

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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
56th Legislative Day
Monday, June 12, 1995

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

Prayer by the Reverend Ernest Johnson, Manchester Community Church.

Pledge of Allegiance.

The Journal of Thursday, June 8, 1995 was read and approved.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Increase the Tax Exemption on Church Properties" (H.P. 284) (L.D. 388) has had the same under consideration and asks leave to report:

That it is unable to agree.

Signed:

Representatives: TUTTLE of Sanford

TRIPP of Topsham

MURPHY of Berwick

Sensors: HALL of Piscataquis

BEGLEY of Lincoln

RAND of Cumberland

The Committee of Conference Report was read.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I request permission to read a statement on the Record.

The SPEAKER: The Representative may proceed.

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I received a communication from Kevin Mattigan, Legislative Analyst, pertaining to L.D. 388, and the communication goes as follows. You've asked me if municipalities can act on property exemptions on an optional basis and if they have any discretion regarding assessment of property in a municipality. Article 9, section 8 of the Constitution of Maine states as follows, all taxes upon real and personal estate assessed by authority of this state shall be apportioned and assessed equally and accordingly to the just value thereof.

To this extent, this legislation which it states property owned and used by a religious society as a parsonage to the value of \$20,000 by increasing the assumption of 40, it is unconstitutional therefore, to make it a local option as we had decided in the Committee of Conference. Thank you.

The Committee of Conference Report was accepted.

SENATE PAPERS

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-223) on Bill "An Act to Connect Libraries and Communities Electronically" (S.P. 191) (L.D. 500)

Came from the Senate with the report read and accepted and the Bill and accompanying papers committed to the Committee on Appropriations and Financial Affairs.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-223) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-211) on Bill "An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services by Providing Mandatory Reimbursement to Counseling Professionals who are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems" (S.P. 38) (L.D. 68)

Signed:

Sensors:

ABROMSON of Cumberland

SMALL of Sagadahoc

McCORMICK of Kennebec

Representatives:

CHASE of China

GATES of Rockport

JONES of Pittsfield

MAYO of Bath

MITCHELL of Vassalboro

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

Signed:

Representatives:

CAMPBELL of Holden

GUERRETTE of Pittston

LUMBRA of Bangor

VIGUE of Winslow

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-211).

Was read.

Representative VIGUE of Winslow moved that the House accept the Minority "Ought Not to Pass" Report.

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-220) on Bill "An Act to Create an Intermediate License for Minors" (S.P. 166) (L.D. 427)

Signed:

Sensors:

STEVENS of Androscoggin

PARADIS of Aroostook

CASSIDY of Washington

Representatives:

O'GARA of Westbrook

RICKER of Lewiston

DRISCOLL of Calais

BOUFFARD of Lewiston

CHARTRAND of Rockland

LINDAHL of Northport

FARNUM of South Berwick

STROUT of Corinth

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

Signed:

Representatives:

HEINO of Boothbay

BAILEY of Township 27

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-220).

Was read.

Representative O'GARA of Westbrook moved that the House accept the Majority **"Ought to Pass"** as amended Report.

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

Divided Report

Majority Report of the Committee on Transportation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-202) on Bill "An Act to Create the Northern New England Passenger Rail Authority" (EMERGENCY) (S.P. 459) (L.D. 1255) (Governor's Bill)

Signed:

Senators:

PARADIS of Aroostook
CASSIDY of Washington
O'GARA of Westbrook
RICKER of Lewiston
BOUFFARD of Lewiston
BAILEY of Township 27
STROUT of Corinth
DRISCOLL of Calais
CHARTRAND of Rockland
FARNUM of South Berwick

Representatives:

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

Signed:

Senator:

STEVENS of Androscoggin

Representatives:

HEINO of Boothbay
LINDAHL of Northport

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-202).

Was read.

Representative O'GARA of Westbrook moved that the House accept the Majority **"Ought to Pass"** as amended Report.

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

Divided Report

Majority Report of the Committee on Human Resources reporting **"Ought Not to Pass"** on Bill "An Act to Promote Competition and Managed Care Cost Savings in the Pharmaceutical Market" (S.P. 224) (L.D. 584)

Signed:

Senators:

BENOIT of Franklin
PINGREE of Knox
FITZPATRICK of Durham
JOHNSON of South Portland
JOYNER of Hollis
SHIAH of Bowdoinham
MARVIN of Cape Elizabeth
ETNIER of Harpswell
WINGLASS of Auburn
LOVETT of Scarborough
JONES of Bar Harbor
MITCHELL of Portland

Representatives:

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-224) on same Bill.

Signed:

Senator:

PENDEXTER of Cumberland

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

Was read.

On motion of Representative FITZPATRICK of Durham the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

Non-Concurrent Matter

Resolve, Authorizing Verne Lee to Sue the Department of Human Services and the State of Maine (H.P. 89) (L.D. 124) on which the Minority **"Ought to Pass"** as amended Report of the Committee on Legal and Veterans Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-356) in the House on June 7, 1995.

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

Non-Concurrent Matter

Bill "An Act to Establish Qualifications for Public Utilities Commissioners" (H.P. 713) (L.D. 970) on which the Majority **"Ought to Pass"** as amended Report of the Committee on Utilities and Energy was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-345) in the House on June 7, 1995.

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

On motion of Representative JACQUES of Waterville, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Law Relating to Municipal Service Fees and to Modify the Reimbursement Policy for Hospitals to Recover Service Fees Paid" (H.P. 550) (L.D. 746) on which the Minority **"Ought to Pass"** as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-244) in the House on June 6, 1995.

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

On motion Representative JACQUES of Waterville, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Increase Levels of Property Tax Relief Found in the Maine Residents Property Tax Program" (H.P. 450) (L.D. 616) on which the Majority **"Ought to Pass"** as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-333) in the House on June 6, 1995.

Came from the Senate with the Minority **"Ought to Pass"** as amended Report of the Committee on Taxation read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-334) in non-concurrence.

Representative JACQUES of Waterville moved that this Bill be tabled unassigned.

Representative WATERHOUSE of Bridgton requested a roll call on the motion to table unassigned.

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 pending question before the House is the motion to table unassigned. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 144

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chizmar, Clark, Davidson, Desmond, DiPietro, Driscoll, Etnier, Fisher, Fitzpatrick, Gates, Gerry, Gooley, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, LaFountain, Lemaire, Lemont, Martin, Mitchell EH; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Thompson, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, The Speaker.

NAY - Aikman, Barth, Bigl, Birney, Buck, Cameron, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Greenlaw, Hartnett, Heino, Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lumbra, Marshall, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Ault, Bailey, Campbell, Carleton, Chase, Cloutier, Daggett, Dexter, Dore, Gamache, Gieringer, Guerrette, Jones, S.; Keane, Kontos, Lemke, Lovett, Luther, Madore, Marvin, Meres, Mitchell JE; Ott, Peavey, Rotondi, Saxl, J.; Stevens, Townsend, Truman, Winn, Yackobitz.

Yes, 61; No, 59; Absent, 31; Excused, 0.

61 having voted in the affirmative and 59 voted in the negative, with 31 being absent, the Bill was tabled unassigned.

COMMUNICATIONS

The following Communication: (S.P. 584)

117TH LEGISLATURE

June 8, 1995

Senator Philip E. Harriman

Representative G. Steven Rowe

Chairpersons

Joint Standing Committee on Business and Economic Development

117th Legislature

Augusta, Maine 04333

Dear Senator Harriman and Representative Rowe:

Please be advised that Governor Angus S. King, Jr. has nominated Richard J. McGoldrick of Cape Elizabeth for appointment as a member of the Finance Authority of Maine.

Pursuant to Title 10, MRSA Section 965, this nomination will require review by the Joint Standing

Committee on Business and Economic Development and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

Came from the Senate, read and referred to the Committee on Business and Economic Development.

Was read and referred to the Committee on Business and Economic Development in concurrence.

The following Communication: (S.P. 585)

117TH MAINE LEGISLATURE

June 8, 1995

Senator Jane A. Amero

Representative Beverly C. Daggett

Chairpersons

Joint Standing Committee on State and Local Government
117th Legislature

Augusta, Maine 04333

Dear Senator Amero and Representative Daggett:

Please be advised that Governor Angus S. King, Jr. has nominated Linda Riddell of South Portland and P. Vincent O'Malley of Portland for appointment as members of the Workers' Compensation Board.

