

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 24, 1995 to June 30, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
54th Legislative Day
Wednesday, June 7, 1995

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

Prayer by Pastor Vondel Allen, Faith Baptist Church, Skowhegan.

The Journal of yesterday was read and approved.

SENATE PAPERS

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-210) on Bill "An Act Concerning the Labeling of Refundable Beverage Containers" (S.P. 21) (L.D. 52)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-210).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-210) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, June 8, 1995.

Ought to Pass as Amended

Report of the Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-207) on Bill "An Act to Amend the Laws Relating to Administrator Certification" (S.P. 493) (L.D. 1352)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-207).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-207) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, June 8, 1995.

Divided Report

Majority Report of the Committee on Education and Cultural Affairs reporting "Ought Not to Pass" on Bill "An Act to Change the Membership of the Task Force on the Maine School of Visual and Performing Arts" (S.P. 225) (L.D. 585)

Signed:

Senators: SMALL of Sagadahoc
ESTY of Cumberland
ABROMSON of Cumberland

Representatives: AULT of Wayne
BARTH of Bethel
CLOUTIER of S Portland
MARTIN of Eagle Lake
McELROY of Unity
BRENNAN of Portland
LIBBY of Buxton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-214) on same Bill.

Signed:

Representatives: DESMOND of Mapleton
STEVENS of Orono
WINN of Glenburn

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

On motion of Representative MARTIN of Eagle Lake, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Create a Revolving Fund to Finance the Maine Quality Centers" (S.P. 543) (L.D. 1491)

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
RICHARDSON of Portland
MURPHY of Berwick
DORE of Auburn
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" (S-216) on same Bill.

Signed:

Senator: CAREY of Kennebec
Representative: GREEN of Monmouth
Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Was read.

On motion of Representative TUTTLE of Sanford, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Non-Concurrent Matter

Bill "An Act to Authorize Municipalities to Pay Employees Biweekly" (S.P. 259) (L.D. 695) which was passed to be engrossed as amended by House Amendment "A" (H-343) in the House on June 5, 1995.

Came from the Senate with that Body having insisted on its former action whereby the Bill was passed to be engrossed in non-concurrence.

On motion of Representative MITCHELL of Vassalboro, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Forbid an Employer from Hiring Replacement Workers during a Strike" (H.P. 236) (L.D. 316) on which the Minority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-310) in the House on June 5, 1995.

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

On motion of Representative MITCHELL of Vassalboro, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 505) (L.D. 686) on which the Majority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and

the Bill passed to be engrossed as amended by Committee Amendment "A" (H-312) in the House on June 5, 1995.

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

Representative HATCH of Skowhegan moved that the House Adhere.

Representative JOY of Crystal moved that the House Recede and Concur.

The Chair ordered a division on the motion to Recede and Concur.

Representative JOY of Crystal requested a roll call on the motion to Recede and Concur.

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 pending question before the House is the motion to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 137

YEA - Aikman, Ault, Bailey, Barth, Birney, Carleton, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Gooley, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bigl, Brennan, Bunker, Cameron, Campbell, Chartrand, Chick, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gould, Green, Greenlaw, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kontos, LaFountain, Lemaire, Lemke, Lemont, Luther, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Strout, Thompson, Townsend, Treat, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

ABSENT - Bouffard, Buck, Chase, DiPietro, Kil Kelly, Robichaud, Stevens, Tripp, Truman, Yackobitz.

Yes, 61; No, 80; Absent, 10; Excused, 0.

61 having voted in the affirmative and 80 voted in the negative, with 10 being absent, the motion to Recede and Concur was not accepted.

Subsequently, the House voted to Adhere.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought Not to Pass"** on Bill "An Act to Repeal the 7% Gross Receipts Tax on Nursing Homes" (H.P. 33) (L.D. 27)

Signed:

Senators: FERGUSON of Oxford
CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
RICHARDSON of Portland
MURPHY of Berwick
GREEN of Monmouth
DORE of Auburn
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-372) on same Bill.

Signed:
Senator: HATHAWAY of York
Was read.

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

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

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting **"Ought Not to Pass"** on Bill "An Act to Reduce the Legislative Budget" (H.P. 500) (L.D. 681)

Signed:
Senator: BERUBE of Androscoggin
Representatives: JOSEPH of Waterville
MORRISON of Bangor
TOWNSEND of Portland
POULIOT of Lewiston
KERR of Old Orchard Beach
DiPIETRO of S Portland

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-346) on same Bill.

Signed:
Senators: BEGLEY of Lincoln
HANLEY of Oxford
Representatives: DONNELLY of Presque Isle
AIKMAN of Poland
OTT of York
SIMONEAU of Thomaston

Was read.

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

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought Not to Pass"** on Bill "An Act to Improve and Make More Consistent the Administration of Personal Property Tax Assessing" (H.P. 551) (L.D. 747)

Signed:
Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
MURPHY of Berwick
GREEN of Monmouth
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-365) on same Bill.

Signed:

Representatives: RICHARDSON of Portland
DORE of Auburn

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 to Pass" as amended by Committee
Amendment "A" (H-352) on Bill "An Act Altering the
Method of Computing the Hospital Tax" (EMERGENCY)
(H.P. 910) (L.D. 1286)

Signed:

Senator: CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
RICHARDSON of Portland
GREEN of Monmouth
DORE of Auburn

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "B"
(H-353) on same Bill.

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
Representatives: MURPHY of Berwick
DUNN of Gray
REED of Falmouth
SPEAR of Nobleboro

Was read.

On motion of Representative TUTTLE of Sanford,
tabled pending acceptance of either 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:

(S.P. 507) (L.D. 1366) Resolve, to Provide Clear
Title for the Maine Judicial Center (EMERGENCY)
Committee on Judiciary reporting "Ought to Pass"

(S.P. 559) (L.D. 1518) Bill "An Act to Amend the
Maine State Retirement System with Respect to the
Consolidated Plan for Participating Local Districts"
(EMERGENCY) Committee on Labor reporting "Ought to
Pass"

(S.P. 566) (L.D. 1536) Bill "An Act to Clarify the
Municipal Bounds of the Town of Eliot" (EMERGENCY)
Committee on State and Local Government reporting
"Ought to Pass"

(S.P. 387) (L.D. 1064) Bill "An Act to Increase
the Amount of Reimbursement to Animal Shelters
Housing Stray Dogs" Committee on Agriculture,
Conservation and Forestry reporting "Ought to Pass"
as amended by Committee Amendment "A" (S-209)

(S.P. 432) (L.D. 1200) Bill "An Act to Encourage
the Training and Hiring of Resident Workers"
Committee on State and Local Government reporting

"Ought to Pass" as amended by Committee Amendment "A"
(S-213)

(S.P. 467) (L.D. 1263) Bill "An Act to Delegate
Permit-granting Authority to Municipalities"
Committee on Natural Resources reporting "Ought to
Pass" as amended by Committee Amendment "A" (S-206)

(H.P. 268) (L.D. 370) Bill "An Act to Strengthen
the General Fund's Unappropriated Surplus"
(EMERGENCY) Committee on Appropriations and
Financial Affairs reporting "Ought to Pass" as
amended by Committee Amendment "A" (H-380)

(H.P. 1013) (L.D. 1428) Resolve, Directing the
Attorney General to Review Standards for Reporting
Suspected Sexual and Physical Abuse of Minors
Committee on Judiciary reporting "Ought to Pass" as
amended by Committee Amendment "A" (H-385)

(H.P. 1073) (L.D. 1508) Bill "An Act to Provide
Services for Children in Need of Supervision"
Committee on Human Resources reporting "Ought to
Pass" as amended by Committee Amendment "A" (H-382)

(H.P. 1076) (L.D. 1515) Bill "An Act Authorizing
the Judicial Supervision of the Disclosure of Utility
Records to the Attorney General" Committee on
Judiciary reporting "Ought to Pass" as amended by
Committee Amendment "A" (H-384)

There being no objections, the above items were
ordered to appear on the Consent Calendar of
Thursday, June 8, 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:

(H.P. 1059) (L.D. 1488) Bill "An Act to Amend the
Real Estate Laws Concerning Validation of Defects"

(H.P. 1062) (L.D. 1497) Bill "An Act to Clarify
the Operations of the Maine Board of Bar Examiners"

(H.P. 845) (L.D. 1176) Bill "An Act to Amend the
Maine Cancer Registry Law to Require the Reporting of
All Cancer Cases to the Department of Human Services"
(C. "A" H-370)

(H.P. 963) (L.D. 1372) Bill "An Act to Change
Eligibility for the Elderly Low-cost Drug Program"
(C. "A" H-364)

(H.P. 1017) (L.D. 1432) Bill "An Act to Amend the
Laws Regarding Workers' Compensation Pilot Projects"
(C. "A" H-362)

(H.P. 1023) (L.D. 1438) Bill "An Act to Create
Wet-weather Water Quality Standards" (C. "A" H-366)

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

(H.P. 919) (L.D. 1295) Bill "An Act to Conform
Maine Law with the Provisions of the Federal Clean
Air Act and the Internal Revenue Code Pertaining to
the Use of Dyed Fuel on Highways" (EMERGENCY) (C. "A"
H-371)

On motion of Representative CAMERON of Rumford was
removed from the Second Day Consent Calendar.

The Report was read. Committee Amendment "A"
(H-371) was read by the Clerk and adopted.

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

Representative CAMERON of Rumford presented House Amendment "A" (H-391) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-371) and House Amendment "A" (H-391) and sent up for concurrence.

BILLS IN THE SECOND READING As Amended

Resolve, Authorizing Verne Lee to Sue the Department of Human Services and the State of Maine (H.P. 89) (L.D. 124) (C. "A" H-356)

Bill "An Act to Provide Merchants Greater Recourse to Combat Deceptive and Illegal Practices" (H.P. 359) (L.D. 479) (C. "A" H-360)

Bill "An Act to Reduce the Amount of Good Time and Meritorious Good Time Available to Persons Sentenced to Terms of Imprisonment" (S.P. 201) (L.D. 544) (S. "A" S-212 to C. "A" S-204)

Bill "An Act to Establish Qualifications for Public Utilities Commissioners" (H.P. 713) (L.D. 970) (C. "A" H-345)

Bill "An Act to Amend the Maine Civil Rights Act to Provide Greater Protections to Reproductive Facilities" (H.P. 866) (L.D. 1216) (C. "A" H-361)

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

Bill "An Act to Clarify the Registration of Snowmobiles by Nonresidents" (H.P. 604) (L.D. 814) (C. "A" H-375)

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

On motion of Representative ROTONDI was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and later today assigned.

ENACTORS

An Act to Increase Police Authority in Certain Cases of Disorderly Conduct (H.P. 357) (L.D. 477) (H. "A" H-315 to C. "A" H-173)

An Act Amending the Maine Residents Property Tax Program Allowing Persons Having Sole Responsibility for Property Maintenance the Entire Exemption (S.P. 311) (L.D. 892) (C. "A" S-193)

An Act to Authorize a Multi-day Bass Tournament Permit (H.P. 795) (L.D. 1112) (C. "A" H-253; H. "B" H-351)

An Act to Modernize Vital Statistics Reporting (S.P. 545) (L.D. 1493) (C. "A" S-192)

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

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 - (12) Members "Ought Not to Pass" - (1) Member "Ought

to Pass" as amended by Committee Amendment "A" (H-372) on Bill "An Act to Repeal the 7% Gross Receipts Tax on Nursing Homes" (H.P. 33) (L.D. 27) which was tabled by Representative TUTTLE of Sanford pending his motion to accept the Majority "Ought Not to Pass" Report.

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

House Divided Report - Committee on Taxation - (11) Members "Ought Not to Pass" - (2) Members "Ought to Pass" as amended by Committee Amendment "A" (H-365) on Bill "An Act to Improve and Make More Consistent the Administration of Personal Property Tax Assessing" (H.P. 551) (L.D. 747) 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 realize I signed out the "Ought to Pass" Report and I have just moved the "Ought Not to Pass" Report. I am not looking for a lengthy debate on this item and I signed out the "Ought to Pass" Report with the opportunity to make a statement about what is happening to municipalities in the legislature, before we go into the final debate on tax bills. I just want to read to you briefly, because I know it is hard to find time to read anything. The legislative bulletin from the Maine Municipal Association regarding this and several other proposals. New exemptions raise taxes. There have been several references to other bills, but I want you to note this is germane to this bill.

"L.D. 11 is now being considered by the legislature. It examines the property tax exemption for farm equipment at a cost to municipalities statewide of \$241,000, [of course, the state has the other \$241,000 in FY 96]. The legislature is considering L.D. 388 which doubles the exemption for church parsonages at a cost to municipalities statewide of \$231,493 in FY 96. [Of course, the state also has to pay \$231,493 for that exemption.] Next week the legislature will consider L.D. 1501, a bill to exempt non-profit child care centers from property tax at a cost of municipalities statewide of \$259,475 in FY 96. [We supported that incidentally, I should let you know that so did I.]

