wouldn't fit into the doors of the new space, they didn't want to move into and which was not big enough for them. By the way they bought enough furniture for 80 people although only 40 people were working in the building. Perhaps that was good public policy, I don't think so.

We found that the administrative costs of the Retirement System had been hidden in amortization. Of course, you all remember that we raided the Retirement System to balance the budget in the last biennium. I don't think that was good public policy. We have the gross receipts tax. We found a lien on a building in the Department of Defense and Veterans Services over a \$30 dollar sewer bill. A \$30 dollar bill.

Finally we have the issue of the consent decree. Some years ago a number of people died across the river, vulnerable people. People in the care of the state of Maine died, because the quality of the care they were given was so poor that when the temperature went up, they simply died. As a result of that, the state was sued. The court found that the state was guilty and should alter its mental health system in order to more appropriately serve the people who had mental health needs in the state. I believe that ruling was in 1989 or 90, I am not entirely clear. I believe that we are going on about five years now that we have failed to meet that consent decree. At this point the court master who oversees that decree is threatening to take it over.

We had a very odd day in the Appropriations Committee a month or so ago when the Commissioner of Mental Health tried to tell us what budget she wanted to enact, but she was not able to speak for fear of being thrown in jail. I think the failure to do the right thing, by the most vulnerable citizens in this state is poor public policy. It is an outrage. It is an outrage that we raided the Retirement System and it is an outrage to pass this bill thinking it will be somebody else's problem two years from now when they face a \$26,000,000 dollar hole. I won't do it and I hope you will join me in voting "Ought Not to Pass".

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly in response to Representative Townsend, we are talking about tough public policy here. We are talking about \$2,000,000 dollars in this biennium. We are talking about somewhere between \$20,000,000 and \$28,000,000 dollars in the next biennium. We are addressing all these problems that keep surfacing. Every time we turn this page something comes up and we try to correct it. That is what we are trying to do. I totally agree with Representative Whitcomb. We are talking about tax policy, good versus bad.

We really are not passing the next Legislature's budget yet. There is \$9,000,000 dollars plus in this budget that you haven't got to spend next time around for that payroll push that we are taking care of right now. They are projecting \$60,000,000 dollars worth of savings in the next budget for the Governor's Productivity Task Force. The Chief Executive is projecting increased revenues of \$180,000,000 dollars in the next biennium. That adds up pretty quick. That is over a quarter of a million dollars we are talking about here. We can't absorb \$2,000,000 dollars in this budget and look to absorbing \$20,000,000 dollars in the next budget. Think about that.

Does that make common sense to you? Here is your chance. Here is your chance to look right in the eye the tax problem of the state. This is the chance to take a little bite of the apple and say to the people of the state, we are prepared to cut taxes. It may mean that and I predict that it will mean that you also have got to be prepared to cut spending. If I hear my people back home correctly, they want both things accomplished. Here is the first step. Lets see if we can do it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House: As I recall as I went around my district the people back home were telling me to get our act together or get our house in order. Lets pay our bills. Nobody expected anything out of me about cutting taxes. They wanted me to get our house in order. Pay our bills and move ahead. Get ourselves on a level playing field. We all agree that we have all kinds of taxes that are inappropriate. They were made for the wrong reason. There is nobody back in my district that thinks that I am going to come down here this year and cut taxes. They expect me to come down here and hold the line and balance the budget. Lets start there and then we can move forward and get rid of some of these crazy taxes that we, unfortunately in the past, have enacted. Thank you.

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

Representative BARTH: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BARTH: I am a little confused. I am hearing that in the next biennium the snack tax generates \$2,000,000 dollars and we are going to lose that. Then in the following two years it is going to somehow generate 13 times that or \$26,000,000 or more. Does that mean sales of those items are going to increase 13 times? I am confused.

The SPEAKER: The Representative from Bethel, Representative Barth has posed a question through the

Chair to anyone who may care to respond. The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Thank you Mr. Speaker. I am so happy Representative Barth had this opportunity to clarify what you are a little confused about, because I am to. That is because the repeal of the snack tax doesn't begin July 1, 1995. It begins April 1, 1997. Do you know what we have to pay for April 1, 1997? We have only lost two months of snack tax then, not three, because sales tax always gets reported a month after it comes in. We don't lose April, May and June, because June would have been reported in July. We only lose April and May. That is how \$2,000,000 dollars in this biennium is worth \$26,000,000 dollars in the next biennium.

I have to say while I am standing. I was unhappy about the comments of the gimmick of all gimmicks. I think post-dating a tax cut is a very big gimmick. That is where the gimmick is in a post-dated tax cut. Representative Simoneau who is still my good friend and served on my committee and voted for tax reductions with me, like the income tax surcharge being removed. We did that and we paid for it in full when we did it and we didn't post-date anything. This is a post-dated check folks. How do you feel about receiving a post-dated check? Are you comfortable? I am not very comfortable.