Pursuant to Title 39-A, MRSA Section 151, these nominations will require review by the Joint Standing Committee on State and Local Government and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

Was read and referred to the Committee on State and Local Government in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Resolve, Prohibiting the Maine Court Facilities Authority from Locating Court Facilities upon Certain Property (H.P. 1124) (L.D. 1569) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Representative TUTTLE of Sanford and Representatives: AHEARNE of Madawaska, AIKMAN of Poland, BAILEY of Township 27, BARTH of Bethel, BENEDIKT of Brunswick, BIGL of Bucksport, BRENNAN of Portland, BUCK of Yarmouth, CAMERON of Rumford, CAMPBELL of Holden, CHASE of China, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUTIER of South Portland, CLUKEY of Houlton, DAGGETT of Augusta, DAVIDSON of Brunswick, DESMOND of Mapleton, DIPIETRO of South Portland, DONNELLY of Presque Isle, DORE of Auburn, DRISCOLL of Calais, ETNIER of Harpswell, FISHER of Brewer, GAMACHE of Lewiston, GATES of Rockport, GERRY of Auburn, GOOLEY of Farmington, GOULD of Greenville, GREEN of Monmouth, GUERRETTE of Pittston, GWADOSKY of Fairfield, HARTNETT of Freeport, HEINO of Boothbay, HICHBORN of Lagrange,

JACQUES of Waterville, JONES of Bar Harbor, JOSEPH of Waterville, JOY of Crystal, JOYCE of Biddeford, KILKELLY of Wiscasset, KNEELAND of Easton, LAYTON of Cherryfield, LEMKE of Westbrook, LIBBY of Kennebunk, LOOK of Jonesboro, LUTHER of Mexico, MARSHALL of Eliot, McELROY of Unity, MERES of Norridgewock, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, NICKERSON of Turner, O'NEAL of Limestone, PERKINS of Penobscot, PINKHAM of Lamoine, POIRIER of Saco, POULIN of Oakland, POULIOT of Lewiston, REED of Falmouth, RICHARDSON of Portland, RICKER of Lewiston, ROSEBUSH of East Millinocket, ROTONDI of Madison, SAMSON of Jay, SAXL of Portland, SIMONEAU of Thomaston, SIROIS of Caribou, SPEAR of Nobleboro, STEVENS of Orono, STONE of Bangor, THOMPSON of Naples, TOWNSEND of Portland, TRIPP of Topsham, TUFTS of Stockton Springs, VIGUE of Winslow, VOLENIK of Sedgwick, WATERHOUSE of Bridgton, WATSON of Farmingdale, WHEELER of Bridgewater, WHITCOMB of Waldo, WINN of Glenburn, Senators: ABROMSON of Cumberland, AMERO of Cumberland, BEGLEY of Lincoln, BENOIT of Franklin, BERUBE of Androscoggin, CAREY of Kennebec, CARPENTER of York, CASSIDY of Washington, CIANCHETTE of Somerset, CLEVELAND of Androscoggin, ESTY of Cumberland, FAIRCLOTH of Penobscot, HALL of Piscataquis, HARRIMAN of Cumberland, LORD of York, MICHAUD of Penobscot, MILLS of Somerset, O'DEA of Penobscot, PARADIS of Aroostook, PENDEXTER of Cumberland, SMALL of Sagadahoc, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on Judiciary suggested.

On motion of Representative KERR of Old Orchard Beach, tabled pending reference and later today assigned.

State and Local Government

Bill "An Act to Reform the Kennebec County Budget Process" (H.P. 1122) (L.D. 1566) (Presented by Representative MITCHELL of Vassalboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Establish a User Fee System for Towns Requiring Sheriff's Services" (H.P. 1125) (L.D. 1570) (Presented by Representative OTT of York) (Cosponsored by Representatives: CARLETON of Wells, FARNUM of South Berwick, JOYCE of Biddeford, KERR of Old Orchard Beach, LaFOUNTAIN of Biddeford, LEMONT of Kittery, MARSHALL of Eliot, MURPHY of Berwick, NADEAU of Saco, Senator: LAWRENCE of York)

Utilities and Energy

Bill "An Act to Facilitate Sewer and Water Main Extensions" (H.P. 1123) (L.D. 1567) (Presented by Representative OTT of York) (Cosponsored by Senator: STEVENS of Androscoggin) (Governor's Bill)

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

S. Glenn Starbird, Jr., of Kingman, who was a former Member of the Maine House of Representatives during the 102nd-105th Legislatures. He also worked for the Department of Indian Affairs and for the Penobscot Nation as a genealogist and historian. He

will be greatly missed by his family and friends; (HLS 447) by Representative JOY of Crystal. (Cosponsors: Representative MARTIN of Eagle Lake, Representative BISULCA of the Penobscot Nation, Senator MICHAUD of Penobscot, Representative MOORE of the Passamaquoddy Tribe)

On objection of Representative JOY of Crystal was removed from the Special Sentiment Calendar.

Was read.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I don't think that any former member of this body should pass without being duly recognized by the following bodies of this House. I would like to take just a few moments to pay tribute to Glenn Starbird.

Glenn was born in Kingman, which was about seven miles from where I was born. We came in contact many times. His interest in genealogy extended way back even when he was a young boy. Every time that I met him, he always referred to me as cousin and in having a chance to go back and check through there, we were indeed cousins.

He grew up in a town where the people had to really struggle and fight to survive and he was a fighter. They didn't fight because they had any grudges against anybody, they just loved to fight and struggling to survive was a way of life.

We knew him as Tuck, we did not know him as Glenn, because his father was Glenn and he didn't want to be called Junior so that nickname stuck with him all of his life.

An interesting anecdote of his first year in the legislature, that's back when freshman legislators were like little children, they should be seen and not heard. During the process of going through that year, he got up to speak on an issue and after the session, a senior member of the body took him aside and advised him that he was not supposed to be speaking on issues in his first year, and he replied, "Sir, with all due respect, this may be my only year, so I have to speak up."

Back in the days of the 102nd to the 105th Legislature, I was not really too interested in politics, being in the business of trying to raise my family and get them through school, but I was very pleased to know, that I had a fighter down here representing me in the legislature. In the middle of his term in the 105th Legislature, he left the legislature and took a job with the Penobscot Indian Nation or the Department of Indian Affairs and he worked very hard and was very dedicated to his job. I think that there are other people who may be able to speak longer and more eloquent about his achievements, but they will agree I'm sure, on one thing, that he was a fighter and for every cause that he took on, he never gave up. Mr. Speaker, I would ask that when we adjourn today that we do so in memory of the Honorable S. Glenn Starbird, Jr. of Kingman. Thank you very much.

Subsequently, was adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative KILKELLY from the Committee on Agriculture, Conservation and Forestry on Bill "An Act to Implement the Recommendations of the

Commission to Study Potato Quality Issues" (H.P. 1060) (L.D. 1489) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-408)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-408) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative TYLER from the Committee on Agriculture, Conservation and Forestry on Bill "An Act Concerning Potato Blight Eradication and the Disposal of Cull Potatoes" (EMERGENCY) (H.P. 1096) (L.D. 1540) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-418)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-418) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-400) on Bill "An Act Relating to the Renewal of a Teacher Certificate That Has Lapsed for More Than 5 Years" (H.P. 759) (L.D. 1033)

Signed:

Senators: SMALL of Sagadahoc
ESTY of Cumberland
ABROMSON of Cumberland

Representatives: AULT of Wayne
BARTH of Bethel
DESMOND of Mapleton
STEVENS of Orono
CLOUTIER of South Portland
MARTIN of Eagle Lake
McELROY of Unity
BRENNAN of Portland

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

Signed:

Representative: LIBBY of Buxton
Representative WINN of Glenburn - of the House - abstaining.

Was read.

On motion of Representative MARTIN of Eagle Lake the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-400) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

CONSENT CALENDAR

First Day

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

(S.P. 353) (L.D. 981) Bill "An Act to Amend the Teacher Certification Laws Relating to Certification Waivers" Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-225)

(H.P. 558) (L.D. 759) Bill "An Act to Encourage the Use of Tire-derived Fuel" Committee on Natural

Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-409)

(H.P. 860) (L.D. 1191) Bill "An Act to Amend the Substance Abuse Testing Laws" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-415)

(H.P. 1066) (L.D. 1501) Bill "An Act to Include Child Care Centers in the Property Tax Exemptions and to Amend the Review Schedule for Property Tax Exemptions" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-406)

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

CONSENT CALENDAR

Second Day

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

(S.P. 264) (L.D. 704) Bill "An Act to Provide Limited Immunity to Former Employers Who Provide References" (C. "A" S-218)

(S.P. 436) (L.D. 1204) Bill "An Act to Wind Up the Affairs of the Maine Medical and Hospital Malpractice Joint Underwriting Association" (C. "A" S-215)

(H.P. 716) (L.D. 973) Bill "An Act to Improve Maine Students' Preparedness for the Global Economy by Enhancing Opportunities for Global Education" (C. "A" H-396)

(H.P. 722) (L.D. 996) Bill "An Act to Prevent the Loss of Federal Impact Aid Funds to Schools Required to Reimburse under Federal Law" (C. "A" H-397)

(H.P. 935) (L.D. 1324) Bill "An Act to Require the Commissioner of Defense and Veterans' Services to Be Confirmed by the Legislature" (C. "A" H-394)

(H.P. 950) (L.D. 1339) Bill "An Act to Create Fair School Bus Driver Licensing" (C. "A" H-388)

(H.P. 1031) (L.D. 1450) Bill "An Act to Reestablish the Office of Environmental Evaluation and Lake Studies" (C. "A" H-395)

(H.P. 1054) (L.D. 1483) Resolve, to Create Educational Options for Exceptional Children (C. "A" H-398)

(H.P. 1092) (L.D. 1535) Bill "An Act Regarding School Construction in School Administrative District No. 49" (EMERGENCY) (C. "A" H-399)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Make the Workers' Compensation Laws for Temporary Employees Consistent with Those Laws for Permanent Employees" (H.P. 85) (L.D. 121) (C. "A" H-401)

Bill "An Act to Encourage an Alternative Fishery" (S.P. 428) (L.D. 1196) (C. "A" S-222)

Bill "An Act to Establish the DNA Data Base and Data Bank Act" (S.P. 480) (L.D. 1304) (C. "A" S-219)

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

Paper was Passed to be Engrossed as Amended and sent up for concurrence.