The legislature has passed L.D. 571 to eliminate the personal property tax on individuals at a cost of municipalities statewide at a cost of \$250,000 in FY 96. [Incidentally that was a unanimous committee report, I don't want anybody to think that they are being shamed and I am not.] In addition the legislature appears ready to reject the attempts proposed by the municipal assessors and MMA to clarify tax laws to make it clear the inventory held for rent is subject to personal property tax.

This week the Taxation Committee on a vote of 11 to 2, voted "Ought Not to Pass" on L.D. 747. The decision will cost municipalities upward of \$500,000 in FY 96. That amount is expected to grow substantially over the next several years. Taken together the legislature either has or appears ready to create new local property tax exemptions costing

municipalities approximately 1.5 million dollars in FY 96 with the amount growing each year thereafter."

Ladies and gentlemen, I expect this bill to go under the hammer and it is a complicated situation and in committee what was very clear is we were being asked to rectify a court decision, because our laws had been unclear. The rectification of it, probably complex, on the impact it would have had on several businesses that were not meant to be caught in the net. We didn't by an overwhelming majority choose to do it. I am going to honor that overwhelming majority. The point of making this speech is this, it is easy in dribs and drabs to get yourself up there to a point where you have effected municipal income over 1 million dollars. All for good causes and all with good reason and many of which I supported.

I think I want to thank you all for the other day for the vote for Representative Stone's study of municipal exemptions, because I think we have a growing problem and that we have to recognize that we contribute to the growing problem of expanding exemptions and municipalities where they have no voice in the expansion. That is the only statement I wanted to make and I thank you for your time.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I might not be the brightest guy in the world, but I am not stupid. I know where this bill is going. This is my proposed piece of legislation and for what it does essentially and I will use the X and Y variables.

You had X which was a practice five years ago by most of the assessors in the State of Maine and that X policy was essentially if you classify your widgets as inventory, that is one way of taxation. If you, in fact, have them resold, that is another category. Essentially what happened is one business person, it might have been more, but it is this one specific case and it happened in Kennebec County. This person went to court and argued the case. The law court said it is a little vague. How do you want us to judge, because you don't really have very specific language. They ruled, at that point in time, with the plaintiff and the municipalities ended up losing a lot of money. That was that assessing practice.

What you had was your X policy, which the court overruled, and now you have the Y policy and the courts basically said if you give us a clear direction on which way you want to go with this, then we, in the future, will be consistent with our ruling. Subsequently, some members of Maine Municipal Association and Assessors Professional Group, IAAO for short, came to me and we talked about how we might address this and it became extremely clear to us that the key word in this whole process was "solely".

If your inventory was solely for resale, then that would be clear. If your inventory was for renting purposes, then that would be clear. The word solely would make life easier for a whole lot of people. The Taxation Committee had a real hard time swallowing that concept, so there were attempts made to look in the dictionary and synonyms. What it basically means, solely, without being so strong, the word principally came up. We thought most people were going to be happy with that, but we omitted one major group and that was the small business people that brought this lawsuit in the first place. They

didn't like that either. Therefore, what you still have a very vague statutory provision. The courts are not going to have a clear direction either way.

I have reason to believe that there could be either business folks who interpret this law or this latest ruling and figure I can get on this band wagon. What is going to happen is municipalities are going to get caught short again. Assessors basically will have no real direction to go in. That, in effect, is your X policy and your Y policy. This proposal essentially brings us back to what the previous policy was, no more and no less. The Taxation Committee felt that was inappropriate at this time. I am not sure if they meant forever and ever or just at this time. They decided that it was inappropriate to make this change. I accept this committee report and I think at this point I shall just say let your conscience be your guide. Thank you.

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

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to be very short. Please adopt the Majority "Ought Not to Pass" Report. I would also request a roll call. Thank you.

Representative GERRY of Auburn 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 Chair recognizes the Representative from Gray, Representative Dunn.

Representative DUNN: Mr. Speaker, Ladies and Gentlemen of the House: I had not expected that we would be debating this today, since it was a clear majority on the Taxation Committee to vote "Ought Not to Pass". I think it should be clear that the current law does not tax for rental property. It does not tax for items that are primarily inventory. One of the questions that came up with the original proposal was, should we be taxing, for example, dog food in an operation that has kennels and uses some of that dog food to feed the dogs, but primarily sells it as inventory. There were many, many questions that came up.

There was a court case which I believe was very clear. If we were to go with the primary wording, which is in the "Ought to Pass" Report, we would be in a situation where, for example, video stores would be taxed as personal property for the video equipment and the tapes. Those tapes currently are taxed for sales tax every time they go out and when they are finally sold. I think if we were to pass this, we would be creating a new tax and I have heard most people here saying that this is not a time to create new taxes. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Representative Dunn has made a very good point and I think I eluded to it in my initial comment. That is that we have a situation where in order to apply this law across the board, we

will be effecting businesses that we already have, because we started years ago taxing video rentals, we already tax in another way.

In an ideal world, actually, the solution to this would hurt Maine Municipal even more, because the solution is to sales tax all rentals. That would be a consistent tax law, but this is not the year for that. That obviously won't help municipalities out with the tax on personal property. I am going to do something that I hope you will never see me do again. In my 10 years here, this is a first and I sure hope it is the last. I am going to encourage you, because somebody has asked for a roll call, to vote opposite my light in this case. This amendment is not drafted in an appropriate way and this is a vehicle to make a statement about what we are doing to municipalities.

I think what we are doing to municipalities is still true, but I can tell you that this fixes a problem without creating another. I sure hope this is a first and a last, but I am going to encourage you, this one time, not to vote with me.

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

ROLL CALL NO. 138

Representative GUERRETTE of Pittston was excused from voting pursuant to House Rule 19 and Joint Rule 10.

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gould, Green, Greenlaw, Hartnett, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Samson, Savage, Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Watson, Wheeler, Whitcomb, Winglass, Winsor, The Speaker.

MAY - Dore, Gerry, Luther, Morrison, Nadeau, Richardson, Saxl, J.; Shiah, Volenik, Winn.

ABSENT - Bouffard, Buck, Campbell, Gooley, Heeschen, Kilkelly, Stevens, Truman, Vigue, Waterhouse, Yackobitz.

Yes, 129; No, 10; Absent, 11; Excused, 0.

129 having voted in the affirmative and 10 voted in the negative, with 11 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders

of the Day and continue with such preference until disposed of as provided by Rule 24.

The following item was taken up out of order by unanimous consent:

Resolve, to Improve Postsecondary Education in the State (EMERGENCY) (H.P. 361) (L.D. 481)

TABLED - June 6, 1995 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - Passage to be Engrossed.

Representative MARTIN of Eagle Lake presented House Amendment "A" (H-390) which was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-390) and sent up for concurrence.

The following item was taken up out of order by unanimous consent:

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

TABLED - June 1, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Adoption of House Amendment "B" (H-342) to Committee Amendment "B" (H-67).

Representative CARLETON of Wells moved that House Amendment "B" (H-342) to Committee Amendment "B" (H-67) be indefinitely postponed.

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

Representative CARLETON: Thank you Mr. Speaker. This bill relates to the minimum wage that we have debated and decided once. The House Amendment that is being proposed here would raise the minimum wage to \$4.60 an hour in a year and to \$4.95 the year afterward. The minimum wage proposal that we have already discussed and dealt with at length would have raised the minimum wage to \$4.60 an hour and \$5.00 an hour the year after. The difference between the two is 5 cents an hour. While we disagree, all of us, in good faith on the minimum wage, I think that we can agree that we all want to get on with our business and go home. I don't think it helps us to go back and debate and redebate issues which have already been decided. In that spirit, I hope that you will vote for the motion to indefinitely postpone this amendment so that we can get on with our other business. Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I hope that you will vote against this motion to indefinitely postpone. I would like to share briefly with you some remarks. The saying has been said that Maine is on the move. While we all hope this is indeed true, there is a distinct possibility that some of our working people are being left behind. While the state itself in business, in particular, seems to be gaining some of the forward momentum that the rest of the country has been seeing. For 20,000 or more Mainers, this is not true. There is a problem, folks, in the life of our working people in this state. They have not seen any adjustments to their pay since 1991, count that, it is five years.

Right now being distributed among you are papers showing that over the course of the last 14 years the corporate payment to executives have gone up somewhere in the range of 300 percent, while wages have remained at a very unstable low, a little bit

over 13 percent. These people are not represented by organized labor or employed by good industries who pay wages far in excess of minimum wage. These people are not only students, which account for less than 20 percent of the total minimum wage earners, of the remaining 80 percent, many are parents and of that total approximately 67 percent are women working to support children. We are also paying out of our own tax dollars, food stamps and other government support programs to support these people who are only earning minimum wage.

Misconception number 2. Minimum wage is a training wage. In fact, only a few industries and retail stores, in my area, begin people at minimum wage. Most pay in excess of \$5 an hour. Think about it folks, how many people do you know go in at a minimum wage of \$5 an hour and that is supposed to be a training wage.

Misconception number 3. All businesses are against the minimum wage increase. That is not true. Think about it. Who has been down here lobbying? Have you seen any paper industries? You won't find them, I'll tell you. They pay far in excess of a minimum wage and they are not worried about losing workers to a minimum wage payer.

Misconception number 4. An increase in wages would stop economic growth and we would be paying more than any other New England state and that is not true. Vermont currently is paying \$4.50 an hour and will go to \$4.75 an hour in January of 1996. Rhode Island has voted to increase its minimum wage, as has New Hampshire.

In closing, recent surveys done in my area show that 70 percent or more of the people polled were in favor of a minimum wage increase. Ask yourself, do you want your sons and daughters working for under \$5 an hour. This current gasp is another attempt to get a minimum wage passed in the House. Yes, it only reduced it by 5 cents, but it is still under \$5 an hour. I think our workers deserve at least that, if not more. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, regret the necessity of debating this issue again. I think that the reference to corporate executives getting a 300 percent raise really has very little bearing on what takes place in the State of Maine. In some of the information that was provided to our committee, we found out that 58 percent of our businesses employ five or less people. For many of these small businesses, these are the ones who start people out at the minimum wage.

I would also like to point out that the average minimum starting wage in the State of Maine was given to us in a report about two months ago to be \$5.37 an hour. I would also like to point out that if the minimum wage in Maine should increase and would take effect somewhere around 90 days after the close of the legislature, that you can rest assured that all the prices would go up at least equal to or greater than the percentage that is being proposed in this amendment. A Maine study done for Governor Brennan in 1984 still holds true if you follow the other research that has been done since then. Any increase in the minimum wage of 30 cents results in the loss of 6 or 7,000 jobs.

The information which indicates that minimum wage has no impact or does not create any loss in jobs is

done in surveys of the fast food industry. I would like to point out that in Maine the bulk of these small employers do not operate fast food industries. They operate small businesses that are trying to struggle with the increases in workers compensation, unemployment compensation and the multitude of other bills that have been forced on them by this legislature and by the government in Washington, D.C. I think that we need to also take into consideration the fact that despite the fact that people want to discount the so-called ladder effect. It is very much a reality.

The increase of this minimum wage in two steps will cost us 6 to 7,000 jobs in the first year and an additional 6 to 7,000 jobs the next year. I don't believe that we can afford to lose 14,000 jobs in this state. I urge you to indefinitely postpone Committee Amendment "B". Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House: In reference to the Representative from Crystal, Representative Joy's comments, I was on that study commission in 1984. We found that increasing the minimum wage lead to annual income gains of between 17 million dollars and 51 million dollars. We found the national studies had shown little job loss and even increases in employment or in growth and minimum wage. I just thought I would set the record straight.

Opponents claim a higher minimum wage would put Maine at an economic disadvantage with neighboring states. In all honesty that seems doubtful given Vermont, Connecticut and Rhode Island have all increased their minimum wages above the federal \$4.25 an hour with no apparent ill effects. Opponents also claim most minimum wage earners are just teen-agers out to earn spending money as the Representative from Skowhegan, Representative Hatch has told you. In fact 80 percent of Maine's 20,000 minimum wage earners are over 18 years of age.

Further the current minimum wage of \$4.29 an hour adjusted for inflation is lower in real dollars than in another time in the last 40 years. For example, today a minimum wage earner would have to work seven days a week and 10 hours a day, just to keep a family of four out of poverty. Think about that. In my opinion that isn't right and it is not right that public assistance programs that help low-income workers are actually taxpayer subsidies to businesses unwilling to pay workers a living wage. Compelling as the case for raising the minimum wage is now if we don't do something here today, it will be more compelling the next time around when inflation has pushed the working poor even deeper into poverty.