I think what representative Whitcomb engaged in was what I call the difference between seduction and romance. Do you know what the difference is between seduction and romance? In seduction you make a lot of promises you may never have to deliver on and 50 percent of the people in this body aren't going to be here next time. They may not have to deliver. Romance you have got to put the promise with the courtship. Putting the promise with the courtship means paying for the bill. It means delivering on the promise.

This is where the rubber hits the road and you cannot discuss tax policy without discussing the budget. This budget is paid for with revenues. It isn't paid for with good wishes. It isn't paid for with pipe dreams. It is paid for with revenues. I don't like all the revenues that pay for it. I am not particularly fond of the snack tax. I will tell you something in the next budget it is \$26,000,000 dollars that won't be there when you are returning here and I am not.

You are going to have to say to your constituents that Fritos are more important than schools to me, because I had to prove that I could vote for a tax reduction. This is where the rubber hits the road. You are going to see a lot of these. I hope you are not going to vote for all of them. I hope if you do that it is your towns that take the cuts.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: Evidently some people misunderstood me an hour or two ago, before dinner when I spoke about the projections on the revenue. The projections are if we have extremely good fortune and have a four percent growth rate which I have not heard anyone say that fully expect us to have. A four percent growth rate is not expected. We would get a \$180,000,000 dollars. If we have a one percent growth rate, which is what most people expect, that is \$40,000,000 dollars. You are talking about

spending a big chunk of that right here on the snack tax.

I want to stand here and make it very clear tonight that I am one of the most frugal people in this entire building. I am extremely careful with how I spend money. I am not anxious to overspend. That is not my intention. I also am going to take a real risk by actually trying to defend this tax. I realize that it is easy to make fun of it and say oh how if you buy four doughnuts you are taxed and if you buy six doughnuts you are not and that sort of thing. I happen to see this as a tax on a luxury.

For instance, I will give you an example, in my family my husband when he was fortunate enough to have a job, worked at a mill and he liked to have doughnuts for his snack during the night. I would stop at the bread thrift store and buy boxes of doughnuts and I would go home and wrap them up in saran wrap and put them in the freezer. Every day I would pull out one or two doughnuts for my husband and pack it up in a lunch like a good little wife and send him off to work.

Anyway my point is that if you can stop at the store on an impulse and buy the kids three doughnuts you can afford to pay a tax on that luxury item. It is self gratification. It is instant gratification. That is why we have a tax on the instant whatever and we don't on the things that take processing and labor. If you can afford to indulge in self-gratification, you can afford to pay some tax. This is not a bad tax to have. Also, for those of you who are unclear on this issue, what we need to do is broaden our cell base and start taxing a variety of things, not fewer things.

Don't get all excited. I am not saying to tax everything at seven percent. What we need to do is spread it out so that we have a stable supply of revenue. So we don't have this vicious ping pong effect that ends up getting in a spiral situation that we can't get out. This is a serious, serious issue. Until we address that, we are never going to get out of the mess that we are currently in. This is a good tax to have, because it broadens the tax base. As a mother of young children, I know that whether or not you have a tax on a can of soda or a pack of gum is not going to effect how much I let them buy. This is a stable supply of money. They are going to buy X amount of gum with or without this tax. Thank you for indulging me and allowing me to take this risk to actually defend the snack tax. I hope you understand it is a luxury. It is self-gratification. If you can afford to buy that and operate that way, you can afford to pay this tax. We need a broad supply of taxes. Something that is stable over a long period of time that doesn't go up and down like sales tax on automobiles and what not. Again, I just want to make sure that you all understand that projections are not good for a large increase in revenues. The projections are to plan on about a total of \$40,000,000 dollars, not \$180,000,000 dollars. I hope you spend the money wisely.

The SPEAKER: The Chair recognizes the Representative from Lagrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: The good gentlemen from Waldo said that this tax which is onerous, we all know it is. We don't like it. It isn't good. I certainly wouldn't disagree with the good lady from Berwick, because I long ago learned that you can't

win a battle with her. I do remember that somebody said that this tax was passed at a time of crisis. I would suggest that the crisis is not over until we balance the budget this time.

We have a task force out here now looking for something like \$45,000,000 dollars and although I would like to see this pass and I know that it is a feel good bill. A lot of people are going to be happy to go home and say I voted for a cut in taxes. To make a cut in taxes is to put the cart before the horse. It seems to me we ought to have the replacement to know what we are going to do to make up for the loss of this \$26,000,000 dollars which will come due two years from now. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is "Ought Not to Pass" report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 98

YEA - Ahearne, Benedikt, Berry, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Neal, Paul, Poulin, Pouliot, Reed, W.; Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Carleton, Chick, Clukey, Damren, Donnelly, Dunn, Farnum, Gieringer, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Look, Lumbr, Madore, Marshall, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, True, Tufts, Tuttle, Underwood, Waterhouse, Whitcomb, Winsor, Yackobitz.