Resolve, to Provide Clear Title for the Maine Judicial Center (EMERGENCY) (S.P. 507) (L.D. 1366)

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

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

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

ENACTORS

Emergency Measure

An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1996 and June 30, 1997 (H.P. 522) (L.D. 712) (Governor's Bill) (C. "A" H-348)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1995-96 (H.P. 701) (L.D. 959) (H. "A" H-368 to C. "A" H-336)

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

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

Emergency Measure

An Act Regarding the Granting of Hotel Liquor Licenses to Establishments (H.P. 830) (L.D. 1161) (C. "A" H-330)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Establishing a Commission to Study the Trespass Laws (H.P. 954) (L.D. 1343) (C. "A" H-344)

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

Representative JACQUES of Waterville requested a roll call on passage to be enacted.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I am a little confused by this past vote unless it's a fact that people want to vote against the commission. For 17 years people have been coming to us and saying you've got to do something about the trespass laws. This year we had a bill that comes in and establishes a working group of all parties that are interested in doing something about the trespass law. If we don't pass something like this, get attorneys involved, landowners involved, small and large, state involved and everyone else involved, then don't come back to the legislature and cry about not doing something about the trespass law. Let people go over your property, do what they will, do what they want, and when you don't like it, too bad, don't waste the time calling the game wardens or the state police or the sheriff or anybody else. The laws we have now we have on the books are inadequate, they're scattered all over the place, they make no sense and this is an attempt to try to fix that problem. I'm just baffled, I truly am. I understand people don't like commissions, but this is one that is sorely needed. The only way you're going to deal with trespass in the State of Maine is to be able to go through this process, put it all together, and put some teeth in it. So I would respectfully urge you to reconsider your no vote and pass this commission so they can do their work and you can really do something to protect your people when it comes to trespass. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 145

YEA - Adams, Ault, Benedikt, Berry, Bouffard, Brennan, Buck, Bunker, Carleton, Chartrand, Chase, Chizmar, Clark, Cloutier, Clukey, Damren, Davidson, Desmond, Dexter, DiPietro, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Joseph, Joyner, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JL; Lindahl, Luther, Marshall, Martin, Mayo, McAlevey, McElroy, Mitchell EH; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Perkins, Plowman, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stone, Strout, Taylor, Thompson, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Watson, Wheeler, Whitcomb, Winglass, The Speaker.

NAY - Ahearne, Aikman, Barth, Bigl, Birney, Cameron, Campbell, Chick, Cross, Donnelly, Heino, Joy, Joyce, Libby JD; Look, Lovett, Lumbra, Marvin, Nass, Nickerson, Peavey, Pinkham, Rice, Robichaud, Stedman, Waterhouse, Winsor.

ABSENT - Bailey, Daggett, Dore, Jacques, Jones, S.; Keane, Kerr, Kilkelly, Lemke, Madore, Meres, Mitchell JE; Ott, Poirier, Rotondi, Saxl, J.; Stevens, Townsend, Truman, Winn, Yackobitz.

Yes, 103; No, 27; Absent, 21; Excused, 0.

103 having voted in the affirmative and 27 voted in the negative, with 21 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Amend the Kennebec Water District Charter by Allowing the Town of Vassalboro and the Town of Benton to have a Permanent Member on the Board of Trustees (H.P. 461) (L.D. 627) (H. "A" H-373)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 3 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

Mandate

An Act to Amend the Medical Examiner Act (S.P. 438) (L.D. 1206) (C. "A" S-198)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow the Sale of Irradiated Food in the State (H.P. 437) (L.D. 603) (C. "A" H-128)

An Act to Amend the Laws Regarding Use and Acquisition of State Property (S.P. 250) (L.D. 647) (C. "A" S-201)

An Act to Limit the Size of Drag Nets Used in South Bay in Eastport (H.P. 605) (L.D. 815) (C. "A" H-358)

An Act to Amend the Continuing Care Retirement Community Law (S.P. 338) (L.D. 919) (C. "A" S-194)

An Act to Transfer Responsibility for Approval of Employee Assistance Programs (S.P. 350) (L.D. 978)

An Act to Exempt Goods Sold by Scouting Organizations from the Sales Tax (H.P. 776) (L.D. 1073) (C. "A" H-338)

An Act to Amend the Probate Code Regarding Conservators (H.P. 911) (L.D. 1287) (C. "A" H-327)

An Act to Make Certain Changes to Postconviction Review (H.P. 955) (L.D. 1344)

An Act to Promote Long-term Economic Development through the Establishment of the Maine Technology Investment Fund (S.P. 511) (L.D. 1370) (C. "A" S-196)

An Act to Make Minor Adjustments to the 1993 Apportionment Plan (H.P. 977) (L.D. 1386) (C. "A" H-340)

An Act to Preserve Deteriorating and Irreplaceable Historic Battle Flags and Banners (S.P. 523) (L.D. 1421)

An Act Pertaining to the Purchase Deposit on Automobiles (H.P. 1014) (L.D. 1429) (C. "A" H-326)

An Act to Prohibit the Sale of Firearms to Minors without Parental Approval (S.P. 550) (L.D. 1509) (C. "A" S-199)

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (H.P. 934) (L.D. 1315) (C. "A" H-337)

Resolve, Directing the Board of Osteopathic Licensure and the Board of Licensure in Medicine to Review Maine State Licensing Requirements for Medical Professionals Performing Medical Procedures for Maine Residents (S.P. 534) (L.D. 1472) (C. "A" S-197)

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

An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items (S.P. 84) (L.D. 203) (C. "A" S-190)

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

On motion of Representative MURPHY of Berwick was set aside.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I just can't let this go without thinking about it one more time. Just stop and think what we are doing here this morning. We are voting to enact into law a bill that does away with an agency, but keeps the fees. Keeps the fees for six months on two items and keeps the fees for a year and six months on two more items.

We've got all kinds of things to help businesses, the Governor has come up with a refund for industry, and I certainly agree with it. This here is something that is going to help the little guy, and not only the little guy, the consumers as well. I just can't imagine going home and telling the people I represent, yes, we did away with Waste Management, but we kept the fees on for awhile. All of us want to keep the fees on tires because we have a problem disposing of them. White goods are no longer a problem disposing of. Furniture really isn't a problem disposing of. I think we ought to stop and think what we are doing and if these positions are needed in the State Planning Office, I don't question it. I don't question that they need the positions in DEP, well, maybe I do question it, but I'll go along if they need them.

Go before the Appropriations Committee and say they are needed, and fund them appropriately, don't fund them on disposal fees. We told the people that we have done away with the Waste Management Agency for which those fees were started in the beginning. I think this is bad, you're not telling the people the truth. I don't believe that they are really going to understand it when we do tell them, well no, we're keeping the fees on for awhile. I know I can't understand it and I don't think that the constituents I represent can understand it either. If fact, I know I have a little furniture store down here in Kittery that called me and they certainly cannot understand it at all.

Coming up this morning, there was Allen's Wayside Furniture in Portsmouth, advertising tax free on the radio, disposal fees free. This is what's happening to the southern part of this state when we keep this fees on and I know we can't do anything about the wholesale tax, but we're trying. This is one thing that in all honesty, our creditability, I think is at

stake, while my conscience is clear because I've certainly fought hard to get rid of these fees. Mr. Speaker I would like a division on this.

The Chair ordered a division on passage to be enacted.

Representative JACQUES of Waterville requested a roll call on passage to be enacted.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: We debated this issue quite a lot last week and I hope you remember some of the points that we talked about. I think we all agreed that the fees do need to go, but it's a matter of when they go. This bill will allow the fees to phase out over a period of time. Your bathtubs and appliances will end at the end of this year. Your furniture and mattresses will end a year from January. It is quite important to have these fees phase out over a period of time to take care of the many problems that we have facing us in the trash disposal area. Yes, we have done away with Waste Management Agency and we've saved 1.2 million dollars by doing away with that agency. We are saving a lot of money.

Don't forget, we have as much trash being produced today as we did yesterday and we will each day forward. We still have a lot of problems out there to take care of and we need to be able to do this. I would urge you to support the enactment of this bill and vote to pass it. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Maybe it's time to tell you exactly what this money is going to be going for. It's going to go, the good part of it for tires and I agree with that. When the good Representative told me the other day that in back of his house they hauled in tires from a landfill in Vermont, that are so filled with dirt they probably won't be able to chip them.

Ladies and gentlemen, that is what you are putting on the backs of your people to do. Allowing this state to bring these tires in here, we are the largest importer of tires, but when they start cleaning out their landfills and putting the cost of cleaning it up on the backs of my constituents and my little businesses, I'm certainly not voting for it. I don't believe that the people back home are going to understand that we are cleaning up a landfill tire, or tire landfill, whatever you call it, in Vermont and bring them down here so filled with dirt. I realize we have a problem with tires and we should take care of our own. We shouldn't be the biggest tire importer for the whole United States and the western hemisphere. Thank you, I urge you to vote against the motion.

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

Representative Treat: Mr. Speaker, Men and Women of the House: I just wanted to remind you about the importance of passing this piece of legislation for our communities. Last week you got a newsletter, one of the weekly newsletters that come from the Maine Municipal Association and one of the articles in that newsletter outlined the position of the Maine Municipal Association, which is, in favor of the pending bill. I will read a couple of lines from it because I do think it outlines what is so important about keeping this bill and the remaining very few positions that used to be over at the Waste Management Agency and are now going to be transferred over to the State Planning Office, the importance of that.