As a legislator, I can speak freely that we want good paying jobs in Maine. We would do everything in our power to attract jobs and industry, whether it be tax breaks, incentives, going out and attracting them, but they must pay a decent wage, a livable wage and not come to Maine to pay less. This amendment is a positive step in that direction, so that the working poor can better survive. I would encourage you to defeat the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Thank you Mr. Speaker, Men and Women of the House: I just want to give you a few good reasons to vote for an increase in the minimum wage. We have done this before, several

times in the past when our lowest wage earners needed help. Maine raised its minimum wage above the federal minimum. At one point we were 19 percent above the federal minimum and \$4.60 will be only 8 percent above the federal minimum. When we get to \$4.95 we will only be 16 percent above the federal wage.

The second reason is that you have heard that three states in New England already have minimum wages higher than the federal. Massachusetts is considering two bills currently, one to raise the minimum wage to \$4.60 and one to \$5 an hour. New York is considering an increase to \$6 an hour. That means that five out of the six closest states nearest to Maine either have or are considering minimum wages that are higher than the federal minimum.

Most studies show that there are no negative effects of raising the minimum wage and some show a positive increase in employment. Only those studies sponsored by the restaurant industry show the opposite and for obvious reasons. Remember that 80 percent of minimum wage earners are 19 years of age or older and 63 percent are women. Many of these are single parents living below the poverty line. When a single mother of three is working 10 hours a day to stay out of poverty, can't we do better. Responsible businesses that pay living wages to their employees subsidize through their taxes and the welfare system the wages of employees in minimum wage jobs. Your taxes too are subsidizing these jobs. Is it fair to you? Is it fair to responsible businesses?

The most compelling argument for raising the minimum wage is very simple. Inflation. Inflation has averaged 7 percent over the last 30 years and crawling to 3 percent in the last five years. If the minimum wage had kept up with this inflation, it would now be \$6.50 an hour. The minimum wage has only increased 4.5 percent from 1964 to 1991. If that 4.5 percent increase had continued to today, our minimum wage today would be \$5.07 and by January of 1997, the date that our \$4.95 would kick in, it would be \$5.54 an hour. We still would be below that rate. If we only gave a 3 percent increase per year since 1991, that minimum wage today should be \$4.77 and, again, by 1997, when our \$4.95 is going to kick in, that wage should be \$5.06. We would still be below the inflation rate.

Instead we are at \$4.25 and that \$4.25 buys 52 cents less in goods and services today than it did in 1991. For most of us here, our income goes up with inflation. Yet our poorest workers sink deeper every year. Compare what minimum wage buys now with what it bought in 1964. In 1964, when the minimum wage was \$1.25 an hour, you could buy 25 candy bars for an hour's worth of work. Today, you can buy fewer than 10. In 1964, you could buy 12.5 comic books. Today, you can buy only 3.5. In 1964, you could buy five paperback books. Today, you can't even buy one paperback book for working one hour at minimum wage. Looking at the other end of the scale, how about volvos? In 1964, it took 1,600 hours at minimum wage or 40 weeks working full time to buy a new volvo. Today, it takes 4,700 hours at minimum wage to buy a new volvo and that is over two years.

We are not asking you to increase the minimum wage to levels we had in the 1960's. That would bring it up to \$6.50 an hour. We know you won't do it. Just raise the minimum wage a little. In the last decade we have become selfish and mean spirited. Our family values and basic human values have been subverted by

that greed. If we continue on this path, you and I will be remembered for leading our people deeper into poverty. Today we have a chance to be remembered for something greater, compassion and vision. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I am reminded that when President Kennedy ran for President in 1960, he gave a speech on the steps of Faneuil Hall in Boston. When he made a plea for people that worked for hourly wages, he said, how can you really raise a family on less than \$200 a week. He wanted a minimum wage of \$5 an hour. It is now 1995 and we still don't have a minimum wage of \$5. On television the other night I heard of a bill that will get here soon. The judges in the state want a raise. It seems they haven't had a raise in a while. The judges earn from \$60,000 to \$87,000 a year plus benefits. I wonder how many people here will see the justice of increasing the judge's wages, but cannot see fit to give working people, who are mostly women, 67 percent, this a women's wave and cannot give them an increase in the minimum wage. Mr. Speaker, I would request the yeas and nays.

Representative LUTHER of Mexico requested a roll call on the motion to indefinitely postpone House Amendment "B" (H-342) to Committee Amendment "B" (H-67).

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 Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Mr. Speaker, Men and Women of the House: I spoke last time on this subject and it was a sincere speech for me. I want everybody to understand that business people are represented by the Chamber of Commerce and other groups. Minimum wage workers are not represented by anybody. I am not aware of any labor organization that has minimum wage workers, but we represent them because it is the right thing to do. I want you to understand that most minimum wage workers are adults. If you work 40 hours a week or more at minimum wage, you are working for poverty wages. You can't earn a living on it. We want to reform welfare in this state, but yet one of the steps really and truly to reform welfare is to increase the minimum wage. You have to give people a reason to go out and work and earn a living. It makes sense to me. Think about it a little bit. I would be embarrassed if I had workers working for \$4.25 an hour. I hope that you vote down this postponement. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I spoke on this the last time obviously, because I feel very strongly that minimum wage needs to be raised. I would like to say that minimum wage is currently valued at 20 percent lower in real terms, we are talking dollars, than it was in 1979. It has little or no effect on job creation starting at such a low level. The economists agree

that minimum wage will lift the income of low wage workers. I think that is part of the reason we are here, to help those people who are low wage earners.

I would like to say for many of you in the House that you have parents and grandparents that at one time worked in the manufacturing industry in this state. Those people either came out of school without a high school education or barely a high school education. They went into shoe factories and mills. Those places don't exist anymore. There is no place for these people who don't go beyond high school to get further education to go, in this day and age. I would also like to say to the members of the House, in 1989, in Congress, when the minimum wage was raised to \$4.25, Senator Dole and Speaker Gingrich voted for the minimum increase. They voted it for a reason. They were concerned about low-income workers in this country. Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I will extremely brief. I hope you vote against the motion to indefinitely postpone and think of your constituents, as I will be thinking of mine. I had a questionnaire returned to me that I had sent out and I had expected support for an increase in the minimum wage, but I was shocked at the overwhelming response in favor of an increase in the minimum wage. I urge all of you who have sent questionnaires out to your constituents to consider that. I don't think the people of Albion, China, Benton and Unity Township are that different than the constituents in your district. If you have sent out questionnaires, I have read the results of some of them in the newspapers and overwhelmingly people are responding by asking for an increase. Please vote against the motion to indefinitely postpone. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Amendment "B" to Committee Amendment "B". All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 139

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kontos, LaFountain, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Paul, Pouliot, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

ABSENT - Bouffard, Buck, DiPietro, Kerr; Kilkelly, O'Neal, Truman, Yackobitz.

Yes, 74; No, 69; Absent, 8; Excused, 0.

74 having voted in the affirmative and 69 voted in the negative, with 8 being absent, House Amendment "B" (H-342) to Committee Amendment "B" (H-67) was indefinitely postponed.

Committee Amendment "B" (H-67) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "B" (H-67).

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 item was taken up out of order by unanimous consent:

An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement Appeals (H.P. 425) (L.D. 582) (C. "A" H-281)

TABLED - June 5, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

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

On motion of Representative JACQUES of Waterville, the House recessed until 6:00 p.m.

(After Recess)

Under suspension of the rules, members were allowed to remove their jackets.

The following item was taken up out of order by unanimous consent:

An Act to Require Licensure for Use of the Title Athletic Trainer (H.P. 699) (L.D. 957) (C. "A" H-282)

TABLED - June 5, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

On motion of Representative ROWE of South Portland rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 957 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-282) was adopted.

The same Representative presented House Amendment "B" (H-392) to Committee Amendment "A" (H-282) which was read by the Clerk.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: House Amendment "B" simply corrects an oversight in Committee Amendment "A". It creates a new account within the Division of Licensing and

Enforcement in the Department of Professional and Financial Regulation, whereby the fees collected from the athletic trainers will be segregated from other dedicated revenues of the department. It was an oversight of the committee. Thank you.

House Amendment "B" (H-392) to Committee Amendment "A" (H-282) was adopted.

Committee Amendment "A" (H-282) as amended by House Amendment "B" (H-392) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-282) as amended by House Amendment "B" (H-392) thereto in non-concurrence and sent up for concurrence.

The following item was taken up out of order by unanimous consent:

An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault (H.P. 589) (L.D. 799) (C. "A" H-299)

TABLED - June 6, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative McAlevey of Waterboro the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 799 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-299) was adopted.

The same Representative presented House Amendment "A" (H-393) to Committee Amendment "A" (H-299) which was read by the Clerk.

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

Representative McALEVEY: Mr. Speaker, Ladies and Gentlemen of the House: I sponsored L.D. 799 as a department bill at the request of the Department of Public Safety. The bill does two things. First of all, it puts forward rights of the reported victims of sexual abuse and gives them an opportunity to petition the court to request that the assailants or their alleged assailant be tested for HIV.

The second part of the bill, which is the heart of the bill, basically this is boiler plate language that we need to further receive Byrne Grant monies, which are monies that the Department of Public Safety receives. In order to receive this, we need some language in our current laws dealing with victims of sexual abuse and their rights to petition courts for testing of their assailants. That is a very important part of this bill, because unlike the LEA grants of the 1970's, where we purchased firearms and radios in vehicles, these Byrne Grant monies do not provide funding for people or positions, but they provide funding for programs. Programs that promote DARE and community policing throughout the State of Maine.

I strongly support the bill. The only problem that I have, in which I am trying to address through this amendment, is to change the timing of the testing. As written in this legislation, the person who was alleged to have committed the crime would be tested upon conviction for HIV. I wish to change that to roll it back to at the time the individual is charged with the crime. The reason for that is quite

simple. In most cases when a person is charged, they don't come to trial for a year to year and a half later. It does not make sense to have the victim wait a year to a year and a half later to ask the court to have the alleged defendant tested. It makes more sense to do the test up front and as soon after the assault as possible. This is not new language.

The language that I asked the Revisor's Office to put in the statute came from the United States Crime Bill of 1994. If you are a victim of sexual assault on a federal reservation, Acadia Park or a federal building, you have the right as a victim to have your assailant tested immediately once they are charged with a crime, this is not new language. This language has already stood the test of constitutionality. The reason I have asked the language to moved forward and closer to the time of the event is, if you are assaulted there are regiments of treatment that a doctor could prescribe. Some of those regiments are extremely difficult for patients to take. They are devastating. This is more information that the doctor would have upon treating.

Any victim of assault should take it upon themselves to be tested for STDs and also enter into an HIV testing program, which goes for six months. This will not negate that, they still need to do this. If they know right up front that their assailant does or does not have HIV, that will lower their level of frustration immediately. This, in a sense, is a victim's rights bill. There is a disparity between the rights we afford the defendants and the rights we afford the victims, which is practically nil. The victims need a closure to this ugly incident of being sexually assaulted. Part of that closure starts by allowing them to petition the court, who then will look at the overall aspects of it and then make a decision. I didn't expect to speak this long, so thank you for indulging me. I urge you to embrace this amendment and to adopt it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Ladies and Gentlemen of the House: I thank Representative McAlevey for sharing the amendment with me prior to bringing it to the floor. I don't necessarily oppose what he is bringing forth. This is something the committee discussed in some length. The reason the language appears in the original bill the way it does is we had compelling testimony from the Department of Health that the determination of whether one is necessarily going to be effected with HIV or Aids doesn't necessarily come until six months or longer after one is infected.

Up front early testing is more psychological than real. In many cases the victim is going to have to continue to be tested for a number of months to come. Again, this is something that we discussed in a major Aids bill, as well as in Representative McAlevey's bill. I don't have a major objection with this amendment, but relief for the victim is going to be psychological more than real.

House Amendment "A" (H-393) to Committee Amendment "A" (H-299) was adopted.

Committee Amendment "A" (H-299) as amended by House Amendment "A" (H-393) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-299) as amended by House

Amendment "A" (H-393) thereto in non-concurrence and sent up for concurrence.

The following item was taken up out of order by unanimous consent:

An Act Protecting a Citizen's Right of Petition under the Constitution (H.P. 576) (L.D. 781) (C. "A" H-300)

TABLED - June 6, 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.

The following item was taken up out of order by unanimous consent:

HOUSE DIVIDED REPORT - Majority (10) **"Ought Not to Pass"** - Minority (3) **"Ought to Pass"** as amended by Committee Amendment "A" (H-324) - Committee on Human Resources on Bill "An Act to Allow Smoking in One-room Establishments with Lunch Counters That Post Smoking Signs" (H.P. 984) (L.D. 1392)

TABLED - June 1, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Acceptance of either Report.

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

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Ladies and Gentlemen of the House: The majority of the committee felt that L.D. 1392, while well intended, would begin the erosion of the smoking policy recently adopted by the legislature. While I sympathize with the Auburn establishment that effectively pleaded its case before the committee, I would suggest to you that the remedy to their declining restaurant business is not to be found in this bill.