ABSENT - Adams, Bouffard, Campbell, Dexter, Fisher, Lindahl, Lovett, Martin, Marvin, O'Gara, Rotondi, Truman.

Yes, 73; No, 66; Absent, 12; Excused, 0.

73 having voted in the affirmative and 66 voted in the negative with 12 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

MATTER PENDING RULING

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-128) - Minority (3) "Ought Not to Pass" - Committee on Agriculture, Conservation and Forestry on Bill "An Act to Allow the Sale of Irradiated Food in the State" (H.P. 437) (L.D. 603)

TABLED - May 4, 1995 by Speaker GWADOSKY of Fairfield.

PENDING - Ruling of the Chair.

The Chair ruled that the Bill is properly before the body.

On motion of Representative JACQUES of Waterville, tabled pending the motion to accept the Minority "Ought Not to Pass" Report and later today assigned.

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

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

House Divided Report - Committee on Taxation - (10) Members "Ought to Pass" as amended by Committee Amendment "A" (H-242) - (3) Members "Ought Not to Pass" on Bill "An Act to Increase the Property Tax Exemption for Farm Machinery" (H.P. 17) (L.D. 11) which was tabled by Representative TUTTLE of Sanford pending acceptance of either Report.

Representative DORE of Auburn moved that the House accept the Minority "Ought Not to Pass" Report.

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

Representative DORE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I fear I will be testing your patience this evening discussing tax items.

For many of the same reasons that we discussed on the proceeding bill, I feel that this item ought not to pass. I don't have the same passionate arguments to make to you about the cost. I do have an item that I am going to have distributed to you today. I would like to point out that although this is a small cost, there are many, many business incentives and tax exemptions that are on the books. This is a tax exemption for farm machinery and equipment. The fiscal note is reasonably small about \$241,000 dollars to the state and let us not forget \$241,000 dollars to your local communities.

If you live in a northern area, it is easy to vote against the farm machinery and equipment bill. If you live in a rural area, it is probably harder. I want you to think about a couple of things. Is farming a business? If you live in a rural area you have to think first, is farming a business? I think farming is a business. It is a way of life, but it is a business. If it is a business, then the Chief Executive of this state should include this in his personal property tax bill on business machinery and equipment, a bill we are hearing next week. If he fails to include this, I think the farmers have an issue to take up with the Chief Executive of this state. I think this ought to be included.

The next question is should this be treated like all the other businesses. I think the answer to that question is also yes. What is wrong with this proposal is wrong philosophically and not because it is a high price tag. The reason it is wrong philosophically is this, this is a 150 percent increase in the deduction. No other business exemption is up for 150 percent increase in the deduction, just the farmers. The farmers are hard pressed. We did something with the milk situation for them this year, first thing this year.

We have a variety of other things that we do for farmers. Blueberry this, pesticide that, and manure this and there is a lot of exemptions for farmers just as there are a lot of exemptions for other businesses. They are earned exemptions. They earn their living in a very hard way. I have a few in my district. Half this price tag is going to go to your towns. Maybe you can decide that they can afford \$241,000 dollars a year spread out all over the whole state. Half of this is to the state and that is a

fiscal note that maybe members of appropriations feel is absorbable.

The question is, should one business be singled out for 150 percent increase in its exemption when no other business is? That is a call you will have to make for yourself. That is why I am on the Minority Report. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This tax exemption was given to farmers back when \$10,000 dollars bought their machinery. Today there is not a piece of machinery that a farmer buys that \$10,000 dollars comes any where near paying. Yes, farming is a business. Farming may be a way of life, but farming is a business that feeds us and if this state and this country doesn't take care of its farmers and we ever get to the point where we can't feed ourselves, we are going to be in a very dangerous situation. I fear that we are headed that way when we are taxing our farmers out of existence.

We did give the dairy farmers a little help, but believe me it is not enough. I heard on the radio the other day that 20 have gone out since January 1 and I believe it is another 20 that are on their way. I know when I came to the Legislature I represented five dairy farms. I represent one today. I think that if we do not give our farmers some help in a tax exemption, this is just keeping up with the times. It is just added inflation onto the \$10,000 dollars and really the bill came in for \$50,000 dollars. Even that isn't a complete exemption, but we did cut it down to \$25,000. It is going to give them some help, but not nearly enough.

I think that we will be in a very dangerous situation if we do not support the farmers of this state. It is not only dairy farmers that need help, you have many farmers. You have apple orchards, blueberry fields, vegetable farmers and the potato farmers. These are the people who feed the people of this state and this country. Lets give them a break. Thank you.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to accept the Minority "Ought Not to Pass" report on this bill. I am trying to be consistent in the Taxation Committee on voting against special interests that come before the committee looking for special consideration at a time when we should be balancing the budget as we all have said in the previous debate and taking care of our fiscal house and putting it in order.