In addition to the tire cleanup and control aspect of it, it would also maintain positions which monitor landfills, protect against illegal waste dumping and provide for land disposal of septic and sewer waste. In addition it would maintain the safe existing investment in the Carpenter Ridge Landfill Development which is what we need to have in order to have a safety net for our special waste. Finally, both the planning effort and Carpenter Ridge effort are necessary if we are, in any way at all, to control out of state waste. I know I talked about this at great length last week, so I won't repeat that for you, but I hope you will keep in mind that the only way we have right now to control out-of-state waste is by limiting our commercial landfill development and keeping the Carpenter Ridge site, as well as the planning effort. We cannot do that if we don't maintain a small level of planning and staff over at the State Planning Office and for that reason, and that's one of several reasons that the Maine Municipal Association strongly encourages you to vote for the pending bill. That will maintain at a much reduced level, but it will maintain our existing safety net and our ability to control out-of-state waste. I urge you to support the pending bill. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 146

YEA - Adams, Ahearne, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Greenlaw, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemaire, Libby JD; Martin, Mayo, McAlevy, Mitchell EH; Nadeau, Nickerson, O'Gara, O'Neal, Paul, Pendleton, Plowman, Poirier, Poulin, Pouliot, Povich, Rice, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Sirois, Spear, Stone, Strout, Thompson, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, Whitcomb, Winglass, The Speaker.

NAY - Aikman, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Donnelly, Dunn, Farnum, Gieringer, Gookey, Guerrette, Hartnett, Joy, Joyce, Joyner, Layton, Lemont, Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Marshall, Marvin, McElroy, Murphy, Nass, Peavey, Perkins, Pinkham, Reed, G.; Reed, W.; Simoneau, Stedman, Taylor, True, Tufts, Tuttle, Underwood, Waterhouse, Winn, Winsor.

ABSENT - Bailey, Dore, Jones, S.; Keane, Lemke, Madore, Meres, Mitchell JE; Morrison, Ott, Rotondi, Saxl, J.; Stevens, Townsend, Truman, Yackobitz.
Yes, 88; No, 47; Absent, 16; Excused, 0.

88 having voted in the affirmative and 47 voted in the negative, with 16 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Extend to Businesses the Laws Concerning Protection from Harassment (H.P. 275) (L.D. 377) (C. "A" H-328)

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

On motion of Representative JACQUES of Waterville was set aside.

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

An Act to Provide a Tax Credit for the Rehabilitation of Historic Properties (H.P. 715) (L.D. 972) (C. "A" H-322)

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

On motion of Representative TUTTLE of Sanford was set aside.

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

An Act to Exempt Bows from the Firearms Discharge Ordinances (H.P. 785) (L.D. 1102) (C. "A" H-335)

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

On motion of Representative JACQUES of Waterville was set aside.

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

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

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

Bill "An Act to Amend the Law Relating to Municipal Service Fees and to Modify the Reimbursement Policy for Hospitals to Recover Service Fees Paid" (H.P. 550) (L.D. 746) (C. "A" H-244) which was tabled by Representative JACQUES of Waterville pending further consideration.

On motion of Representative STONE of Bangor the House voted to Recede.

The same Representative presented House Amendment "A" (H-407) to Committee Amendment "A" (H-244) which was read by the Clerk.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: This motion modifies the amount of funds that will be required to complete the study. It reduces it by \$3,000, because it takes money away from any of those who are not in the

legislature, the other members of the commission, which we hope to appoint, the tax exempt properties and the Governor appointees.

Originally the amount was \$8,400 and this reduces it to \$5,400. I hope that by the time this gets to Appropriations, I will have commitments from 10 or 12 municipalities to further reduce that amount to zero, but I'm obviously not in a position to amendment it any further at this point, but some municipalities are bringing it before their perspective councils now.

This amendment will allow the commission to go forward and address the concerns of several members of, "Oh my goodness, this is just another commission to spend more money." We've reduced it as far as possible and hope to reduce it further. Thank you.

The SPEAKER: The pending question before the House is adoption of House Amendment "A" to Committee Amendment "A".

Subsequently, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" (H-244) as amended by House Amendment "A" (H-407) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-244) as amended by House Amendment "A" (H-407) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

Bill "An Act to Establish Qualifications for Public Utilities Commissioners" (H.P. 713) (L.D. 970) (C. "A" H-345) which was tabled by Representative JACQUES of Waterville pending further consideration.

On motion of Representative KONTOS of Windham the House voted to Insist and ask for a Committee of Conference. Ordered sent forthwith.

Senate Divided Report - Committee on Transportation - (10) Members "Ought to Pass" as amended by Committee Amendment "A" (S-202) - (3) Members "Ought Not to Pass" on Bill "An Act to Create the Northern New England Passenger Rail Authority" (EMERGENCY) (S.P. 459) (L.D. 1255) (Governor's Bill) which was tabled by Representative O'GARA of Westbrook pending his motion to accept the Majority "Ought to Pass as amended Report.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: First of all, you've just had passed out to you, just minutes ago, right on your desk, two pieces of information that I hope you'll have a chance to look at as I and others will be talking. I'm going to keep my initial remarks very brief.

The L.D. that we're talking about now creates the Northern New England Passenger Rail Authority for the general purpose of promoting passenger rail service. This authority is the successor in interest to the Department of Transportation in promoting this service. The bill authorizes the transfer of existing funds reserved for railroad improvements in Private and Special Law to the authority.

Just a little bit of history, for those of you who were not around when this legislation was first passed, L.D. 720 was an Act to Enact the Passenger Rail Service, during the last session of the 115th Legislature. The effective date for the act was October 9th, 1991. L.D. 720 was a citizen's

initiated bill to require the Maine Department of Transportation to take active steps to initiate, establish, maintain and expand regularly scheduled passenger rail service in Maine. A bond issue was subsequently passed with 3 million dollars for establishing a passenger rail.

A variety of questions have come up having to do with liability, and I think that's one of the main points that I want to stress with you right at this point in time. Language in the bill that you have before you, L.D. 1255, insulates the State of Maine from a variety of liabilities associated with the establishment and operation of a passenger rail. L.D. 1255 enacts the bill with the language that reads as follows: "the authority, this is the Rail Authority we will be creating with this bill, as successor and interest to the Department of Transportation and to its rights and privileges shall receive federal and state funds previously authorized to the department for that purpose and upon creation of the authority all such rights, privileges and liabilities."

We've had an opinion from the Attorney General's Office and, in fact, all the liabilities that you may be hearing about, or may not be hearing about and are described in the pamphlet that we've just had passed out to you, are, in fact the responsibility of the authority. The question really comes down to the fact that it has to be done, there are documents that have to be signed either by the State of Maine, because that's how the law was passed, the public has said so, that we will do this and so there are documents that have to be signed one way or the other. The question is, shall they be done by the state, by the Department of Transportation and thereby the state having the responsibility, if something should go wrong or shall it be signed by the authority to which all questions of liability would be referred. The fact of the matter is, that the biggest one that you might hear a concern about is the need for the state to reimburse the funds if, in fact, the authority, the rail service does not go into effect. In fact, there is a law on the books, but no state, nobody that has ever received federal funds has been asked to return those funds. In our case, we will have created an authority, we will be underway with it.

The question before us today, is do we want to create an authority, which will finally begin to pull all the loose ends, ever since I've been in the legislature, as a matter of fact, just as a side, on a personal note. The very first year I came to the legislature, the Maine Development Foundation started its tours on which many of you have gone. The very first one was to northern Maine, a three day trip, similar to the one we took this past year. One of the things that I heard over and over again from people north of the City of Portland was a need for rail service, for bringing back rail service, both kinds of rail service, good adequate passenger service, good adequate freight service. Here we are 10 years later and we're still talking about rail service to the State of Maine and we have little groups, here and there all over the state, little bits and pieces of railroad all over the state, the authority, itself would finally bring all of those together. This would develop one central point where all of this could be discussed and move on with this transportation problem that we have faced for many years.

We keep talking about the environment. We keep talking about the crowded turnpike. We keep talking about the cost of air, as a matter of fact, all we have to do is see that, in fact, our air service is diminishing not improving. I wonder why there might be any opposition to creating this authority to once and for all pull all of these things together. So with that initial comment and I know there are many others on both sides of the issue that are going to be talking. I would urge support of this, as a matter of fact, it was a 10 to 3 report out of the Transportation Committee. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: We hear a lot about the 90,000 people who signed a petition to create the Railroad Authority in the State of Maine. When they signed that petition, I doubt very much if they were told or asked, would you sign this petition if you had to raise a considerable amount of tax money to support it?

Recently, within the last month, I attended, along with other Representatives from Lincoln County, a public meeting in Damariscotta. When asked if they would support a considerable amount of tax money to support a Rail Authority, not one single person voted yes. Now let me repeat that, not one single person in that public meeting voted yes. Everyone's concerned about, well we're going to miss getting the 38 million dollars from the federal government. Ladies and gentlemen, that is your money also. We were told during the hearings that we would receive a letter from the federal government exonerating the State of Maine from ever having to pay back the 38 million dollars should this thing go belly up. Well we got a letter, but it did not, in fact, say what we expected. What it stated was that heretofore, no one has ever had to pay it back and they didn't expect that we would, if this authority went belly up, but it didn't give us the letter that we were promised.

Amtrak, if you have looked at their financial records and their record throughout the United States in the last months or years, it is not the best business in the United States. I'm not sure that it would be a good idea for the State of Maine or Railroad Authority to get in bed with Amtrak, because their assets are so low and their business policies and the way they operate is so poor. Now if you can't operate Amtrak between Chicago and Washington D.C. where millions and millions of people reside, how do you expect to make a successful run of this business from Boston to Maine and what are the people going to do once they get here. They probably, like you and I, they'll want cars.