We heard that the Auburn business had experienced a significant decline in business in the past year. It was apparent to the majority of the committee that the uneven enforcement of the smoking law was the primary cause of this decline. Simply they need to enforce the law and they seem to enforce the law in Lewiston, but not in Auburn. I would suggest to you, men and women of the House, that the solution to this problem is not to roll back Maine's smoking laws, but the solution is simply to enforce the law. While tobacco smoking has long been recognized as a major cause of death and disease, in recent years it has been proven that non-smokers are also at risk for some of these same diseases as a result of their exposure to smoke exhaled by smokers and smoke given off by cigarettes.

Environmental tobacco smoke is a human lung carcinogen in the same category as asbestos and benzene. It increases the risk of infections, such as bronchitis, pneumonia and is a true risk factor for new cases of asthma in children. It increases the frequency of episodes and the severity of symptoms in asthmatic children. There are 86,000 people in Maine who are severely effected by tobacco smoke in one way or the other. For these people, one room restaurants will be virtually inaccessible where smoking is permitted.

Studies have shown that healthy non-smokers are at risk for serious health effects as a result of chronic exposure to environmental tobacco smoke. While this factor is important for the restaurant going public, it is more important for restaurant employees. This bill will not protect these employees, it will obviously increase their exposure to environmental tobacco smoke.

The 10 to 3 majority on this report heard from the Division of Health Engineering that L.D. 1392 will be difficult to enforce. DHS is involved in the inspection of restaurants, however they do not license and inspect many other establishments, such as convenience stores that would fall under this definition and would have lunch counters. I ask you to consider the advantages of a safe work environment and increased access to public places for those with respiratory difficulty. I urge you to vote against this bill, which would increase the risk to many Maine citizens to lung cancer and many other illnesses. I urge you to oppose L.D. 1392 and accept the 10 to 3, Majority **"Ought Not to Pass"** Report. Thank you.

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

Representative WINGLASS: Mr. Speaker, Ladies and Gentlemen of the House: I am rising today to urge you to vote against the **"Ought Not to Pass"** motion. The House Chair has correctly indicated that it had quite a lot of bipartisan support for the move that has been advanced for your consideration. On the other hand, I think that it is important, really imperative, that you give some additional consideration to this whole matter, because today we find ourselves in position to accomplish something significant.

We are here assembled with the opportunity to release one of the bonds which currently ensnare our citizens. Today we are, again, confronting a freedom issue, the freedom of choice. The bill before us is about individuals. Maine men and women who seek the freedom of choice. We have business men and women filled with entrepreneurial spirit and spunk. They are risk takers who put their hearts, souls and capital into their business. These are Mainers who provide crucial employment opportunities to their fellow citizens. Now we have the opportunity to recognize that some Maine business people need help and indeed plead for help. Today, we, the members of this body can deliver.

If you reject the motion and instead vote for the minority position, you will allow the business owners the choice of offering their customers food service in a smoking permitted environment. Potential customers will be alerted to the smoking stipulation by prominent sign placement, thus protecting them from unwanted exposure. I believe this bill has much in common with the seat belt bill that we have been discussing from time to time here in the last couple of weeks and I hope you feel that way too. Let us join together to demonstrate to our fellow citizens, even with this very narrow expression, that, yes, the 117th Maine House of Representatives believes that Maine men and women are capable of responsible individual decision making. Thank you.

Representative CHASE of China requested a roll call on the motion to accept the Majority **"Ought Not to Pass"** Report.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: I had to clean my glasses three times when I first saw this bill. I couldn't believe it. I was so excited. This is one of the most important bills to come before us, no, I am serious. We have lost the ability to distinguish between private and public in this society. If it is open for people to come in, we call it public, no matter how small it is.

This bill distinguishes between a large business and a small business. A small business is not public, it is a private business. The reason we got into all this regulation, health inspections and all these things are predicated on certain things. They are predicated on the fact that this business is large enough to have a differential bargaining power when you go to knock on the door for a job. That is one of the ways we distinguish a large business that we call a public business. For example, a paper mill, that is getting so large that I will even concede that goes more toward the public than private.

We are talking about small eating places here and I for a long time thought that I should be able to start a restaurant and say, smoking only. I don't like smoking. I can't stand the smell of it, especially when I am eating, but this is a choice bill. It is a freedom bill. It is an excellent bill and I hope you will vote to "Ought Not to Pass".

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of this bill, in case you don't know that fact. I realize that might be shocking to some of you, but as my constituent, indeed it is more than my constituent, it is my neighbor, who typically works toils from 6 in the morning to 11 at night in his variety store. I put this bill in for him.

I noticed the good Representative Fitzpatrick must have said four times that it was 10 to 3 report. He must have said five times that it was an Auburn bill. Let me tell you why this is not an Auburn bill, because if this bill doesn't make it and this guy gets buried financially and he is being buried financially by the current statute, then every time I walk into any store in Maine and I see smoking, I am going to call DHS. Soon it is going to be a Waterville problem, Bangor problem and it is going to be a Portland problem and yes, Representative Hartnett, a Freeport problem. I am going to make sure this law gets uniformly enforced so that you can all have people who lose their shirts, because that is what happened to that guy in this district.

Let me tell you why this bill is necessary. Currently when they passed the smoking law and I was part of it a few years ago, this is how we passed it, exception for bowling alleys, exception for beano halls, exception for smoking in the smoking section in the restaurants, if they have a smoking section. I have a guy in Auburn and he has a little variety store with a one line lunch counter and four booths across from the lunch counter. There is no room for a separate exit and entrance. He had a 1.2 million dollar business. It now generates \$600,000 a year. Did all this money get lost, because he doesn't allow smoking anymore?

The guys that go down there to complain about the government over coffee, instead of going to Shop'N Save which is in his back yard, and buying a quart of milk. They go into Mac's Variety and buy the quart

of milk and then they sit there and have their coffee. He is not making it on the coffee. He is making it on the quart of milk. If they can't go to Mac's Variety and sit and a lunch counter and complain about what foolishness we are engaged in up here, they are going to Shop'N Save to buy the quart of milk or anything else. They want a smoke free meal, well guess who is across the street from him. Denny's Restaurant, 24 hours a day smoke free. They went to Mac's Variety to have a cup of coffee and a cigarette and moan about us.

When we took that away, they went to somebody's kitchen, but they also went over to Lewiston to a store where a local police officer sits at the lunch counter, that ought to tell you something about the enforcement of this law in Lewiston. He sits at the counter having a butt with everybody. They also went to Turner and Mechanic Falls. I have the names of those places. There will be no smoking in those places if we can't pass this law to save this man's business, because we are going to uniformly enforce this across the state.

Let me tell you the interesting thing that happened with this bill. The Department of Human Services came down to complain about it and said it was a terrible idea and said their problem was they couldn't enforce the law uniformly because they had an arrangement. What their arrangement is, is in four communities in this state, we have our own health officer. Auburn has the good fortune to be one of those communities with our own health officer. Auburn has the law enforced by a very vigorous health office and so does Portland, South Portland and Lewiston. In Lewiston you can see how seriously the health officer enforces it, because the local cop is having a cigarette at the lunch counter at the variety store that got all the business that went away from Mac. Yes, I will make sure they don't allow smoking there as of next week. If we can't get anything, we are not going to get anything anywhere.

The next thing that the Department of Human Services had to say that I found so fascinating at this public hearing was that they couldn't enforce the law uniformly because we had removed nine workers from the Department of Human Services. Their staff got cut in half. Is there a plan in the future to double their staff? No, there is not. Is there going to be uniformity in enforcing this law across this state in the near future? No, there is not. This guy is just out of luck after running his store for 15 years and he has serious financial problems and they happened, not when we opened Shop'N Save, not when we gave Shop'N Save the liquor licenses, not when Denny's opened up across the street. His problem happened exactly when we said you can't have smoking in a place that serves food. What have we done with this bill? We simply said if it is a variety store and it has a lunch counter, recognized at that lunch counter business generates a lot of cash flow through that store.

The man said I don't want to hurt anybody who has any problems with breathing, they won't let me put in a special fan. I haven't got the floor space to separate out where I serve food out of. All he wants is to be able to put a big sign in his store front that says, smoking allowed on this premise. Guess what, if you are allergic to smoking, you can go to Denny's across the street. You can go to Shop'N Save and buy any of the groceries that you could get in that variety store. There is nothing that they offer

at Macs that isn't offered in places nearby with better parking and lower prices. We are killing him because when we passed this law and said, lets exempt the bowling alleys, because we don't want to kill them and the guy has smoking and beer when people have their bowling clubs meet. Lets exempt the beano halls, because they are supplying the money to half the churches in the state and we don't want to dry up the money in the churches. Nobody thought to those small variety stores that don't have the liquor or the smoking section.

You know something else Representative Fitzpatrick was quick to bring up, employees. Do beano halls have employees? Yes, they do. Do restaurants with smoking sections have employees? Yes, they do. This committee just wanted to send an anti-smoking message out. This law cannot be consistently enforced. There is no future plan to enforce it consistently and the only way that I can save this man's business is to suggest that variety stores that have a lunch counter ought to have an exemption from this law about no smoking, provided that they are allowed to put up smoking is allowed in this establishment sign. I think that is a very modest change and I am not the only business you will be saving. I will find out where the other stores are where people are disregarding the law. If we don't save my business, I will make sure everybody else goes down the tubes with us. Thank you very much.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: To say the least, that is a hard act to follow, but I agree with her. We often don't agree on issues, but this time I certainly do agree. I find myself in a little bit of a dilemma, because if there is anything that I hate in this world, it is smoke. I hate the smell of cigarettes. I hate the smell of the smoke. I hate to walk through a door outside the building and everybody is smoking and I have to breath it. That is one thing I really dislike.

On the other hand, I don't think we can point to a single law that we have ever passed, an anti-smoking law never stopped anybody from smoking. The only thing that stopped people from smoking is education. The money we spend on educating people of the ills of smoking is money well spent. It seems to be not working very well. A lot of cases we still see a lot of young people smoking, but this is a business, ladies and gentlemen, and we say that we want to be perceived as pro-business. I am a big boy. I can make a choice whether or not to go into that store. If I know smoking goes on in that store and I don't want to eat in that store, I don't have to go in there.

I will tell you that there are restaurants that I have gone to, that the law is being enforced in and there was a no smoking section here and a smoking section there. Ladies and gentlemen, that is a joke. The smoke doesn't know that it can't travel into the no smoking section. Everyone of you in this room, I'm sure, has experienced the smoke filtering over into their area. The whole thing to me is a joke. It doesn't work and if this gentlemen believes that he is willing to give up anybody coming into his store that doesn't want to breath smoke. If he believes that will make his business survive, who are we to stand here and say that we know better about his business. We know better what will make him

successful. We know better what is for the people that come into his store.

No, I don't like smoking. No, I don't like the smell of smoke. I can go across the street to Denny's, if I happen to be in Auburn. There are small businesses in my community and I am sure most of the rest of you that have small businesses in your communities have somebody that is in the same situation. We are all adults folks. We can make our own decisions. We can read. I don't see anything wrong with this gentlemen putting a sign in his window that says, this is a smoking restaurant. He might as well say it is infested with some disease, because a lot of people won't go in there. He is willing to take that chance. He believes it will make him more money. I don't think we have any right to tell him that we know more about his business than he does. This is what it amounts to.

The issue about no smoking in public buildings is great. They are not putting anybody out of business. I believe that the good Representative from Auburn may carry out that threat to the rest of communities and that is not the only reason why I support this. I think she is right. I think we do have to give people the credit that they are able to make decisions for themselves. I think this is a small step in that direction. I don't see that we are endangering the public health that much either. Thank you. I urge you to vote against the pending motion.

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

Representative JOHNSON: Mr. Speaker, Men and Women of the House: Some of my best friends are smokers and I feel sorry for them when they have to go outside in the rain and snow. They stand out there freezing, going from one foot to the other. I don't smoke. I was part of that terrible movement to make it a law that you cannot smoke in restaurants last year. I will follow my good Representative on the committee, Representative Winglass on this one. I will support the Minority Report. I was much taken and much persuaded by the owner of Mac's Variety Store who told his story of the loss of funds. I saw the consequences of a good intention, I still believe in being able to go to a restaurant or on airplanes and be able to sit in a smoke free zone.

On the other hand, if I am one of those poor people who cannot help but go out and drag this awful stuff into my lungs and I am looking at some of you right now that are just like that, I would like to give you now the opportunity to drive anywhere in the State of Maine and see a sign, Smoking Allowed, Coffee 5 Cents. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I can't tell you how heartened I am by this display of concern for the small business owner. I am going to be supporting Representative Winglass and I hope we are on a roll to be looking for other things that we have done to small business that we can undo and give them some relief. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I have known Mac's Variety Store in

Auburn ever since its existence. I have never been offended. I don't smoke, but I am talking about the border towns and how we are again going to be helping New Hampshire. Please think before you vote. Thank you.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: I have little sympathy for the Maine Restaurant Association with regard to this bill. Six years ago, I presented a bill which would have dealt with the smoking and no smoking issue through positive ventilation. The Restaurant Association, at that time, said it is too hard for us, we can't do that. I agree with the Representative from Rumford that smoke doesn't read the sign saying, No Smoking. My intent was to create smoke free zones, not no smoking zones, so that the majority of the population that doesn't smoke, may actually have a smoke free meal. It was bounced to DHS for a rule making and they tried to define what smoking policies should be.