If we were to take every special interest request that comes before the Taxation Committee, before long it just loses all sense of rationality and it is very difficult to sustain that type of action in the face of the fact that other people of this state aren't getting tax reductions and we just voted down one. In a sense of uniform treatment for all people and I think the people of the state of Maine would understand that they to have to sacrifice in the challenge that we have ahead of us. When special interests come before us for special money, church parsonages are no exception, then they have to sacrifice just as the rest of us will too. Thank you.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I very much wanted to vote for this bill. Not only because of the preservation of open spaces, but because of the necessity in this industry of providing for its survival in very adverse circumstances.

Let me make the real point. It was so easy to fund this tax reduction. In the state of Maine if you buy a candy bar from a vending machine you pay a wholesale sales tax on that. If you buy a candy bar from a variety store, mom and pop store, you pay a retail sales tax on that. That is one of those tax giveaways from the early 1980's to the vending machine industry. They don't provide anything like the employment that the variety stores do. The difference is about 50 percent. The difference would amount exactly pay for this bill. I would like to pass this. If this were amended and handled fiscally responsibly we could fund it by eliminating the discrimination against variety store owners and mom and pop store owners who hire clerks and sell candy bars and pay a retail sales tax on it and stop the give away to vending machine operators who pay a wholesale sales tax on that candy bar.

It is unacceptable. We could have funded this one so easily. That would have been good tax policy. That is not the bill before you today. Let's vote "Ought Not to Pass".

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

Representative FARNUM: Mr. Speaker, Members of the House: When people go to a store they compare groceries. If Maine potatoes are cheaper, they will buy them. If Idaho potatoes are cheaper, they will buy them instead of Maine potatoes. If farmers in Maine have to pay more for their machinery, their prices will have to be higher and all we are doing is benefiting out-of-state goods. Thank you.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I urge you tonight to vote against the "Ought Not to Pass". This increase and this exemption is really, I don't think, going to be as devastating as you might think. To go from \$10,000 dollars exemption up to \$25,000 dollars on a piece of machinery. When this was put into place years ago, we were looking at farm machinery that cost maybe in the \$10,000 dollars to \$20,000 dollars. We were giving an exemption for \$10,000 dollars. A lot of those same pieces of equipment today are in the \$60,000 dollar to \$70,000 dollar range. Nothing has happened over the last 20 years to make this reduction increase.

Last year when the Agriculture Committee dealt with the serious problem we had in the dairy industry, one of the issues that we asked the farmers in this state was, what can we do to help you? This is one of the issues they suggested to us. If we could increase the amount of money that we could exempt on farm machinery when we tax it. I see another light here that it might just happen that if we were to increase this exemption it is very possible that some of those farmers might think about trading and maybe get a piece of equipment that might increase in value. The end result might be that we wouldn't lose as much money as you think we might.

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

Representative CAMERON: Mr. Speaker, Men and Women of the House: This debate has been very interesting. There have been comments about farms being businesses and they certainly are. You are absolutely right. I might remind my urban colleagues there is one great difference between farms and all other businesses. I have not been in the dairy business for almost 20 years. Twice what those dairy farmers particularly are receiving for their product is almost exactly what I received 20 years ago.

The difference that I want to point out to you is that dairy farmers or any other type of farmers have virtually no input on the price they are paid for their product. They buy their inputs at retail prices. They sell their product at wholesale price. They pay the freight in and the freight out. They have virtually no input on what they receive for their product. I challenge you to tell me how many other businesses do not set the price of their product. We have heard about the milk debate and I thank you folks that voted for that. Quite frankly it is going to make virtually no difference.

There are 600 dairy farmers left in the state of Maine and 200 of them are in danger of going under at any time. A little glitch or a bad year for weather and they will go under. I think it is important that you folks understand and I will say it again. Farmers have virtually no input on what they receive. They are at the mercy of the person that buys their product and processes it. What you folks pay for your food fully 50 percent of the time the price that you pay more of that price is for processing and packaging than it is for the food. Sometimes as much as 80 percent of the price you pay is for processing and packing. The food is a bargain.

We have had a cheap food policy in the United States for as long as I have been around and for many years before that, because it was politically popular. We hear about the price of food in the United States and I am here to tell you that it is the cheapest of all the world. It takes the smallest part of the wage of any country in the world. This is one thing we can do to help the farmers that will be a very small piece. It may salvage some from going other. I kind of doubt it, but if we do a few of these things it might make a difference.