Now the 90,000 people who signed the petitions, undoubtedly felt, well wouldn't it be great to ride the train again. Sure, we probably all would ride it once and renew that wonderful feeling of riding on the rails, but I doubt very much if many of us are going to be willing to get on the train and do it as a steady practice. We can drive to Boston, an hour less than it would take to get on the train and go to Boston. We were told when this thing started, the State of Maine would have to put in 3 million dollars and that was raised some time ago when the petition was passed, 3 million dollars. As of April 1st, that was up to 8 million dollars. It's back down to 5 or 6 million dollars now. It's hard to get your hand on what actually is the amount of money that the State

of Maine is going to have to come up with. Is it 3 million dollars, is it 8 million dollars, will next year be 10 million dollars, 9 million dollars, 15 million dollars.

A recent poll shows that sometime ago when the citizens of the State of Maine were asked if they wanted to have the turnpike widened, it was a unanimous no, they didn't want it. But now, that has changed around dramatically, the majority of the people would vote for it. I'd be willing to bet, that if the 90,000 people who voted for this rail, if you told them that they were going to have some liability and they were going to have to come up with 8, 10, 12, or 15 million dollars, whatever it is down the road to keep this thing running, I'll bet you that a good many of them would say, "no way Hosea, I don't want to be part of that." I ask you ladies and gentlemen of the House, not to get in bed with Amtrak. I think it is a poor business venture and I would ask you to vote against the motion.

Representative HEINO of Boothbay requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative DiPIETRO: I would like to ask someone who knows if it is true that the State of Maine would be obligated to take care of any expenses that occurred in New Hampshire for loss of business, for Trailways, or any of their bus companies? I understand that is a fact, I'd like to find out if that is so.

The SPEAKER: The Representative from South Portland, Representative DiPietro has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: In answer to the question, if, in fact, the authority is created, the authority will be responsible, if such a situation should occur. That's the purpose for establishing the authority. The authority will be responsible for any of those types of questions, not the State of Maine. I hope that answers your question.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: In addition to the information asked by the good Representative from South Portland, keep in mind that the authority will be spending your tax dollars and, yes, if there are jobs lost in New Hampshire, because of this. Yes, we will be picking up the tab. Thank you.

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

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: The proposed train station rail line is going to go through my district, which is the Town of Wells and the Town of Ogunquit. I'd like to take a couple of minutes to describe just exactly what this restored train service would mean to that area and a lot of the areas in southern Maine.

You may or may not know that Wells is the site of what's called a multi-module transportation center.

What that means is that in a very small area, basically surrounding a parking lot, there is an exit of the Maine turnpike, there is an area for the proposed train station. If this authority is created, will be built then train service will come to the area. There will be places for the seasonal trolleys that go in Wells and Ogunquit and some of the other towns. There will be bus service, cabs and limousine service from one area, meaning that somebody that comes into the State of Maine, perhaps by the turnpike can switch to other modes of transportation and go on their way.

I'd like to tell you a little bit about the trolley system. One of the previous speakers has suggested that people might ride on a train once and then not do it ever again. I think the same thing might be claimed about old style trolley systems. We have trolley systems in our area. Several of the towns have them, they are manufactured locally. The Town of Ogunquit has had them for over 10 years with some success, no subsidy. The Town of Wells, Chamber of Commerce, has recently purchased some of these trolleys. These trolleys have carried over a half million visitors each summer. The trolleys are a necessity for getting around during the tourist season in our area and they have been a big success. They cut down on the traffic. They cut down on air pollution and they are an attraction in and of themselves. People on vacation don't need to run around as much as they would in their ordinary lives and so they like riding on the trolleys. The coming of the train will mean that there will be an integrated way for people who visit our tourist areas to not even have to bring a car. They can ride the train or they can ride one car. They have trolley service to the beach. They have trolley service to the place where they stay. I think this has quite exciting implications for my area.

I realize the argument that there won't be enough people who ride the train, but I would like to remind everybody of something. In the 1970's, our state made a projection about what the cost of transportation was going to be around now, about the cost of oil. The projections were that the cost of oil would be \$70 a barrel, \$80 a barrel, \$100 a barrel and so we got into co-generation. The price of oil is now \$15 or \$20 a barrel and some of us feel a little foolish about the policies of the 1970's. Let me suggest to you that the policies of the 1970's with regard to co-generation and the like weren't necessarily wrong, they were just mis-timed, the price of oil has gone up and the price of oil has gone down. We in the sea coast area of southern Maine, have suffered through two gasoline shortages in the 1970's which were devastating to our state. The price of oil, the price of gasoline is at a 50 year low right now, so it is very easy to think that it's going to be inexpensive to drive your car anyplace that you want to go, but I can assure you that that is not going to be the case forever. I just want you to think about that when you think about train service, which will help us smooth over or eliminate those bumps when we have gasoline shortages. Thank you.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House: I would like to have you take note of the title on this, Establish a Northern New England Rail Authority. That would indicate to me

that New England States are behind this, when, in fact, it is only the State of Maine. We will be funding and the federal government will be funding, refurbishing rail service from Massachusetts through New Hampshire and into Maine. New Hampshire will not be a part of this, although they will have three stations where this train service will stop, but they don't want any part of this. They are not putting up any money. They are not putting their faith and moral obligations behind this authority and I believe the State of Maine is.

Amtrak has never been profitable anywhere and I say to you, it will not be profitable here. What I heard them say at committee was initially we should be doing this because the people of the State of Maine said we should give 3 million dollars to establish this Rail Authority and now I understand that the cost will be closer to 9 million dollars. Another thing, if this is so great, why isn't private enterprise doing this? They're not. It isn't ever going to be profitable.

I would like to use an analogy that if I was going to a horse race and a friend of mine came up to me and said, "would you bet \$3 on a horse named Amtrak for me?" "Well sure I will." I get to the track and I find out that this horse named Amtrak has never won a race. He's never even made enough to pay for his upkeep and the owner is probably getting ready to stop giving it the vitamins that's allowed it to do as well as it's going to do and on top of that, I find out these tickets to bet on this horse is going to be three times what my friend asked me to bet. I'd say, "No, I guess not." I think I'd be doing that person a favor and I ask you to do the same and vote no on accepting the Majority "Ought to Pass". Thank you.

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

Representative DiPIETRO: Mr. Speaker, May I pose a question through the Chair to the Chairman of Transportation?

The SPEAKER: The Representative may pose his question.

Representative DiPIETRO: My question is, that I heard that Amtrak is in financial stress and that within the next couple of years, Amtrak will be a private concern and not federal subsidized, number one. My question is, rumors are, they are going to be subsidized within the next five years, they can't operate their operations and the federal government is no longer wanting to subsidize them. I'd like to know if that's true, please. Thank you.

The SPEAKER: The Representative from South Portland, Representative DiPietro has posed a question through the Chair to the Representative from Westbrook, Representative O'Gara. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: I can't predict what will happen in five years down the road, but from what I am aware of now, of course they are subsidized, it's not that they are going to be. They are subsidized. I don't believe that they are going to go away. As a matter of fact, it's important for you to understand that this area here where we are talking about, in this particular section, is really almost like a mother-load to the Amtrak. The whole northern tier of states that we're talking about which Maine would be added to, as a matter of fact, would be a very,

very profitable one for them and they understand that.

I want to respond just a little bit about Amtrak and then I want to respond to another question about private industries that was raised a few minutes ago. You have on your desk some of what I'm reading you at this point of time. In there on one of these pages, it talks about Amtrak. They are working very hard to reduce their short-fall, they're 17 million dollars ahead of their plan to improve its bottom line. They are ahead of budget on the northeast corridor. They are maintaining their 19 levels of ridership, despite cuts in service. They are ahead on ticket sales by 4 percent, they have reduced injuries, reduction to passenger injuries as well as to employees. They have laid off over 1,100 workers. They have improved by 141 million dollars. Their capital improvement and they are 11 percent ahead of last year, what they are planning on doing as far as on time performance. The northeast corridor is the passenger and revenue mother-load, as I said earlier for Amtrak. There are no plans and nobody at all in the rail industry is suggesting, I would defy anybody, an opponent or anybody else, to show me or to show you any information that they might have by any rail expert anywhere that suggests that this service is going to go away. It is a viable one. It's going to be more so as the time goes by.

In regard to why if it is such a good thing, why aren't private enterprises involved? Recently, quite a few members of the Transportation Committee were given an opportunity to ride on one of the Guilford trains from Waterville to Cumberland. On that train ride, both on the bus ride going from here to Waterville, where we picked up the train, and on the train, at least three different times Representatives of Guilford Industry, which is private, indicated to us, that while they weren't altogether sure that it was a good idea, but if you do have it, we would like to be involved. We would like to have the opportunity to make a bid on it. I would suggest to you that probably the most well known private industry in the State of Maine, even though they may on the one hand be saying, "we're not sure it's a good idea," but just in case the legislature, we would like to bid on it. If it isn't such a good idea, ladies and gentlemen, why would an industry such as Guilford be interested and tell all of us on that train, at least most of us who had talked to them, that they would be interested in bidding on the project itself?

The thing to keep in mind here, more important than anything else, and it's in the information that I gave you, the legislature. The question before us today, ladies and gentlemen, just as it was before the committee is not whether or not to initiate train service. The people have already told you, that's what they want to do. They have indicated that, we have a law on the books. The question is, will it be under the auspices of an authority, totally separate from the State of Maine? The practice of establishing authorities in the State of Maine that put the state liability beyond it. In other words the authority has the liability for anything, is well established in the State of Maine, the Turnpike Authority, the Housing Authority, it's well established. It happens at the local level as well, authorities are created that take the burden off the local community. That's the question before you. It

isn't because if you defeat this L.D. 1255, the fact remains, that the Department of Transportation, still has before it the responsibility to go forward with what the citizens of Maine have told you they want to do. Thank you.