The Maine Restaurant Association said, we would rather have you ban smoking in all restaurants. DHS rulemaking essentially did propose that, unless you have a separate ventilated room. Then the Restaurant Association came in and said this is terrible for us. We can't accept this. We got nothing out of that and we have seen a number of other exemptions created here. I don't think we should create yet another exemption allowing smoking spaces. I would like to see the "Ought Not to Pass" accepted so that the Representative from Auburn, Representative Dore would actually make sure that the smoking law is enforced. I think that would be great.

The reason that I had proposed the bill dealing with ventilation is because I know that you have to have air movement in the right way in order to remove the smoke from the space. You can't just put in a smoke eater and think it is going to do it. It will not. I also recognize that there are a lot of people who really do need a hit of nicotine with their caffeine and sucrose in the morning and that would have allowed that to continue. However, the Restaurant Association simply aren't willing to do the ventilation to make this work and allow everybody free access. The Representative from Rumford mentioned that there are a lot of restaurants that he doesn't go to. I would say that for myself, there are about 99 percent of the restaurants in the state, I cannot eat in. The smoke doesn't read the signs.

I think that what we are counting on and why the advocates of allowing the smoking are not dealing with ventilation. They are counting on the nonsmoker to be more willing to put up with a bit of smoke occasionally to go into that convenience store to buy something while the smoke is permeating the whole space, and to be less vocal about their displeasure than smokers are. I believe we should stick with our law and see that we can enforce it. I urge you to accept the "Ought Not to Pass" motion.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you defeat the "Ought Not to Pass" proposal. The committee had the opportunity to deal with ventilation. My constituent came to the committee and said that he had offered to put in any kind of fan anybody wants. I mean there is

no fan that costs more than \$600,000 a year in lost business.

There is a Minority Report here because everyone was afraid of opening the door even a little bit. Nobody has this constituent but me. I don't like to think what I said before was a threat, but I am aggravated enough for my constituent that I will at least make sure the businesses in Androscoggin County will be enforced because I am around that county. As for the rest of you, if I happen to wander into your part of the state. Ok, it is not fair. I either need 10 cosponsors next time or this guy needs a break. I think this is a pretty reasonable break. He can keep his business. He can keep working from 6 in the morning to 11 at night. His lawn might not be mowed as much, but I will have a happier neighbor. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I guess I have a question about this bill. It is to committee members who perhaps can answer it. My understanding is if we defeat this motion before us, we are talking about up to perhaps nine tables in a so called variety store. That strikes me as an awful lot of tables. I have small diners in my community that would not be covered by this exemption. They have done what it takes. In some cases simply banning smoking and in others having a no smoking section in their six table establishments. It seems to me that it is setting some kind of double standard here just because you are selling potato chips on the side. You can have smoking in your small restaurant, otherwise you can't. You have to at least have a no smoking area.

As current law stands now, you are allowed to have smoking in a one room restaurant, you simply have to have a no smoking section. That is my understanding, perhaps I have that confused and someone can correct me. I believe that is current law and it seems to me that if we defeat the current motion that will be basically discriminating against other restaurants that are trying to abide by our current law and that doesn't seem fair to me representing a number of those establishments within my district.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Ladies and Gentlemen of the House: Let me respond to the good Representative's question. If you turn to the amendment in front of you related to Committee Amendment "A" on L.D. 1392, it talks about seating of no more than 36 persons. I will tell you, men and women of the House, I come from a town where there is a small variety store that has a very small eating in capacity, like a lot of our small towns do.

This amendment and this before would really open up the door to fairly large restaurants, 36 persons. We are not talking about idealistic little lunch counters in the country. We are talking about variety store/restaurants that may happen to sell milk, cheese, butter and bread, but also has the capacity of serving 36 people. That puts them in competition with restaurants that have the same capacity in their own towns. On this level this bill is handily unfair, but more importantly for me, I guess, is it really opens the door big time, statewide for smoking. This is not a small business issue.

The other thing that I would say to some of the comments that have been made by the good Representative from Auburn, the Human Resources Committee did spend a fair amount of time with the owner of Mac's Variety trying to figure out what we could do for him in terms of air exchanging machines, as well as petitioning off part of his restaurant. That was a good part of the public hearing and there was tremendous sympathy, I think, for all 10 people who found themselves on the "Ought Not to Pass" Report to try to help this individual out.

I am telling you if you go ahead and defeat this motion, you are opening up smoking in establishments all over the State of Maine that go far beyond the definition of small variety store businesses. Thank you.

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

Representative TREAT: May I pose a further question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative TREAT: Is there a definition of variety store in the bill, because, I guess, my concern is that someone who has one of these small restaurants that is not currently a "variety store" might be able to put in a refrigerator with some milk and call themselves a variety store. Is there some control over that?

The SPEAKER: The Representative from Gardiner, Representative Treat 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: Mr. Speaker, Ladies and Gentlemen of the House: I am not aware of a definition of variety store. I am getting a little irritated at the continuous reference to occasionally sell a quart of milk. Let me tell you what is sold in this variety store, video rentals, newspapers, magazines, candy, groceries, papers, cards, toiletry products, toothbrushes, toothpaste, shaving equipment, cigarettes and just about anything else. Everything that isn't furniture is sold in this variety store. I think like most variety stores that have a little lunch counter, they sell everything. If we don't have a definition of variety store in the law and anyone wants to tack on a friendly amendment that lists 30 things that must be sold in a variety store, I would be happy to vote for that amendment.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Mr. Speaker, Ladies and Gentlemen of the House: To answer Representative Treat's question of a variety store or convenience store would be typically licensed by the Department of Agriculture and probably would have 51 percent more grocery store mix, food, produce and dry goods. Thank you.

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I ask you to vote against this measure and vote in favor of Susan Dore and Representative Winglass. As you know, I, too, am from Auburn and you must be thankful that there are only three of us. This business is located in my district so I am very familiar with this situation. It is only one of maybe a handful of variety type little stores in Auburn.

It is true that it is the biggest variety little store in my district, but basically from going around in my district, all these little variety stores are welcoming this bill to have a chance to not get nailed by the cops for accidentally letting somebody smoke on their premises. The smoking law goes more and more across the town. The bigger restaurants are starting to close all their smoking areas and making it all non-smoking. Eventually we are not going to have a place for smokers to go. It is very important to allow a store owner the opportunity to decide for himself, whether or not he allows smoking in his place. I believe it is one of his constitutional rights and our rights too.

If I would like to go into a store sit at the bar, watch TV and talk with the store keeper or whatever on any given evening, I believe it is a very fundamental right to be able to go into a place and do this and talk with other people. In some instances, it is the only chance that people get to associate with other people. Around Mac's Variety, I have three older generation apartment houses. They like to go over there and sit with the rest of them and have their coffee and some may welcome the chance to smoke. I am asking you please to vote against this "Ought Not to Pass" so we can accept the "Ought to Pass". Thank you.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I just can't resist the opportunity to beat this dead horse. I want to confess that I am one of the former members of the committee who wrote this bill. It isn't very often that we get thanked for passing legislation, but I have repeatedly been thanked for that legislation. I think the thing we have to keep in mind is that smoke is poison. The other is that this bill is unevenly enforced. It is not true that it is enforced by the cops. It is enforced by DHS.

I think that is a problem and it should be more evenly enforced and I will give you a list of a few places that I would like to have called about. When we passed the legislation, people who spoke to us about it said whatever you do make it fair for everyone so I don't have to be in competition with the guy down the street. Make it the same for everybody and that is what we tried to do. I am truly sorry that beano halls and all these other places got exemptions. I was opposed to all those exemptions. People overwhelmingly said make it the same for everybody. This is where I think we come to the final issue is that it may sound strange coming from me, but I think there is an urban/rural issue here.

I live in Portland now, when I was pregnant and didn't want to around smoke, I could skip past the Penny Wise where they let people smoke and I could go right on down to Ocean Avenue Variety. I grew up in Canaan and in Canaan there weren't two stores, so if I wanted to get a movie rental, milk or beer, we had to go to one place. It was known as Graydens then. We didn't have two places. The next place was Skowhegan and that was 12 miles away. The people from Canaan who had asthma would have to walk into Graydens to get their quart of milk. I think that that is an issue to consider here.

Finally, I just want to say that lets not dilute ourselves that any smoking issue is just ever limited to one particular establishment or one particular situation. This is the nose under the tent and it is

a slippery slope. I think we ought to have a level playing field and make the rules the same for everybody. Please vote to accept the Majority "Ought Not 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 Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Thank you Mr. Speaker, Men and Women of the House: I just want to reiterate what the good Representative from Portland said. In our public hearing we had one establishment come forth and that was Mac's in Auburn. This is not a bill where we had a large group or even particularly the association. It was, quite frankly, Mac's Variety. Really, keep that in mind that what you are doing is looking and creating an environment where we roll back a significant portion of the smoking law to fix one situation which is really an enforcement problem. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative FARNUM: If a person is caught smoking and this law does not pass, are the police going to come in and haul him off to jail? Is there going to be a court trial or what is going to happen?

The SPEAKER: The Representative from South Berwick, Representative Farnum has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Ladies and Gentlemen of the House: In response to that question and the way the current law is, it is a civil infraction. It is basically a very minor issue that is handled with a fine and it is through the District Attorney's Office, which is busy doing a lot of other things. We had spoke to the new Attorney General in front of our committee early on and he had indicated that he had put some assets into enforcing the no smoking provisions. Needless to say after we queried him on how well he is doing on murder investigations and how well he is doing on a lot of the other things that he is delegated to do. It became very clear that very little of his enforcement could be going into this area. I would also say that I own a restaurant and I can't comply with the law as it exists today. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative DORE: Thank you Mr. Speaker. I do apologize for getting up again, but I feel like I have to clarify one other thing for Representative

Farnum. The man who runs the variety store in Auburn has lost cash business. That is his problem and if the way the law is going to be enforced in Auburn is that the health officer is going to shut him down. She came in to tell him that. There is no amount of fine that he can pay. If he allows smoking in his store, she is going to close the store down.

He used to have many employees. He is down to about five or six. He is working as the cook, manager/everything. This law has truly devastated his business. It is more important than his business. It is actually true that he was the only one to show up. He could name several other people from other businesses who couldn't show up, they couldn't make arrangements on time. He made arrangements because he is my constituent and I called him as soon as this bill was scheduled, it was about three days notice for this hearing. That is not the fault of anybody on the Human Resources Committee, but I don't want anyone to think he is the only person out there who has this problem. Thank you.

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

ROLL CALL NO. 140

YEA - Adams, Benedikt, Berry, Brennan, Chase, Desmond, Donnelly, Etnier, Fitzpatrick, Gates, Gieringer, Gooley, Heesch, Heino, Hichborn, Joyner, Keane, Kneeland, LaFountain, Lindahl, Lovett, Luther, Marvin, Mayo, McElroy, Meres, Mitchell JE; Morrison, Ott, Pinkham, Richardson, Rosebush, Rowe, Samson, Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tyler, Volenik, Watson, Whitcomb.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, DiPietro, Dore, Driscoll, Dunn, Farnum, Fisher, Gamache, Gerry, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joyce, Kerr, Kilkelly, Kontos, Labrecque, Lane, Layton, Lemaire, Lemke, Libby JD; Libby JL; Look, Lumbra, Madore, Marshall, Martin, McAlevey, Mitchell EH; Murphy, Nass, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Perkins, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tripp, True, Tufts, Tuttle, Underwood, Waterhouse, Wheeler, Winglass, Winn, Winsor.

ABSENT - Bouffard, Dexter, Joy, Lemont, Nadeau, Rotondi, Truman, Vigue, Yackobitz, The Speaker.

Yes, 44; No, 97; Absent, 10; Excused, 0.

44 having voted in the affirmative and 97 voted in the negative, with 10 being absent, the Majority "Ought Not to Pass" Report was not accepted.

Subsequently, the Minority "Ought to Pass" Report was accepted. The Bill was read once. Committee Amendment "A" (H-324) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, June 8, 1995.

The following item was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-386) on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (H.P. 516) (L.D. 706) (Governor's Bill)

Signed:

Senator: BERUBE of Androscoggin
Representatives: POULIOT of Lewiston
JOSEPH of Waterville
TOWNSEND of Portland
MORRISON of Bangor
KERR of Old Orchard Beach
DiPIETRO of S Portland

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (H-387) on same Bill.

Signed:

Senators: BEGLEY of Lincoln
HANLEY of Oxford
Representatives: AIKMAN of Poland
OTT of York
DONNELLY of Presque Isle
SIMONEAU of Thomaston

Was read.