Virtually every other business that I know of calculates the price of their product. Yes, it is based on competition, but the price of their product is based on the cost of their input and how efficient they are. Farmers it doesn't make any difference if they are efficient or not. Someone else tells them what they are going to pay them for the product. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative CHASE: Thank you Mr. Speaker. To the sponsor of the bill or anyone on the Taxation Committee. I should preface the question by saying I would like to support this bill and secondly I am interested in tax policy. Unless this question is out of order, looking at the Majority "Ought Not to Pass" on L.D. 100, I am interested in the rational for those members of the committee who felt that while farming as a business this bill Ought to Pass

and another ought not to. Would somebody care to explain?

The SPEAKER: The Representative from China, Representative Chase has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gray, Representative Dunn.

Representative DUNN: Mr. Speaker, Men and Women of the House: For one as it relates to the farm machinery, I think that the issue of special interests have been mentioned, but there is an interest beyond just the farmers and saving the farmers. From my point of view, in my community, I served on the town's comprehensive planning committee and we survey the entire community and one of the things that we found was that the people of our community really valued open space and the rural character of the community and wanted to do everything that we possibly could to save the open space and the farm land. I see this as a part of the character of the state of Maine as well. One of the other concerns that we faced in our community was the fact that if farmers were forced out of business then the property which they had would be, for the most part, turned into housing developments. Housing developments tend to have a lot of students which increase the cost of education. From the communities point of view it was much more expensive to have the property developed. As far as the character of the community it was much less desirable. From a tax policy point of view and from my point of view it is logical to do everything we can to save the farmers. I believe the fiscal note on this is relatively small. Thank you.

The Chair ordered a division on the motion to accept the Minority **"Ought Not to Pass"** Report.

Representative MURPHY of Berwick requested a roll call on the motion to accept the Minority **"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 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.

ROLL CALL NO. 99

YEA - Brennan, Chartrand, Daggett, Davidson, Dore, Etnier, Gates, Gould, Hatch, Johnson, Jones, K.; Joseph, Keane, Kerr, LaFountain, Lemke, Mitchell JE; Morrison, Nadeau, O'Neal, Richardson, Rowe, Saxl, J.; Saxl, M.; Shiah, Stevens, Stone, Townsend, Treat, Volenik, Watson.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Buck, Bunker, Cameron, Carleton, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Desmond, Donnelly, Driscoll, Dunn, Farnum, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Green, Greenlaw, Guerrette, Hartnett, Heesch, Heino, Hichborn, Jacques, Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Look, Lumbr, Luther, Madore, Marshall, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Murphy, Nass, Nickerson, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Samson, Savage, Simoneau, Sirois, Spear, Stedman, Strout,

Taylor, Thompson, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz.

ABSENT - Adams, Bouffard, Campbell, Dexter, DiPietro, Fisher, Lindahl, Lovett, Martin, Marvin, O'Gara, Pouliot, Rotondi, Truman, The Speaker.

Yes, 31; No, 105; Absent, 15; Excused, 0.

31 having voted in the affirmative and 105 voted in the negative, with 15 being absent, the Minority **"Ought Not to Pass"** Report was not accepted.

Subsequently, the Majority **"Ought to Pass"** as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-242) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 18, 1995. Ordered sent forthwith.

House Divided Report - Committee on Taxation - (11) Members **"Ought Not to Pass"** - (2) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-243) on Bill "An Act to Exempt Business Machinery and Equipment from the Property Tax" (H.P. 64) (L.D. 100) which was tabled by Representative TUTTLE of Sanford pending acceptance of either Report.

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

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I told you this would be the night you would get sick of me. This is a report on a proposal to eliminate personal property tax on business machinery and equipment. I would just like to point out that it is one of those rare things that to come out of Taxation. It is an 11 to 2 report.

After getting what is euphemistically called smoked on the last report it is kind of nice to be in the majority for a change. I hope you will consider going with the, by far, bipartisan majority on this item. I would just like to point out that it has a fiscal note. That fiscal note for the communities is \$48,000,000 dollars. It wasn't \$480,000 dollars. It wasn't \$48,000 dollars. It was \$48,000,000 dollars almost \$49,000,000 dollars for the local communities. The same figure for the state budget. I would hope that you would go along with the Majority **"Ought Not to Pass"** Report. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: First of all I would just like to point out that, yes there is a fiscal note of \$48,000,000 dollars. I have an amendment that phases this in over 10 years. I made the mistake really of not including that in the original bill. It has definitely come back to haunt me.

However, I would like to thank Representative Dore from Auburn today, because she has done a wonderful job. She handed out earlier a piece from I think it was the Portland Press Herald anyway, it was Jay Higgins, so it must have been the Bangor Daily News. The Chief Executive in that article is quoted as saying to me to cut the snack tax and not cut the property tax on machinery and equipment is crazy. Well ladies and gentlemen this bill is the bill that cuts the tax on machinery and equipment.