On motion of Representative O'GARA of Westbrook tabled pending the motion to accept the Majority "Ought to Pass" as amended Report and later today assigned. (Roll Call Requested)

On motion of Representative CLARK of Millinocket the House recessed until 2:00 p.m.

(After Recess)

The House was called to Order.

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

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

Senate Divided Report - Committee on Transportation - (10) Members "Ought to Pass" as amended by Committee Amendment "A" (S-202) - (3) Members "Ought Not to Pass on Bill "An Act to Create the Northern New England Passenger Rail Authority" (EMERGENCY) (S.P. 459) (L.D. 1255) (Governor's Bill) which was tabled by Representative O'GARA of Westbrook pending his motion to accept the Majority "Ought to Pass" as amended Report. (Roll Call Requested)

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 Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I didn't hear all of the debate this morning about this issue and I apologize if I make some comments that have been made already. I'm only expressing my opinions more than anything else.

I have a real concern about this. I hear folks talk about what a great idea it is because 90,000 people signed a petition. I believe as much in this as anything I've ever believed in in my life, that if the people of Maine knew what this going to cost and the potential liabilities that we were creating and they had a chance to vote on this again that it would change. I absolutely believe that.

Now I've been told in the area that I live, it will benefit greatly from this, I'm sorry, I've not been convinced. This particular issue, I think will change the landscape of the State of Maine. Most of us are very proud to be a rural state. I'm not interested in turning southern Maine into Connecticut, which is what happens when you have this kind of service from New York City. I'm really not

interested in turning southern Maine into a commuter bedroom area from Massachusetts, that doesn't interest me at all. I really think that is ultimately where this train service will end up.

The good Representative from Westbrook this morning mentioned that it was a good reason because a specific company thought it was a good idea and they wanted a chance to get involved in it. Well the experience that I've had with this company, is that I don't want them involved in the State of Maine. They are one of the worst companies that has ever come to this state. Anybody that has had any experience with them that I have talked to will say the same thing. For them to want to be involved in it, does not convince me that it's a good idea. As a matter of fact, it makes me feel even more strongly its not a good idea. As far as helping my part of the State of Maine, because it will bring tourists in, in the winter months and all that kind of thing. That may be true and maybe I'm cutting off my nose to spite my face, but I love the landscape of the State of Maine and I know tourism is a very important issue in this state, but there is a point, I believe, where tourism will become detrimental to the State of Maine. Maybe not financially, but certainly change the landscape of the State of Maine so those of us who grew up here and love it here, won't recognize the State of Maine. Too many people regardless of what the issue is, particularly when you go out into our parks and our ski areas and different recreation areas that we have around the State of Maine. It can't do anything but hurt them. I know that some companies insist that they will benefit from this and I think and most of you will say that for the most part I come down on the side of economic development in the State of Maine, but under no circumstances do I feel we ought to be going ahead with something that proposes to improve economic development in the State of Maine, but a detriment to the very fabric of the State of Maine.

You keep hearing on all the national media about the different places that Amtrack is folding up and going away. That scares me to death that we're going to get involved in another car-test program or another tax-and-match program and I think that is all this is. I really am not convinced that it can ever survive. It scares me to think that we are going to create something like this and 10 or 15 years down the road, the poor people that are sitting in this room are going to have to try to figure out how to pay for another tax-and-match fiasco. Most of us just sat here for an hour and listened to that. I really think that is what this is going to be. As I said, I'm only expressing my own personal opinions and I'm very concerned about it and I hope we can do something to stop it. Thank you.

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

Representative REED: Mr. Speaker, May I pose a series of questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative REED: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I'm sure these questions were answered in discussions before the committee, so I hope that one or more members of the committee can respond to them. They deal with three specific sections of the bill. First section 8008, which says, any government agency may allocate money and take other actions that may aid in the

implementation of this chapter. I wonder if someone could share with me, which agencies were contemplated to take such an action?

Section 810, satisfaction of operating deficits, it says the authority is directed to obtain all additional funds through borrowing revenues or other means and I wonder if someone could share with me, what other means were discussed?

In Section 8011, rules of construction, the last sentence, the state may appropriate to the authority, and the authority may expend additional amounts for these purposes, does that language suggest that general fund appropriations are contemplated to the authority? Thank you.

The SPEAKER: The Representative from Falmouth, Representative Reed has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I'd be very honest with you and tell the Representative from Falmouth that in response to the first two, I really would have to get that information for you, I don't have it. In regard to the third one, the answer would be no, in regard to additional general fund, I believe that was your third question. Did it anticipate the use of general funds in the future?

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House: We've talked about this quite some time, I would just like people to know that if this Rail Authority is established and there is traffic back and forth from Portland to North Station in Boston, that there is no direct link between North Station, South Station, Logan Airport, so anybody traveling this train will also have to take a bus, cab, or some other means of transportation. I also had circled in here, section 8010, of the bill, which says the authority is directed to obtain all additional funds through borrowing revenues or other means necessary to satisfy the operating deficits arising from expenses, including capital expenditures necessary to insure the continuation of passenger rail service as established by this chapter. I don't see any way possible that this authority is going to be able to borrow money unless they have the full faith and obligation of the State of Maine. Who's going to lend them this money? Highway funds probably will be used in this, couldn't this money be better used on roads in Aroostook County, Washington County, Piscataquis County or other counties in the State of Maine? Also I'd have you remember that Maine is going this alone. New Hampshire and Massachusetts are going to benefit from this through us, upgrading their rail service and they are not willing to contribute or take any part in this liability. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I only have a question I would like to place to whoever can answer the question. Are we voting on whether or not to allow this to take place or whether or not we are creating a Rail Authority which will then supervise or govern what happens with the railroad?

The SPEAKER: The Representative from Winslow, Representative Vigue has posed a question through the

Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: In fact, that is exactly what we are talking about here. It is creating and authority, a five director board authority, appointed by the Governor, serving five year staggered terms. So, in fact, the answer is yes, it would be an authority.

I am a little bit concerned, I've looked at the sections that have been asked in the previous couple of questions. One was raised by a member of the committee, I don't recall that being an issue at our committee hearing and it was debated at quite a bit of length and the other issues are significant either, to be very honest with you at this point in time, I think they are more than terminology. I'm more than willing to table this item if someone feels that that is important, but at this point in time I would like to say to the House that I don't feel those are major issues of concern on this particular issue.

The liability question which was just raised again, I thought I had answered pretty effectively this morning. If you look at the material that I passed out to you this morning, we have the Attorney General's opinion, we have the opinion of several other people very knowledgeable in the workings of the law, that, in fact, the authority would be the entity that would be liable for any of these things that are projected. For instance, one of the things that are projected are the loss of labor in the New Hampshire Company was mentioned. The only bus company that has, as a matter of fact, the only major opponent, in the public hearing, and it was overwhelmingly attended by people who were supporting it, individual citizens, as well as groups, was a New Hampshire based bus company. One of their concerns, in my judgment, they're concerned about some things that have never really happened and are not likely to happen, but their major concern was the loss of jobs. In fact, where Amtrak has been most successful has been where they have worked with bus companies. The other bus companies in the state, our state, the State of Maine, have indicated support, several who have spoken, have sent letters, indicating support for them, as a matter of fact, see as a real asset to them. They see it as a possibility of moving people around once they have departed wherever the train happens to drop them off at whatever station they are, whatever their destination is, whether it's now or hopefully in a few years, down the road even further, down to our coast and other parts of the state. They don't see it as losing jobs, they see it as creating jobs, but even if that were the case, as I have tried to say to several of you, individually, and I've tried to say this morning. 3.6 million dollars, federal funds, have been set aside to face any of those lost job issues that might arise. Even though they don't believe the likelihood exists, as a matter of fact, that's twice as much as is usually set aside, in that particular situation.

I'll be jumping from one thing to another as I recall something that somebody said, the first speaker that got up when the Speaker started this debate back up again, mentioned that I had said this morning that I thought it was a good idea because a certain company in Maine indicated an interest. I

didn't say it was a good idea because of that, I said it in response to a question or a statement that was made by one of the speakers this morning, that if it's such a good deal, why doesn't a private company do it. Well the only private company that is involved, as a matter of fact, has indicated an interest. I didn't say whether it was something that we should be involved in. That was the point that I made this morning.

The issue of the authority versus the state, what it really boils down to and again I want to say to you, that the issue is not whether we are going to reinstitute, or reinitiate rail transportation, passenger, because that has been decided. That law was passed in 1991. The money through a referendum of 3 million dollars was set aside. The question is whether we create the authority. As I asked you this morning to consider the question is, if you have a concern about liability, would you rather it be the state or would you rather it be the authority created as we have with other authorities, and which are perfectly acceptable here in the State of Maine?

Train service, in my judgement, and I think we have all listened to quite a bit of it, certainly in our public hearings, the committee has certainly heard a lot and so have you, is something that I believe we should be looking at. A train service from Portland to Boston for instance and hopefully beyond, in our state, beyond Portland, northward, to carry many times more passengers than a 16 lane highway. The gas that is used on our highways, the frustration of traveling, the moving from one place to another are all factors as to why we should once again really seriously consider reinstituting train service in the State of Maine.