Representative KERR of Old Orchard Beach moved that the House accept the Minority **"Ought to Pass"** as amended Report.

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

Representative KERR: Mr. Speaker, Men and Women of the House: We have worked long and hard in the Appropriations Committee room and we have come out with a divided report and it is something that I am not to excited about. When we did break off, it was an unfortunate time not only for the Appropriations Committee, but for the people of the State of Maine. During the Appropriations Committee hearings the Majority Report was out in public. The reason why I moved the Minority Report, I feel we should extend the Republican Party the courtesy to explain their budget. Thank you.

Representative MITCHELL of Vassalboro requested a roll call on the motion to accept the Minority **"Ought to Pass"** as amended 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 Waldo, Representative Whitcomb.

Representative WHITCOMB: Thank you Mr. Speaker, Men and Women of the House: I am not one to speak as the final authority on the budget. However, I would appreciate the endorsement or at least the comments from the Representative from Old Orchard Beach for presenting our budget for discussion. I think it is an important distinction for us to have an opportunity to vote on our budget today because I think there is some important components that many of

you want to support. Specifically we are proposing and it is the only budget proposal of the two that are on our desks to repeal the sick tax. I am not sure what the secret is about that, but that certainly has been a part of the Republican plan from the beginning.

Ours is the only budget that proposed to cut specific taxes and we are very pleased with that. We hope you find that is something that you can endorse as well. We are also very pleased to present a budget that works and at least addresses the entire budget package that we need in order to have a biennial budget for the state. Although the projection has been made that our budget was somehow under a cloak, the other report which we obviously are not discussing has some major deficiencies. It doesn't address many of the major problems. We are hoping at some point that there will be an explanation of the rest of the solution of the other budget. We think there is a good opportunity for people to join in our plan and it is a significant departure from different philosophies of government. Do you think that we should continue to certain taxes that we are proposing that we at least eliminate or phase out.

Whether you believe in that commitment or not, this is a chance to express that. We certainly have made one of our cornerstones the issue of the hospital tax. We think it should be repealed. Another proposal doesn't want that to happen or at least to happen contingent on the federal government or whatever. We are very pleased to have an opportunity to vote on our budget and we hope that the majority of the House will join us. Thank you.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the Minority **"Ought to Pass"** Report. I have been a voice that has been talking about a single budget from the outset for a number of reasons. To me it seems to be a simple approach or as simple an approach as you can have to a very complex problem. Bring it all together and put all the cards on the table, all the controversial issues up front and debate them and weed out the ones you don't want and try to get together on what we can live with.

No single person in this House is going to be happy with the total budget in any event. We are down to compromise. When you compare the two documents. The one we are voting on and the one we are not talking about, I find it rather interesting. I think it makes the point I am trying to make to you. The Minority Report is a single budget document that works from projected revenues of \$3,497,000,000. The appropriations against those revenues are \$3,495,000,000. There are 2 million dollars left that is supposed to go to the Outdoor Heritage Fund. You look to the other report which does not include the part II. The Minority Report is part I and II combined. There is 2 million dollars combined.

Projected revenues are \$3,519,000,000 and that is 22 million dollars more than the Minority Report. What is the difference? The difference is essentially the snack tax and sales tax. Appropriations is \$3,488,000,000 leaving 31 million dollars. They are leaving 31 million dollars without any part II. No one has presented a part II on the

other side. I would like to see them present it tonight. We know that there are at least 45 million dollars that are going to be in that part II. They have 31 million dollars left. Where are they going to find the additional 14 million dollars? Think about that. Starting off with 22 million dollars more in revenues and 31 million left and need at least 14 million dollars to find what we suspect is going to be in the part II. I think it is called taxes.

Why have we been hanging onto this sick tax and why have we been hanging onto a definite date for the repeal of the tax? There are a lot of reasons. Yes, we repeal it there will be a loss probably of federal funds, assuming the federal funds continue. If you go with an idea that the sick tax can be repealed upon the action of the federal government, you are asking for chaos. If that happens and it is repealed the next day, we are going to be back here scratching around trying to find millions of dollars. If we have a definite date to repeal it. If we fund out what the hospitals are asking for to help them get through it, we may have some troubles, but I doubt that we will have chaos.

I think you should take a look very closely at the copy of the letter to Chief Executive from the Maine Hospital Association that was distributed to you yesterday. Look at the third paragraph and the second and third sentences. It sums up what many of us feel. What you have is the Hospital Allocation, let's face it, are the experts in this field, in the state, saying to us we know this gift is going to go away. Let's forget how it got here, but we know it is going to go away and we want time to plan for it going away.

I would like to read that to you. "Hospitals believe that the time has come to focus on the development of a plan to end the entire tax-and-match programs as soon as possible. With federal intentions to dismantle tax-and-match programs already evident, it only makes sense to plan ahead for this eventuality." That is what we are trying to do with our Minority Report is to plan ahead. God knows that is something we need to probably do a lot more of in state government. Here we have a chance to do some of that and help a vital industry in our state. Keep in mind that we are talking about more than health care here. We are talking about increased cost of health, if we don't repeal it. We are talking about the very real possibility of hospitals being closed or being severely curtailed and that is jobs. We are talking about jobs. We are talking about people losing their jobs and the ripple effect. We are talking about some serious problems. There is more writing on this than just the repeal of this tax.

The tax cuts that are in this budget are the ones that have been approved already by this body. The snack tax, which in my way of thinking is a misnomer. We are talking about an additional tax on food over and above the snack tax that already exists and we are going to go back to and a potential cut in the sales tax which we haven't gotten to. They are not overwhelming. They are doable. They can be absorbed in this budget and once again we can plan ahead. Either we send a message to the fourth branch of government that is not elected and say you have two years to plan because of potential cuts, this is the time to do it. We have an opportunity to do it with this budget.

GPA, we haven't come to a school funding formula yet. Here again, I don't think we are going to come to a school funding formula that all of us are going to like. I am willing to go with whatever we elect. I want to be sure that all of the money we dedicate to GPA goes to GPA. There is 37 million dollars in our Minority Report that is dedicated to GPA that will be distributed to the communities as assistance in the schools under whatever formula is used to do it. If we don't do this, we are going to find it reserved in a part II budget, not committed to. When we get down to the how it is going to be distributed, we start getting very territorial. Suddenly we start hearing arguments, wait a minute, why are we doing this with the formula, because it doesn't fit my needs. What do you say we use some of this for circuit breaker. What do you say we use some of this for some other purpose. If you go with our budget, it is in there and locked in and that is dedicated to GPA.

I don't intend to go down through everything that is in that budget. I think I have hit the high points. I urge you to seriously consider the single budget approach. It gives us an opportunity to say here is everything, all the dollars, we think is coming in and this is what we plan to spend. Let's take a look at things square in the eye and prioritize how we want to spend the taxpayers money. Something has got to give. We are not going to get down to giving and taking until we put this stuff all together into one document. I would urge you to accept the Minority "Ought to Pass" Report. Thank you Mr. Speaker.

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

Representative KERR: Mr. Speaker, Men and Women of the House: I was hoping for this body, Democrats and Republicans, to have a little more insight of what is in the Minority Report. I will take that opportunity to try to explain what is in the Minority Report, since I just received it about an hour ago. One thing that is different, as you see on your desk, of the two reports is one has 287 pages and the other has 416 pages. As the good Representative from Thomaston said, the Minority Report combines both part I and part II. Part I is currently referred to as the current service budget. Part II is normally referred to as new and expanded programs and also incorporates the Governor's initiatives.

In the Minority Report the policy committees, frankly, were not taken into consideration. I think when the Appropriations Committee started this long process one thing that the members of that committee had learned from the past is that we felt that it was important to involve the committee of jurisdiction into the policy making of this state and to build a budget. As you all recall when we first started that process, the Appropriations Committee send out a charge that everybody would try to live within the funding of 1995 levels. Unfortunately that didn't happen. Many committees tried, but after reviewing and seeing the impact that some of those cuts in areas that couldn't afford to be cut. Committees continued to come back with Unanimous Committee Reports.

We, Democrats and Republicans, started building the budget. It was a long and tedious process. That is why you will find the first 280 pages of these two documents are very similar, because we were very

close. The difference, I think, is the way that we want to see state government and the way that we want to pay our bills. The Minority Report, as the good Representative from Thomaston and the good Representative from Waldo said, they do provide tax reductions, which is fine. That is the first half of the story. The second half is they don't tell you how they are going to pay for it. I don't think that is responsible. If, in fact, we are going to make tax reductions, we should also be able to identify where that 541 million dollars is going to come from.

In the Minority Report there is 18 million dollars to reduce taxes in the last quarter of 1997. They are reducing the snack tax. They are reducing the penny on the sales tax, from six percent to five percent. Also, repealing the hospital tax. There is a large cost to doing that. We can all go home and feel real good about reducing taxes. Whether or not the next legislature is going to have the revenues to overcome that 541 million dollars and just so I can relate what 541 million dollars is. If you look at general purpose aide to education and if you completely eliminate it in the second year of the biennium, you don't come up with 541 million dollars. You can say we have a state budget of 3.5 billion dollars or there about, what is 541 million dollars. When you start making these cuts you are going to cut services.

I think one thing the committee tried to do is pay its bills, get rid of the gimmicks, get rid of deferrals and try to get our fiscal house in order. Another thing that the Minority Report does is general purpose aide funding formula, it provides a funding formula that this legislature has yet to vote on. In the Majority Report we separated the budget because we agreed on 280 pages. Almost in complete agreement, other than the hospital or sick tax. Under the Minority Report areas of northern Maine, many of your districts, are going to suffer through the school funding formula because it is not a well thought out plan. The reason I say that is the committee of jurisdiction has been working diligently to try to resolve this issue, which is just as important as the sick tax. It is going to effect every single one of us.

Property tax relief for those communities because if the community has to raise the money locally to pay for the running of the schools, they are going to have to raise the property tax. Coming from southern Maine, as many people probably wish it was part of New Hampshire, but it's not. We have one of the highest property taxes in the state. Another thing that the Minority Report does is they adopt L.D. 203 which deals with the Maine Waste Management Agency. That issue has not been resolved before this body. It also reduces the sales tax from six percent to five percent, which is also an L.D. that this body has not heard. As the good Representative from Thomaston said, it also repeals the sick tax. There is also an L.D. that comes before this body that we will take a vote on that will address the hospital tax.

The next issue that is already decided in the Minority Report is the welfare reform and that issue hasn't been resolved in the committee of jurisdiction. It also funds the Magnet School, a new and expanded program. It funds the circuit breaker to the tune of almost 6.5 million dollars. It flat funds the University of Maine at the 95 levels. It funds the legislature at 95 levels. Also, Maine

Maritime and the law library are flat funded. Traditionally this body has passed out two budgets, part I and part II. The reason why we have done that is because of timing. We want to make sure that state government continues to run. You may hear an argument, well if you pass out the part I budget, there is nothing left to fight for in part II. Unfortunately that argument is not valid.

In the past in 1981, the part I budget was passed out May 13. In 1983, the part I budget was enacted March 31. In 1985, the part I budget was enacted May 16. In 1987, the part I budget was enacted May 15. In 1989, the part I budget was enacted on April 25. In the committee as the Minority Report says, they do fund the hospitals an additional 22 million dollars. They do this without knowing where these dollars or how they are going to be appropriated to these hospitals that may be in financial straights. I say that, not because of the tax-and-match issue. No hospital, I believe, will be closed because of the sick tax. In order to fund some new programs and in order to apply or put more money towards the hospitals, the 22 million dollars and in order to fund the circuit breaker, they had to come up with ways to generate some resources.

You all know we have balanced our budgets on the backs of state employees for quite a while. We were faced a month and a half ago with a supplemental budget that the administration brought forth. It tried to take care of the payroll push by revenues being reprojected. We knew, the members on the Appropriations Committee, that revenues weren't going to be reprojected. We wanted to make sure that state employees, when they did a weeks work, they got paid for it. We took those dollars out of the rainy day fund. State employees started feeling good about themselves and they had every right to. Previous legislatures and Governors have made promises and commitments that they couldn't keep to state employees. The Minority Report for those who wish can turn to page 388. You will see that the Minority Report suspends the merit pay increase in 96 and 97. If you turn to page 397, the Minority Report takes 5 million dollars from accounts receivable. You say, "well, why are they doing that?" We have tried to pay our bills.

This administration, the Appropriations Committee and this legislature has voted on two supplementals. It did away with gimmicks and deferrals and this is in direct conflict with what we tried to do. In case you don't know what the welfare language is, I would ask you to turn and look on page 397. On page 398 of the budget document, that is where you find where the sick tax is repealed. On page 399, is where the snack tax is repealed. I guess the straw that breaks the camel's back is on page 404, section WW. It institutes a 20 percent state employee share for health insurance coverage effective 7/1/95. Members of this body, I don't think this is fair to the legislature. I don't think this is fair to state employees and for the people of the State of Maine.