I would just like to discuss it for a moment with you. First of all I would like to talk about what

has appeared in the Maine Chamber of Commerce and Industry Impact Report about what cutting personal property tax on machinery and equipment will do for this state. It says that personal property taxes place Maine manufacturers at a significant competitive disadvantage with facilities in other states in which Maine manufacturers compete for investment dollars.

Personal property tax relief is needed for the following reasons and there is a long list, I will cut it short. It says manufacturers are incapable intensive industries and must continually invest in productive capacity and newer equipment to compete on a national and international basis. This is true and we suffer in the state of Maine, because we continue to tax machinery and equipment when no other northeast state is doing it. Many states with which Maine manufacturers compete exempts in whole or in part manufacturing equipment.

Many states which do tax manufacturing equipment tax it at significantly lower levels. Manufacturing equipment is not subject to personal property tax in most northern states, as I mentioned, New York, Massachusetts, New Jersey, Rhode Island, Delaware, Pennsylvania, New Hampshire and this is new, Illinois and New Jersey have recently chosen to eliminate personal property tax for competitive reasons. What do they know that we don't know? This personal property tax bill is, I think, a far more important bill than many of the bills that we will look at this term. That is obviously just my opinion.

I want to tell you why I believe that. It asks you to make a major tax policy decision. It exempts personal property tax on machinery and equipment and when you do that you will be making a heavy investment in the future of Maine. You will be able to provide more jobs, you meaning the Legislature, because we will have an open door policy and we will be telling business, come to Maine, yes we have high energy costs, yes we have other forms of taxation, but we are going to be a northeast state that does not charge a tax which is a flat tax no matter how much you make you are charged for machinery and equipment.

In fact, that tax for machinery and equipment many times adds up to more than the value of the land and the buildings combined. We have a heavy reliance in this state on the paper industry. On things like defense, the publishers, they lined up for this bill. The paper industry came. They all spoke on this bill. They lined the hall of the Taxation Committee when we are the hearing. They are for it. Our Chief Executive Officer has pointed to this as the one tax that is so burdensome, is driving business out of the state of Maine it is keeping new business from coming in here. Lets get the message.

It is true, this is a major tax initiative that you can vote for tonight and I believe you would be making the right decision to vote against the pending motion. My amendment to this bill accompanies the bill by considering it an easier way to implement the elimination of this tax. It is a phase in over 10 years and it is far superior to our Chief Executives proposal that many of you have read about. How can I say my proposal is far superior than our Chief Executives?

Well his approach is, I believe, a mistaken approach that is going to pit one manufacturer against another, because it is going to exempt only new machinery as of April 95. If you have a new firm

coming into the state of Maine and they buy machinery and equipment and use it after April 1995, they don't have to pay personal property tax. They get a rebate. The manufacturer on the next lot over continues to pay the personal property tax. How fair is that? It is not. I know when the Taxation Committee hears that they are going to understand that.

What we have to do, ladies and gentlemen of the House, is make sure that we don't make businesses run up against each other and be angry at each other by putting together poor tax policy. What we have to do is phase this out as a tax. Don't levy it anymore. Don't require the towns to access personal property tax, by the way, any tax assessor in the state of Maine will tell you this is the most difficult tax to access of any tax. This is a very difficult tax to enforce as well and I think you all know that. The cost of this proposal if you have the gumption to vote with this thing and then go on to vote for the amendment the cost is about \$5,000,000 dollars which is the amount of money that the Governor has already set aside for his plan.

What is going on out there in the market? S.D. Warren, Pratt and Whitney, Champion, IBM, and BIW, what do they all have in common? They have appealed their personal property tax in the last few years. These cases make it all the way from the town halls right up to the state board of assessment review and those hearings cost thousands of dollars to the state, by the way. The last hearing that the state was involved with cost over \$18,000 dollars to our taxpayers.

This new taxation policy is a long term approach. I think we suffer right now from the focus on the short-term. This will give us an opportunity for expansion that will in the long run provide more, not less tax revenue through increased employment opportunities and better paying jobs. Investment from out-of-state will be invited and not scorned. It also means and I admit this fully, it means according to our State Constitution the state has to pick up 50 percent of the personal property tax revenue that is lost by the towns.

That shift means a shift from the flat personal property tax to the collection of tax, at least for this 50 percent, based on the ability to pay, which is an important point. It is not happening with the personal property tax. It is not based on ability to pay. If your manufacturer in your home town didn't make money in the last five years, they still get assessed the personal property tax and it costs them dearly. In fact, it has put many out of business and as Representative Murphy of Berwick pointed out on another bill earlier tonight it drives people across the border. It drives people across the border and I am very familiar with those cases living in York County.

I think the other side of the coin is the municipal budget and I don't begrudge any of you who believe this has a major impact on a municipal budget. It does. I think overreliance though on the personal property tax have been shown in towns like Bath, for example, who had a municipal budget slashed following a reduction in personal property tax revenues. That is precisely why I ask you to go along with the phase out amendment and lets minimize the pain to the towns. Lets get them away from the personal property tax as a source of revenue. Should

we guarantee towns ad infinitum revenues from personal property taxes. No, I don't think so.