As I said, I will be jumping from one thing to another, something was mentioned about North Station and the South Station, in fact, that is part of the major plans that are going on and if any of you drive anywhere around Boston, you know what has been going on in that area with the new tunnels, the new roads, the new bridges and, in fact, one of their projects is to connect by a very direct route, North and South Stations. It was mentioned in our public hearing, and you may have it as part of your thinking, that in fact, someone mentioned at our public hearing, that it was very easy to take a bus to South Station, very easy, very convenient. Well as a matter of fact, until Amtrack came back into that area and initiated and developed a very, very high speed and very efficient rail system, South Station was practically a slum and if any of you have been in that area, in fact, North Station isn't all that great, but South Station certainly was very run down. It has become a hub now. It has become a major hub of traffic in and out of that area. With Amtrack bringing the people there and the L and shuttle service and other bus companies, smaller local bus companies, bringing people from that major station all around. It is not an issue here of liability to the state and it is wrong for people to continue to get up and to say and to suggest, that, in fact, is putting a burden on the taxpayers of Maine, five years down the road or 15 years down the road. It is the authority that will be liable if that should happen. I believe the numbers, someone mentioned the ridership numbers earlier, the ridership numbers that are used are way below what any rail Authority would usually use, but they are trying to be very, very conservative. Even

with those low numbers, it will be, I believe, a successful enterprise.

The question of subsidizing, the question was asked will they be subsidized. The answer, of course, is yes, but that is not very unusual. When you leave here today, you will ride one, if you use some of the major roads, almost any road you ride on is subsidized. If you use the airport, you fly, in the cost of that ticket, somewhere is a subsidy. As I mentioned to one of the Representatives, whose district is covered by the ferry service, the subsidy to the Maine State Ferry Service is 10 times what the subsidy will be to this rail service. I would hope that answers some of the questions, ladies and gentlemen of the House. I must tell you, we need two-thirds in order for this, because its going out as an emergency. The reason for that is, when these funds were first approved, the last date was October 1st of 1995. The documents have to be signed by October 1st, 1995, and I know that you have heard this kind of thing that I'm going to say and so have I and I may have had the same thoughts that you had, are we going to lose that money and some of you may have different opinions on that, but the fact of the matter is, that that money is available and both Senator Cohen, and all of legislative delegation, Senator Snowe, Senator Cohen, have said that they cannot protect that money any longer than that date. When that date passes, we will have lost the chance to have those funds. Now I think that it's important, also, if I can find the document that I'm looking for, perhaps Mr. Speaker I'll sit at this point of time and see if there are any more questions. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank the good Chairman of the Transportation Committee for bringing up the topic of subsidy. If you ride the bus, that's in competition between Portland, and New Hampshire and Boston, that bus ticket is going to be subsidized somewhere around 5 cents per ticket. If you ride the ferry that goes between Rockland and Vinal Haven or Isleboro ferry or whatever, if you subsidize that 100 percent, it would only be half, in fact, it would be less than half of what you subsidize Amtrack per ticket. Amtrack is being subsidized on the average of \$34 per ticket sold. There's no free lunch, and if you think that down the road somewhere, somebody isn't going to come back and ask for money out of the general fund, I guess we would believe in blue birds that fly.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House: I find it interesting that the good Chair from the Transportation Committee states that this has to be done by October 1st. I'd refer to the initial bill, that was enacted in 1991, An Act to Enact the Passenger Rail Service Act, in that it says these funds must be spent first to reinitiate on or before June 1st, 1993. Here we are two years after the date and it still hasn't been done. I don't see, if that bill hasn't been carried through fruition at that time, I don't think the issue of whether or not to establish the Rail Authority is really in front of us now. I'd also like to state that in this bill under section 8009, it says, reasonable fares, fares for passenger rail service

established pursuant to this section chapter must be set at reasonable levels to encourage use. What this means is that these fares can only be set reasonable or low by means of a subsidy, and that's going to be paid by everybody in this state for those that do ride the rail. Thank you.

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

Representative BIRNEY: Distinguished members of the House: I feel that setting an authority is sort of passing the buck. We're not going to take responsibility if this fails and people suffer losses, we're going to put it to an authority and let them take that responsibility. I feel just as guilty as a lawmaker if I set this authority up, and something fails. If it does fail and citizens take losses as if we had done it through the Maine Department of Transportation.

The important policy analysis, I think that remains to be done on this project. It is my understanding that there are three reports and they all had different finding, but just recently, it was also my understanding that the amount that is needed to improve Amtrack and get it going for the State of Maine far surpasses the amount that we were looking at when the studies were done. According to law, the department has to analyze whether the benefits of introducing passenger rail service justifies the cost and risk. Any fair analysis of the cost and the benefits to Maine of the restoration of passenger rail service on current terms will probably find that it is likely to cost the State of Maine, far outweighs the likely benefits. I feel that we are getting the cart before the horse here. These analysis should be done. Everyday for the past week we have set up commissions and panels to study and now we have brand new figures and new information on this and we are looking to go ahead with this without analyzing it. The good Representative from Rumford mentioned the federal subsidy of the tax and match. I fear that we are going to get into another situation as was mentioned of the tax and match with the Rail Authority. I think that it's to bad that Maine subsidizes an Amtrack that proposed 80 percent of the riders will come from New Hampshire and Massachusetts traveling outside of Maine, to and from Boston from their residences and the State of Maine only is liable and assumes all the costs and the risks of providing the service. When we talk about risks, I know Amtrack has insurance coverage and I've been told that it's about 200 million dollars. The recent Amtrack accident in Alabama has generated over a billion dollars in claims. Plaintive from the accident on the proposed rail line would be forced to sue the authority for damages. If the authority can not meet these damages, are we prepared to pass that buck, ignore it and say, well, it's not our problem. I think it's a vain way to look at things, to set up an authority to pass the buck.

Another thing that is mentioned is that we have to do this because it's already put in the law in 1991 through the Highway Fund Bond Issue or Transportation Bond. Basically if you look at that law, railroads are mentioned, but also airports, ferries, highways and bridges. We do not necessarily have to spend this 3 million dollars on the railroads. It could go into any of the above. Thank you, Mr. Speaker.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House: I'm not sure this is a good idea, this authority, seems like we've got a lot of authorities in different consortium that we're constantly setting up here. I would like to say a couple of things, one I would just like to comment on the question of subsidies. We must be about the only modern country that doesn't have a extensive and modern train system and I'm not sure why we don't, but it is cheaper to move goods and people by train than it is by truck, automobile and bus per passenger. I don't think anyone disputes that, so why have trains failed? When I was a kid I could get on the train in Bangor, why have they failed? Good question. Thinking of subsidy, sure we'd have to subsidize the rail service, but if anybody thinks we don't subsidize road service now, bus and so forth and the truck industry and the automobile, just think of this, one analysis, Washington policy analysis, even before the Gulf War buildup, figured that the true cost of a barrel of oil out of the Persian Gulf was closer to \$300 a barrel instead of \$30, as what we were told. If you figure the cost of keeping the fleet over there to keep the Straits of Hormuz open. A good portion of our military budget in this world is to keep oil flowing, nothing wrong with that, it's vital to us, we need it.

if we would keep it in perspective when we are talking about subsidizing rail service, that if we paid the true cost for that oil when we buy it, we would have train, we would have solar cars and I wouldn't be driving that big old Cadillac, I wouldn't be able to afford it. Gasoline is cheaper today than it has ever been in this country. We pay for it through our taxes in the name of national defense. We need the oil, don't get me wrong, it's vital to our national defense, it's vital to us. Just to keep things into perspective, just think what the world would be like if we paid for it when we bought it, instead of through our income taxes. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative VIGUE: What happens to the grants received by Portland, Saco, and Wells if we fail to pass this authority?

The SPEAKER: The Representative from Winslow, Representative Vigue has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: The issue really never came up, but I would have to assume that if, in fact, we did not go forward with this bill, with this authority and with rail service that funds would have to be somehow returned, but I would remind you that down in Wells, I believe, that intermode and Representative Carleton may be able to respond to this, is already underway and I'm not sure exactly what would happen to those funds. I must tell you that I can't answer the question, all I know is that of course, as I said earlier, the major amount of funds that we are talking about the 38 million dollars, that money would be lost to us, the money that Amtrack has planned for it would not be used here. I will get the answer for you, I'm assuming

that that would be the accurate answer. If I may, Mr. Speaker.

The SPEAKER: The Representative may proceed.

Representative O'GARA: While I'm up there were some issues raised earlier and at the time I really didn't have a chance to really look at them and give it any thought, so I had to pass on them. Some questions were raised about three sections of the bill as you happen to have it there with you. These were all referred, I believe all of these for the most part were referred from the Representative from Falmouth. Section 8008, broadly allows government agencies and those agencies are on page two of the bill, to participate in bringing rail service into Maine. It does not require them to do so. That was number one, I believe the reference was to government agencies and what they were. They are listed on page two of the bill and it encourages them to participate or allows them to participate, but doesn't require them to do so.

8010, may have been directed by the same Representative, I'm not sure, merely directs the authority to seek funds, and that could be either federal, state, local or private funds should those extra funds be necessary for any deficits, any operating deficits that might occur, but again there is no obligation for any of those agencies to provide that funding and that includes, some of you have been talking about the taxpayers, so the state and local funds, there is no obligation.

8011, again perhaps from the same Representative, but there was another area over there too. The original citizen petition directed the Maine Department of Transportation to seek at a minimum 40 million dollars. This language from the original petition, which we are talking 8011 here, merely means that amounts in excess of that original 40 million dollars can be expended if it is available. Again, there is no obligation on the part of anybody, state, local or federal to provide funding in excess of what is already available. I hope that has answered the three questions from the Representative from Falmouth. Thank you.