I feel a little awkward standing before you explaining the Minority Report, I was hoping someone else would do that. I am going to urge you to vote against the pending motion. So that we can go on and accept the Majority Report, because that is one that I feel very proud of. I feel that the people of the State of Maine and this legislature can live with it. Thank you.

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

Representative LUTHER: Mr. Speaker, Men and Women of the House: I don't like what you are doing to state workers. It is ridiculous and you know it to try to take a penny of the sales tax. The reason we put it there in the first place is there was no way we could support the schools. I will be happy to take it off when there is a way to support the schools. I would just like to suggest, I know it will come as a shock to both parties, but maybe we can look at the tax exemptions, deferrals and incentives and take some of them back. Thank you.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Let me quickly address some of the points that have been made. I don't think things have been intentionally misrepresented here. I think in haste some things have been missed that have been changed from other proposals that may have been.

The history lesson we first received on part I and II is true. Traditionally the House did, as Representative Kerr listed, pass two different separate sections, the current services budget and new spending. What was left out of the history lesson was that there was a lot of money to be spent in part II. There was a representative of the Governor's Office, who used to be on the Appropriations Committee, who said they could remember one year when part II has over 100 million dollars. Friends and colleagues, that is part of how we got in the problem we are in. There was wanton spending every time there was an extra nickel in the till. During the 80s, when our state budget grew expansively, we raided the rainy day fund. To go back to the way things were done when we had money, doesn't mean it was right.

We did something else this year for the first time other than propose a single budget. We asked for zero based budgets from the departments. First time ever and we have been applauded for it because it is the first time we have asked the departments to prioritize their spending. It makes perfect sense to me. In a meeting of another group, the smaller group of this body that is bipartisan, a discussion came up on why part I and part II. A couple of business people stood up, legislators who are also business people, as said, "In my business, we do have an operating or capital budget, but it isn't passed out separately from my advertising budget or new spending. It is done in one document. If I increase my advertising, I have to find cuts elsewhere in my budget to fund it." This makes more sense. That is why we are presenting part I and part II, plus it is simply irresponsible to put off all the tough decisions until later.

In this budget, we do address difficult decisions. I think you will hear about them for quite a while tonight. I don't dispute that there are difficult decisions and hard choices. Some of which the committee made together and some of which we parted company on, such as the sick tax. Let me move onto policy committees that were not addressed. There is nothing in this budget that was not addressed by a policy committee. Unfortunately we had a split in the budget, so the policy committees that were not unanimous had a split in their reports

I am sorry to say that that is a fact of what happened here.

We went into tax reductions and how are we going to pay for them. I think you merely have to read the Minority Report. We made cuts in this budget to fund the tax cuts. It is kind of a crazy concept that you cut taxes and you have to fund it. We are putting more money in our constituents pockets or we are taking less out, I guess you should say and that money will be in the economy. To simply say that money will be squirreled away under someone's mattress and not generate any more money in the economy is to have a very simple understanding of economics.

The education funding formula is one of the worst statements made here tonight. What is in the Republican budget is current law. It is not a new proposal. It is not some sinister scheme by people on one end of the body or another to mess up one part of the state or another. It simply is current law. As a matter of fact, it is always in the budget and it is always changed in another document. Representative Kerr gave us a history lesson, but failed to mention that. Changes are made outside the budget and we are waiting for the Education Committee to present us with a formula that most of us can go along with.

It was said that no hospital in this state was going to close, even though an organization which regulates the hospitals listed four of the hospitals at risk for closing. In an outside, not purely independent, because they were hired by the hospitals, but a very respected firm did a report and they listed between 10 and 12 hospitals being at risk for closing. No matter which report you take, there are hospitals at risk. How the 22 million extra dollars in the Republican budget puts into the hospitals helps is, it lowers the tax on hospitals. It lowers the tax on the sick people, because it is generated on gross patient revenue, so it lowers the tax on sick people who use those hospitals.

In addition to that language that obviously escaped the quick perusal that we all had of the two budgets. I can honestly say that there are things in the Majority Report that I probably have not read yet and could not answer in any comprehensive fashion. There are two sections in our proposal that require the Department of Human Services to ask for two separate waivers, which are allowed for under federal law. Number one, you can apply for a waiver, like the State of Massachusetts is doing now and is likely to get to effect the 10 percent of the hospitals in the state that are most heavily effected. Guess what, that is four in our state. At least the four that are listed in the document. The other waiver we are requesting DHS to apply for because that is the appropriated agency to do so, is under the rural hospital heading, which there are more than four hospitals in the state that are effected.

I am not going to try to make this parochial or apply imprudent pressure on people who are in hospitals that would be effected by either of those waivers because it is not right. We ought to be making decisions on if this is good policy for the state, not just my little corner of the world. Bills not being dealt with in this budget. We heard that the Republicans take 5 million dollars away from an accounts receivable problem, that is not true. It is simply not true. There are 8 million dollars, as

the Governor had in his budget, amount in the accounts receivable. I don't think anybody and I hope none of the accountants stand up, because they will tell you that that 8 million dollars is certainly not good fiscal review.

We ought to be funding 31 million dollars this year, but it is a start at addressing a problem that was unaddressed. I think the report before you and another report address it in a similar fashion are supportive of the members of the Executive Branches attempt at addressing a problem that is larger than most people had realized at first. We intend to follow through in the next biennium and continue that. The other thing that is not mentioned in the report that is before us is that we do not deplete the rainy day fund. There are between 4 and 5 million dollars left in the rainy day fund for the passage of a constitutionally protected rainy day fund. The next time we have an 80s, I sure hope we do, I hope we have the growth that we did then again. Hopefully the tax cuts will help spur that.

Moving like it did in every other state that cut taxes during the recession as opposed to every state who raised taxes in the recession that went the other direction. I don't know. We leave money in that constitutionally protected rainy day fund, which has not passed this body yet. It would at least be in the rainy day fund we have now or would be in a constitutionally protected rainy day fund, if and when, this body passes that. Is this budget perfect, this is only my third term and I wasn't here for the boom days of the 80s, but I can sure tell you that this budget is a long way from being perfect and it is a long way from being terrible. I have never seen a perfect budget. There are always things in the budget that you can't stand. There are always things in the budget you like. There are big, tough decisions passed in this.

We got a letter from the court master today addressing the Pineland and AMHI consent decrees that gave lukewarm support for the Governor's proposal that is in the Republican budget. It is in the budget before you today. I urge you to support this budget. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Member of the House: I have heard both the Representative from Thomaston and the Representative from Presque Isle specifically talk about education and how this has been taken care of in the Minority Report. Let me just advise you that perhaps you should look at page 275. Let me just talk for a moment for those of you who haven't been around and don't understand the legislative process at the end of the session. What has been taking place in this particular document is to put the distribution formula into the budget. The distribution formula is now in this budget. What that means is at whatever point, if this budget were ever to pass, it would take two-thirds vote of both houses in order to change it. What our committee has been trying to do is work out a compromise so that it would get two-thirds on enactment.

I can guarantee you there are many communities in this state who have no desire or should have no desire, if they are looking at it from a pure monetary figure, in ever giving that two-thirds vote. The dedication may be to GPA, but the distribution formula is now laid out. Let me be more specific. If that were to happen, Caribou, for

example, would go from 5.7 million dollars to 5.3 million dollars. Durham would go from 1.56 million dollars to 1.5 million dollars. Lets go to the S.A.D.s, which are the most hurt under that system. Presque Isle would go from 7.7 million dollars to 7.3 million dollars. Guilford would go from 3.6 million dollars to 3.3 million dollars. Fort Fairfield would go from 2.75 million dollars to 2.56 million dollars. Van Buren would go from 2.5 million dollars to 2.3 million dollars. Belfast would go from 5.9 million dollars to 5.6 million dollars and that goes through the entire process. In effect, I can go on if you want me to.

If you want your own districts, I have the distributions here. What this does, in the case of the S.A.D.s, is to simply take Searsport, for example, take \$300,000 away from them. Lincoln take \$300,000 away. Skowhegan take 1 million dollars away. Millbridge takes \$100,000. One of the goals that we have been working toward was to prevent that from happening. This puts into law the distribution for the next two years. It basically takes, if you want to be honest about it, most poor valuation districts or rural districts and sells them down the road. For example, in Dover-Foxcroft, the other day, they have now laid off on 90 day notices, all teachers in music, art, vocational ed and some other programs. Simply to keep the basic high school program in tact.

If you come from northern, eastern, western or central Maine, I can guarantee you that this sells your district, if you have a river, down the river. If you don't, it is down the road. What we need to do is work out a compromise, this does not do it. I know that perhaps some of you may say, "well the Representative from Eagle Lake is fairly parochial and is dealing with northern Maine". I'm not only interested in northern Maine. I am interested in equality of education throughout this state. I urge you to reject the Minority Report. If you want your own districts as to what would happen, I have the print out, because the print out was done at the very beginning based on the 269 that school districts get. It is in the budget on page 275. The operating millage is 4.9 mills. The program millage is 1 mill. The debt services is .49 mills. That is what gives you the print out that I just gave you. The difference that I gave you was what districts got last year and what they would get assuming that things remain the way they are printed here. If there are any questions, I would be more than happy to respond to those questions which deal with school subsidy.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: The State of Maine has a new Governor who has pledged to chart a new course for the state. He has pledged to remove the gimmicks. He has pledged to remove the furlough days, the pushes, the pulls and restore this state to the once financial soundness that it was. That person cannot not do that in one year. There is not a man or a woman alive that could accomplish that in one year. We know that. The bills seem to still be popping out of the drawer, unpaid bills.

There is no question he inherited a financial disaster from the past administration. Everyone in this House has pledged that we will take a new direction. We will deal honestly with the people of

the State of Maine and pay our bills. Replacing a bunch of small gimmicks and schemes with another large one, the King Kong of gimmicks and schemes, flies in the face of the pledge that everybody made when we started down this new course. We have a Governor that is probably as popular as any Governor in our time on the second floor serving the people of the State of Maine. It is time that we bring the budget process to the light of day. We open it up for all people to see. No more behind closed doors. No more negotiations and cutting deals by a small group or a select few in this body and in the other body. Lets open this process up to the light of day.

Let people know that we are indeed serious about all the campaign promises and the pledges we made when we ran for reelection last November. To do that we have to open this process up. This Governor has given us the opportunity that we should not fail to seize. Not to do that, is a failure for us to do what we said we were going to do. Our people deserve much better than that. Tonight is the opportunity to start down that road. It is in our hands. We must not fail our people again. The choice is up to you. Thank you.

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

Representative DUNN: Mr. Speaker, Ladies and Gentlemen of the House: It has been said that we are trying to eliminate the gimmicks. The biggest gimmick of all is the hospital tax-and-match program. It has also been said tonight that there is little danger of hospitals closing. I would like to dispute that fact. We have under the proposal we have in the Minority Report the spacing of the hospital charge for the next two years based upon the net service revenue of the hospitals.

In the Majority Report and the Executive Report there is a change, but under that proposal acute care hospitals are going to be charged approximately 54 million over the next two years. This was never supposed to have been a tax on hospitals. This is the first time that hospitals are being taxed. You can call it a tax or an increase in tax whatever you want to, but the bottom line is that hospitals across this state are going to be charged additional amounts that they have not been charged to at this point.

The good Representative from Eagle Lake read off several losses that some communities might suffer. I would urge you to take a look at the report which I distributed recently and on the second page you will find a summary of hospitals that are going to be losing under the Majority Report versus the Minority Report. Many of those are very, very significant. Some of them are 2.5 million, one 5 million and several a million and more. There are some very serious problems, not only for the increase in costs to people who are sick, who cannot afford to pay those. Insurance costs are going to increase. There will be services that will be greatly restricted in some rural areas and in my belief there will be some hospitals that will be closed. There are at least 12 hospitals that are in jeopardy. The most that I have heard of that anyone can under the Majority Report can deal with is perhaps four of those 12 hospitals.

I think we have a very serious problem and we have a credibility problem with the people of the State of Maine if we do not fix this hospital tax. It was a tax that in the very beginning was not supposed to be. There was a promise to the hospitals when it was enacted in 1991 that they would be kept whole. In

the Majority Report that is not being honored. There is at least 54 million that is still being left with the hospitals. Thank you.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: The discussion tonight reminds me of an advertisement or a public service announcement that we occasionally hear for those who have an opportunity to see television. It is June 7 and where is your solution. We have been the first to admit all the speakers in support of the report in front of us that this is far from a perfect document. The alternative, which we are not discussing, has at least a 14 million dollar hole, if you take it as a whole. We don't know what the other parts are. That to me goes back to the budgets that went through previous legislatures that were patches on top of patches. It reminds me of the old inner tube that we used to use when we went swimming as children. Eventually the patches don't work anymore and the thing goes flat.