Although the Constitution says we will pay them 50 percent. I don't mind that. That is based on ability to pay. I think upon passage of this bill you are going to create a major asset for machine dependent industries. You are going to see an immediate investment here at home. You are going to see good jobs and along with it you are going to see the elimination of an unfair tax. I speak of this tax as unfair because many businesses don't rely on machinery and equipment for their revenues. Why should we, by the way, just think about this for a minute, tax just machine dependent industries and drive them out? Why should we do that?

How much personal property tax and I don't mean to pick on one industry, but how much personal property taxes do lawyers pay, for example? The list goes on and on, it is not just lawyers. We are not driving them out of the state, not that I want to, because I don't. Why just pick on the machine dependent industries? This is capitol investment. This is our opportunity for manufacturing jobs. We have been fighting for that in this Legislature. We have to continue to fight for that. The personal property tax doesn't allow us to fight for it. It tells manufacturers, we are picking on you.

I think the tax is so discriminatory that one of these days somebody is going to bring it to court and we will see what happens there. I say to you and also to our CEO, thanks for the incite, to our Chief Executive, thank you for a personal property tax proposal, you have added to the debate. It is going to help. It is going to set up a bureaucracy to refund that money to those purchases of new machinery and equipment, but that is better than nothing. If you go with this approach you are going to phase it out over time and the towns won't have to access it anymore after the 10 year period and you are going to talk about raising revenues based on ability to pay.

This tax will be a thing of the past. I urge you to vote against the pending "Ought Not to Pass" and I thank you very much for your consideration tonight.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: Unlike the previous speaker, I will try to stick with the topic of the pending motion. The pending motion is to accept the "Ought Not to Pass" report of the Committee on Taxation.

There is no amendment before you, although I would love to debate that for awhile. The issue here is basically what a predecessor of mine and someone I served with a couple years, a gentlemen from Portland said a few years back, "I have two words to say, corporate welfare."

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: This is a hard bill to vote against, but and you heard a lot of the reasons from the good Representative from Buxton, he gave a lot of good reason why you would like to have this bill. In the Taxation Committee we heard two things that I think is the reason that we came out with the report that we did.

Number one was it does have a big fiscal note of about \$48,000,000 dollars. The other reason is and one that really concerns me, yes the hallways and the room was filled with people that day, but they

weren't all proponents. The towns that were represented with Selectmen, for example, like the town of Rumford, who has Boise Cascade as their prime taxpayer. About 80 percent of the tax money that comes in there is personal property tax. The way this bill is structured that it would eventually phase out.

Yes, the state would have to be kicking back 50 percent, but each year they would lose 50 percent too of that personal property tax. Those town officials were pleading with us that they could not stand a cut like this. Yes the administration does have a bill in and I won't get into it, but this reimburses the towns in another way and makes it all whole or reimburses the taxpayer and not the town. I think there are other ways, this is a good issue and it needs to be addressed, but at this time I don't think this is the proper bill to address this situation. Thank you.

Representative JACQUES of Waterville 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 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 Auburn, Representative Gerry.

Representative GERRY: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative GERRY: With Representative Libby's new amendment, how does the cost of it go down or go up?

The SPEAKER: The Representative from Auburn, Representative Gerry has posed a question through the Chair to anyone who may care to respond. The Chair would comment to the Representative from Auburn, Representative Gerry that the amendment is currently not before us and would also caution the Representative from Buxton, Representative Libby that it would not be appropriate to discuss in detail the amendment before us at this time.

The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Thank you Mr. Speaker. In answer to that question it is just over \$5,000,000 dollars the first year.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: As long as we think of tax breaks or anything to help industry in this state as corporate welfare, we are going to be in more serious condition than we are today.

This is not a corporate welfare bill. What this is to keep industry in Maine in a highly competitive world. We call it a competition bill so that they can stay in this state and hire people. I sympathize with the town of Rumford because I would love to have a paper company in my town. We have one business that pays eight percent of our tax base and half of that is gone because of some of the laws in the state of Maine.

I think it is time that we look, but I would think Rumford will be hurt very much if some of that corporate welfare as we are calling it tonight, leaves Rumford because of this bill. Thank you.

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

Representative Dore: Mr. Speaker, Ladies and Gentlemen of the House: I remind you again that the bill before us has a \$48,000,000 dollar fiscal note for us and a \$48,000,000 dollar fiscal note for our communities. There won't just be a hole in the budget. In addition if you live in the town of Millinocket, Jay, Bath, Old Town, Wiscasset, Freeport, Rumford just to name a few communities, you have very low property taxes on your homes and I want to congratulate you. I wish I were in the enviable position. You do so because of the personal property tax. What this bill does, make no mistake, is it eliminates that as a taxpayer and who will pick up the tab? Your residents.