We have had, courtesy of the Speaker's Office, a summary under the title, State Government Pays its Bills, in summarizing the report we are not talking about. The reason why I am very comfortable bringing that up tonight is because on both bills that item is exactly the same except both pieces of legislation pay the same bills and except the report that we are talking about, the Minority Report, contributes 22 million dollars more to paying the bills than that other report. We are offering you an opportunity to pay off more of those past debts, gimmicks and mistakes that other budgets pushed upon the people of the State of Maine. I know that has been a big concern of several of the speakers here tonight. We are suggesting here to you that the vote you can cast tonight will do away with more of the old bills. It is very simply that we pay all the same accounts receivable, except the report in front of you puts 22 million dollars more toward tax-and-match.

We have heard the discussion about school funding. All this report does is go back to current law with all of its problems. Where is the other solution? The Education Committee didn't even meet today. It is June 7, folks, what are we doing about the problem? I certainly hope they get back together and come up with a solution. I am willing to put in my efforts. Several of my towns were mentioned by a previous speaker in the discussion to find a solution. It is June 7 and this is the only one we are talking about. Some people have challenged the various components of this proposal in front of us. As an example, the solution for the waste management issue that is included in this budget is the one I debated against a few hours ago. It is the report accepted by the majority of this body and the other body. I assume the other report will have the same thing in it or maybe they accepted my position. I don't know. This report makes a start. It commits the money to GPA. The other is in a fund out there, somewhere.

This report offers a solution, far from perfect, to a number of the problems facing this legislature. Lets see the other alternatives soon, if there are any. This is an opportunity to eliminate taxes and start down the road to reforming our spending habits. An opportunity to put at least our hospitals on some sound footing. They can plan for the next two years. It is a budget far from perfect, but it

is a whole budget. Even if another report is offered, there isn't another whole budget on our desks.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Everybody keeps talking about reducing taxes and how ridiculous it is. I firmly believe that if we can reduce our taxes, our economy will grow. If we don't reduce our taxes, our economy is not going to grow and therefore, we would be better off by doing it.

In 1993, Maine's personal income growth as 48th in the nation. We still have the highest unemployment rate. On November 8, 1993, U.S. News and World Report ranked Maine 47th in economic health, since the recovery began in 1991. In both 1992 and 1993 more people left Maine than moved in. In 1992, 6,000 people left the state. I am sure it is because their jobs were gone. In 1993, another 3,000 left the state. I am sure because their jobs were gone also. Well there are 9,000 people who are not paying taxes in this state to help us. They voted with their feet. Maine was not the way life should be, they had to leave.

There was a study done by the Congressional Joint Economic Committee. That report included that states, of which Maine is one, that enacted the largest tax increases in the midst of the budget problems in 1990 and 1991, now finds themselves in the poorest economic conditions. The top 10 tax avoidance states created a total of 653,000 jobs between 1990 and 1993. The top 10 tax increasing states, of which we were one, brought 3,000 jobs. The author of the report concluded that Maine would be better off financially and fiscally today, if they had not raised taxes, but instead done some cutting. I grant you tonight that I believe that if we do some cutting and lower our taxes, the economy of this state will get started.

I firmly believe the only way the economy of Maine is ever going to get started is to lower the taxes on the people. Put more money back into the common persons pocket and he or she will spend it. They will spend it for necessities. We still will have a sales tax of five percent and I say that we will probably have an increase. I firmly believe that. I urge you to support the Minority Report on the budget. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: My committee spent a lot of time this year working on legislation regarding the domestic violence problems in the State of Maine. I would like you to know that this budget also contains 1 million dollars, \$500,000 per year, toward Maine's domestic violence shelters.

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

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

ROLL CALL NO. 141

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joyce, Joyner, Kneeland, Labrecque, Lane, Layton,

Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

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

ABSENT - Bouffard, Dexter, Joy, Lemont, Rotondi, Truman, Yackobitz.

Yes, 68; No, 76; Absent, 7; Excused, 0.

68 having voted in the affirmative and 76 voted in the negative, with 7 being absent, the Minority "Ought to Pass" was not accepted.

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

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: As it was not proper to discuss the Majority Report while we were discussing the Minority Report, I tried to reframe from it. As we go through the Majority Report, there are two very simple points that I would like to make to you.

One, it does not significantly address the hospital sick tax. The 1991 increased and promised to go back down sales tax. The 1991 increased snack tax and promised to go down. This does not significantly do anything to help those hospitals which are most at risk to close. The second point is, we have heard a lot of discussion about a part II budget. In the part II, the Majority Report spends about 7 million dollars less than the unified Republican budget.

It is about 10 million dollars short when you start to look at part II for the items that the Governor has in part II, never mind anything anyone else might have in mind. The Majority Report does not have enough money for the issues we talked about. The Majority Report puts all the tough decisions off until later. Those are the two simple points I wanted to make. Representative Simoneau always tells me to use the kiss principle. Men and women of the House, thank you. Here is my kiss.

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

Representative KERR: Mr. Speaker, Men and Women of the House: The Majority Report, what it does do is it doesn't use a credit card for future impact on tax reductions. The Majority Report is going to allow this legislature to determine what the school funding formula will be. You are correct Representative Donnelly, it is a part I budget. It is that way for a reason. That is all we discussed in the Appropriations Committee room. We are still waiting for the committees to get back on welfare reform. As Representative Donnelly said earlier, the consent decree, the court master gives the Governor's proposal a warm response. It is going to take more time and more energy to resolve those issues. One thing that the Majority Report does is it gets our financial house in order and it also lets the people of this state know that state government is going to continue to move forward. It gets away from gridlock and confrontation. It funds the University. It funds the technical college at appropriate levels. I would urge this House to accept the Majority Report. Thank you.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: The Majority Report, yes, is a part I budget report. When I do my household budget, I like to look at a complete year. I find it very difficult to budget for a half a year when I know that my expenses are different throughout the year. I also feel very strongly that in the Majority Report it doesn't deal with the sick tax. It doesn't set a date to repeal the sick tax. I would like to read from a letter that is dated May 24 from a former Representative.

"Dear Fellow Democrats, The tax-and-match situation has become a partisan issue, but it should not be. As a Democrat, whose devotion to improving health care for Maine people is well-known, I am deeply concerned that in the in-fighting will deal a massive blow, not only to the quality of health care, but for our citizens, but to our party as well. The tax also will increase the cost shifting problem, driving up costs of health care and insurance for our friends and relatives and neighbors. I ask you not to be fooled by the arguments being made by some that we don't need to worry about this, because the insurance company will cover the difference. This tax will fall on real people in our communities. It will fall particularly hard on the back of patients who use the hospital service." Let me repeat those last two sentences. This tax will fall on real people in our communities. It will fall particularly hard on the backs of patients who use the hospital service.

Another part from the letter says, "I am on the Board of a non-profit community hospital in York. Almost all of the Maine hospitals are non-profit community organizations run by local citizens. They are in my town and they are also a leading employer. The equivalent of a major factory in the number of people they employ and the amount of money they put into the economy. The closure of any hospital in Maine must be greeted with the same alarm as the closure of any major factory. It is not fair to make one segment of our population, the sick, to bear the

burden for a problem that was not of their making and they should be solved by all of us."

I would just like to finish by saying that I can remember back in 1991 it was the hospitals who didn't come willingly to the tables. We asked, begged and pleaded if they could help generate revenues for the state. The hospitals said thanks, but no thanks. We really don't feel comfortable doing this. Again, they were asked, can you help us? Can you help us generate revenues that are badly needed for this state? Guess what ladies and gentlemen, they did. We promised that we would repeal this tax. I feel very strongly about the fact that come July 1, 1997, that this tax should be repealed.

Down in the committee we heard from the Department of Human Services. We heard from the Maine Hospital Association and there is a lot of confusion from the department as too, well what would this tie down? Are the feds going to repeal this? When are the match monies going to stop? I guess I feel we should have something certain. The one thing that we should have certain, so everybody can plan on is if we set a date certain, so that as we continue we will know how to plan. Ladies and gentlemen, in the Majority Report this does not happen. I ask you to vote against the Majority Report.

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

Representative OTT: Mr. Speaker, Men and Women of the House: We have now, before us, the Majority Report, which consists of part I. We have been told that this is all we need in order to move forward with this budget process. I take exception with Representative Kerr's characterization of his political perspective of how this part I budget has previously been passed. Yes it is true that back in 1981, 1983, 1985, 1987 and 1989, we did pass a part I. As Representative Donnelly has suggested, we passed that when we had a pile of money. We got that out of the way and then we had a cash cow to look at and say how are we going to spend this for the programs we want to enhance and new programs. Today we can't do that. We are not looking at a pot full of money. We are looking at limited financial resources.

It seems inconceivable to me that we would consider passing a budget without looking at the whole process in its entirety. If this body is truly interested in looking at spending of state government, I mean looking at spending without the utilization of gimmicks, if we are seriously interested and made a commitment that we are ready and prepared to come up here and make the tough decisions that might be required in the light of limited revenues, then I think it is impossible that we can act on this budget as it stands now. We have to look at a lot more than just a part I budget. I ask you to defeat the pending motion to pass this Majority Report. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to talk to you briefly about acceptance of the Majority "Ought to Pass" Report.

A couple of things you need to think about. The Majority "Ought to Pass" Report does not have, there was a reference to keeping things simple, tax cuts that will keep things extremely complicated in the out years for our local community. We talked easily

about cutting the sales tax, income tax and repealing the snack tax. You are easily just rolling out of everyone's mouth is about 500 to 600 million dollars. If you were just saying lets replace that money with sales tax and you were going to talk about it in terms of a two year budget cycle, you would be talking about a three cent sales tax increase. This budget reasonably pays for what we do and does not anticipate a tax cut before we know how we are going to make that happen. We have to pay the bills. We have to get back on point and if we go around cutting taxes without knowing how we are going to deal with it, we are going to load that back onto the property taxes.

There is a minimum amount of money that goes to keeping this state running. We are not going to close our prisons. We are not going to close hospitals that care for our disabled children. What are we going to close, if we are not closing the state mental hospitals and facilities for disabled children. We are not going to do nothing in AFDC for people who have found themselves in a hard place. There is only one place left to go and that is to education, roads and revenue sharing for our towns. I would urge you to vote with the Majority "Ought to Pass" Report so that we can proceed with paying our bills and not harming our towns. We had a very big vote the other day for property tax relief. This is the only way we are going to get around not adding to the property tax burden. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: The hospital tax has been brought up several times. I have a letter here from Health Source of Maine which says, "This tax on hospitals will cost 269 million dollars over the next four years. Also this tax will cost each business in the State of Maine to provide health care for their employees, \$65 a year per employee and \$155 a year for employees with family coverage." I thought we made a vow we weren't going to raise taxes. This is an increase in taxes to the hospitals. It is a large increase in taxes to the smaller hospitals, but this is an increase in tax to every employer in the State of Maine. We had better stop and think what we are doing here to our businesses out there because they are leaving now and they may be leaving faster. I would hope you would vote against the Majority Report.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I thought the Representative from Auburn defined our differences very, very precisely. She pleaded impassioned for taxes as I believe she has for the 10 years that she has been a member of this body. I appreciate that is a difference in philosophy. I would urge you to follow the advice of the good citizens of the Ellsworth area based on the survey that landed on my desk and perhaps a desk of a few of the rest of you, who in response to the question from the good Representative from that area said, "In 64 percent they did not want to see the Governor's budget passed without changes," which is essentially the Majority Report. I don't know how they knew, but they didn't like it either. However, the more important information was in question 22 is 72 percent who asked us to pass a tax cut. The report before you has none. Thank you.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, I won't be long. I just want to tell the people of the House that this budget is only going to do one thing. It is going to let the people of the State of Maine and the State of Maine employees know that we are going to pass this budget here this evening so that they will have a job and then we will get back to work on part II. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I wish that point had been brought up because we could have passed the Minority Report and done the same thing. Thank you.

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

ROLL CALL NO. 142

YE - Adams, Ahearne, Benedikt, Berry, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Greenlaw, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, KilKelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Guerrette, Hartnett, Heino, Jones, S.; Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, 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, Waterhouse, Whitcomb, Winglass, Winsor.

ABSENT - Bouffard, Dexter, Joy, Lemont, Rotondi, Truman, Yackobitz.

Yes, 75; No, 69; Absent, 7; Excused, 0.

75 having voted in the affirmative and 69 voted in the negative, with 7 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-386) was read by the Clerk.

Representative KERR of Old Orchard Beach presented House Amendment "A" (H-402) to Committee Amendment "A" (H-386) which was read by the Clerk.

On motion of Representative JACQUES of Waterville, tabled pending adoption of House Amendment "A" (H-402) to Committee Amendment "A" (H-386) and specially assigned for Thursday, June 8, 1995.

At this point, the Speaker appointed Representative MITCHELL of Vassalboro to serve as Speaker Pro Tem on Thursday, June 8, 1995.

On motion of Representative BUCK of Yarmouth, the House adjourned at 9:00 p.m., until 9:30 a.m., Thursday, June 8, 1995.