Later on we will discuss the Governor's proposal. I have a lot of misgivings about it and a lot of things I like about it. One of the things I like very clearly is it makes the towns whole and doesn't hurt your people back home. If you have a BIW or an IP or James River or Maine Yankee or Beans or UNUM, you are very lucky and they are paying a great deal of property tax to be in your town and you have pretty good schools and pretty low tax rate for the rest of you.

I am just going to suggest that you would be hurting your town very badly if you support this Minority "Ought to Pass". I want you to vote with the Majority "Ought Not to Pass" and I think you are doing the best thing you can for your communities.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I don't disagree with the good Representative from Auburn, Representative Dore, but I want you to realize something. Our Chief Executive ran on something that I think took an unbelievable amount of guts. He actually said that we have got to assess taxes based on the ability to pay. He suggested that we raise the corporate income tax and eliminate the personal property tax on just machinery and equipment, not the buildings and the land. Those continued to be assessed. I think that was mistakenly identified earlier.

He did that. If you can run for that office in the state of Maine and admit that we should have an increase in corporate taxes and when, then you must have a pretty good point. He did that. I don't know if I agree with raising corporate income taxes, it depends on how much I suppose, but I certainly do agree with one part. The personal property tax on machinery and equipment is the most damaging tax that we have in this state. I would urge you to join me so that we don't have to use a \$48,000,000 dollar fiscal note as an excuse. We can move on to vote for an amendment that will cost us about \$5.1 million dollars. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Dunn.

Representative DUNN: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I, too, believe that we should address the issue of property tax and not only the machinery and equipment tax, but the real estate tax. My real concern with the bill we have before us is that half of the tax is going to be

paid by the state, but the other half is still going to be on the local communities. If we eliminate the \$48,000,000 or \$49,000,000 dollars, I am not sure how the local communities are going to be supporting their schools. I believe also it is an issue that we should be dealing with and whether we talk about doing it all at once at \$49,000,000 dollars using an amendment which would cost \$5,000,000 dollars the first year, \$10,000,000 dollars the second year, \$15,000,000 dollars the third year and eventually up to \$50,000,000 that is still too much for this time. I think we have other issues that are more significant that we have to deal with. Thank you.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Not wanting to really get into this whole thing, I just have to make a few comments about the comments made by my lovely friend, the Representative from Berwick, Representative Murphy.

Back in the 80's, I visited Colorado and when I was driving around with one of the counsellors and we went to this huge factory that was empty. I asked him what happened. He said, "We used to have a tax on equipment here in this state and we repealed it, pro-business. I thought it made a lot of sense. It worked real well. They bought all kinds of new equipment and machinery and replaced three-quarters of the people who used to work in that factory with that equipment and that machinery. Then four or five years down the road the state of California decided talking about something that company didn't like and over the weekend they drove up in some big trucks and they loaded that equipment and machinery and trucks and went to California.

Lets not be fooled into thinking that this will automatically and in by itself, be the fantasy and create a whole bunch of new jobs in this state and encourage industry to stay here. There are a lot of things that are involved in making a decision whether you stay somewhere or not and most of the time it comes down to someplace else is better than where you are now.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: The comment was made about low taxes in Freeport. I happened to pay mine this morning and it was \$1500 dollars for the half year. I don't think that is low. We have quality school, but I just didn't want that comment to pass. It hurt real bad this morning.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the "Ought Not to Pass" report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 100

YEA - Ahearne, Aikman, Benedikt, Berry, Bigl, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dore, Driscoll, Dunn, Etnier, Fitzpatrick, Gamache, Gates, Gould, Green, Greenlaw, Hartnett, Hatch, Heesch, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lemire, Lemont, Libby JL; Luther, Mayo, McAlevy, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nickerson, O'Neal, Ott, Paul,

Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

NAY - Ault, Bailey, Barth, Birney, Buck, Donnelly, Farnum, Gerry, Gieringer, Gooley, Guerrette, Heino, Hichborn, Jones, S.; Joy, Joyce, Joyner, Lane, Libby JD; Look, Lumbr, Madore, Marshall, Murphy, Nass, Rice, Robichaud, Thompson, True, Underwood, Waterhouse, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Adams, Bouffard, Campbell, Dexter, DiPietro, Fisher, Lindahl, Lovett, Martin, Marvin, O'Gara, Pouliot, Rotondi, Truman.

Yes, 102; No, 35; Absent, 14; Excused, 0.

102 having voted in the affirmative and 35 voted in the negative, with 14 being absent, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

On motion of Representative CHASE of China the House adjourned at 9:00 p.m., until 9:30 a.m., Thursday, May 18, 1995 in memory of Benjamin C. Bubar, Jr. a former Member of the Maine House of Representatives.