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: An earlier speaker referred to having a Rail Authority as passing the buck. I don't see it as passing the buck. I see it as prudent policy. In one sense the Rail Authority is being proposed in order to allay some of the concerns of those people who felt that we shouldn't expose the state directly to risk. Therefore have an authority to do this. Now when we are doing the authority, some of the same opponents are saying an authority is passing the buck. Don't buy that argument.

An earlier speaker commented about what caused the failure of passenger rails. I think, in part, what caused the original failure of it, is what we seem to be seeing here today, that is a curious double standard for rail service that doesn't exist for other kinds of transportation. People fall all over themselves trying to get an airport or an airline to various and sundry remote places that never could justify it on the basis of pure economics and free market. People fall all over themselves, to get a highway built or repaired to places that if they had to pay for it, could never afford to have that highway. It's because we're looking at a system. We want to be sure we have a system of transportation

and I would argue that a system of transportation needs to include more types of transportation and that includes rail transportation. You've got to face it, transportation everywhere is subsidized, every type is subsidized every location is subsidized. Here in the states we seem to continue to think that rail doesn't have to be subsidized. We demand that.

We have an opportunity here to connect to the northeast corridor, Amtrack's Northeast Corridor is and always will be the most viable and vibrant transportation rail section in the country. It's never going to go away, there will always be, well I take that back, if we have some miracle teleportation type of transportation then it may, but as long as we have physically bounded types of transportation, there will be rail transportation in the northeast corridor. That's because it's competitive, not just with the auto, but with airplanes, there's a series of population centers that are a little on the long side to drive all the time and a little on the short side to fly. We can tap into that, Portland offers yet another node in that whole series. I think we should take this opportunity and support this bill.

One last thing, everybody's saying well New Hampshire, we shouldn't do this unless New Hampshire does, well I'm not at all surprised that New Hampshire isn't doing anything and New Hampshire's got a toll booth. They hold up our residents and everybody who wants to visit us on a regular basis. They couldn't care less about this probably, until it starts pouring dollars into their coffers too and I think that eventually the economy of the whole region will be strengthened by having a viable transportation system that includes many modes of transportation. 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 pending question before the House is the motion to accept the Majority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 147

YEA - Adams, Ahearne, Bailey, Barth, Benedikt, Berry, Bouffard, Brennan, Carleton, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Hartnett, Heesch, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Lovett, Luther, Martin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Ott, Paul, Pendleton, Perkins, Poirier, Poulin, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

NAY - Aikman, Ault, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Donnelly, Dore, Gieringer, Greenlaw, Guerrette, Hatch, Heino, Hichborn, Jones,

S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lumbra, Madore, Marshall, Marvin, Nass, Nickerson, Peavey, Pinkham, Plowman, Reed, G.; Reed, W.; Rice, Robichaud, Spear, Stedman, Stone, Taylor, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

ABSENT - Chartrand, Meres, Pouliot, Rotondi, True, Yackobitz.

Yes, 95; No, 50; Absent, 6; Excused, 0.

95 having voted in the affirmative and 50 voted in the negative, with 6 being absent, the Majority "Ought to Pass" Report as amended was accepted.

The Bill was read once. Committee Amendment "A" (S-202) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, June 13, 1995.

Senate Divided Report - Committee on Banking and Insurance - (8) Members "Ought to Pass" as amended by Committee Amendment "A" (S-211) - (4) Members "Ought Not to Pass" on Bill "An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services by Providing Mandatory Reimbursement to Counseling Professionals who are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems" (S.P. 38) (L.D. 68) which was tabled by Representative VIGUE of Winslow pending his motion to accept the Minority "Ought Not to Pass" Report.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I don't particularly like to be coining phrases, but this L.D. forces me to kind of think in terms of coining a phrase. What we are doing here is chipping away at the people who pay. What are we requiring with L.D. 68, An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services by providing mandatory reimbursement.

This bill would require insurance companies to provide reimbursement to an additional 500 providers of mental health services, including pastoral counselors, marriage and family therapist, clinical professional counselors, the cost of this L.D., this mandate, would be to the State of Maine for fiscal 95-96 a total of 389 million dollars. For fiscal 96-97, the cost would be 519 million dollars for a total of 908 million dollars, plus the chipping away at the people who pay, the people who pay insurance will be paying an additional family premium of \$275 more per month. Ladies and gentlemen, I think that we have done enough to our people, either in terms of taxes, of mandating costs that I personally feel I cannot add any more cost to my people back home. I therefore urge that you not vote for this L.D., but support the "Ought Not to Pass" Minority Report. Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I'm sorry to rise in opposition to my good House Chair of the Banking and Insurance Committee concerning L.D. 68. L.D. 68 does not mandate any new services to be covered by any insurance policies. What L.D. 68 does, is increase the numbers and types of providers who are allowed to provide services for people with certain diagnosis.

These services are all interpersonal types of things. What this bill would do is allow me, instead of going to see a psychiatrist whose services are reimbursed by Blue Cross and Blue Shield for example, would allow me to see a family counselor for the exact same service.

Those of us who serve on the Banking and Insurance Committee have a very unusual experience when it comes to fiscal notes. The fiscal notes on this bill is one of those, it's profoundly frustrating, what happens is that Blue Cross and Blue Shield, which happens to have the contract for state employees, currently in the State of Maine, assumes certain things and conveys that information to an actuary who come up with certain conclusions and a certain price tag. In this case, what happened was that Blue Cross and Blue Shield took the number of dollars that they currently pay for the services, that are already in law, divide that dollar amount by the number of current providers, decided that there would be a 20 percent increase in providers if we pass the law and multiplied it by the increase in 20 percent so we have a fiscal note. Those of us who think that this law is a good idea are making a simple argument, it costs a whole lot less to see a family counselor than it costs to see a psychiatrist. If I'm a deeply religious person and I want to see a pastoral counselor, believe me it costs a whole lot less to see a pastoral counselor than it does to see a psychiatrist. Under current law, psychiatrist services are reimbursed, under this law I could see a family counselor or a pastoral counselor with the same diagnosis, that is for a legitimate visit and instead of being charged \$140 now, I may be charged \$45.

So I have a certain amount of frustration with the fiscal note, I do need to correct my good House Chair when he was talking about the millions of dollars it would cost. Those are actually thousands, I think he simply misstated, but I don't believe the thousands. I'm standing here telling you, I think this fiscal note is as close to a misrepresentation as I've ever seen on a piece of paper. What we did, however, was build into this act, what got done on the committee, was a sunset date of December 31, 1998, so it will go for two years and we'll see if whether it, in fact, does what the majority of us thought it would do, which is to reduce costs for these services or whether we're wrong. If it increases costs, then the law will sunset and we'll have some information. So ladies and gentlemen of the House, I would urge you to please support the passage of L.D. 68 and vote against the Minority "Ought Not to Pass" Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: To the good Representative from China, Representative Chase. I'd like to know the difference between requiring certain things to be covered and how that's not a mandate?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to the Representative from China, Representative Chase. The Chair recognizes that Representative.

Representative CHASE: Thank you, Mr. Speaker, ladies and gentlemen of the House: In response, it is certainly a mandate and I am sorry if I have misspoken or been misunderstood. What I said was that this bill does not increase the types of services that are mandated, currently those services are mandated under law. What this bill does is increase the types of service providers who can provide those services that are already mandated under law. It is a mandate. It does not mandate any new services to be provided to any citizen in the State of Maine. Just a question of who can provide them.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: Again, as a member of the Banking and Insurance Committee, we all deliberated on many bills, three of which provide mandates for the fiscal notes L.D. 68 being one of them. At the end of our committee work, we came together as a group and we rated each of these mandates. Many of us felt that mandates were something that we weren't enthused with, but knowing the content of the issues and the topics, felt that they were important to at least address.

L.D. 68 came away with the least support on the committee. You've heard both sides of the issue and, again, I would concur with the fine Chair, Representative Vigue, and hope you would vote against L.D. 68. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Gates.

Representative GATES: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion. What L.D. 68 does, is it offers choice and availability of therapists to people who have insurance coverage. Today, people are going often and somebody who is over qualified to treat them, they are going to a psychiatrist or Phd level psychologist because that person is mandated to be reimbursed for insurance coverage for their therapy. If someone is going to therapy, sometimes they are going to someone who is charging a \$125 an hour rather than someone who might charge \$50, because the one at \$125 an hour get reimbursed by insurance and the one who's getting the lesser amount does not. All this bill does is extend the coverage to additional service providers who are licensed, you have to be licensed in the State of Maine. They have been through what the Business and Economic Development Committee puts them through in terms of licensing boards. All of them have master's level credentials. All of them have hundreds of hours of supervised clinical work before they can be licensed and in rural areas, sometimes they are all that is available. In some rural parts of Maine, there aren't psychiatrists around, all you have is licensed clinical social workers, or licensed family therapist so it really helps the people in the rural area have the availability and further more it allows people to get the therapist of their choice. Certain people specialize in areas that may be important to a patient, but if that person has one of these master level degrees, then your insurance may not cover it. Now you know, half of the insurance companies that do business in Maine, have responsibly decided to reimburse these folks, the problem is with the other half and Blue Cross, Blue Shield who have chosen not to. What it allows is someone to pick the therapist

of their choice without going to the person solely because that person will be reimbursed by insurance. I would urge you to join the strong bipartisan, four Republicans and four Democrats, majority on this report. Please vote against the pending motion and go on to vote for the Majority "Ought to Pass". Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as a member of the Banking and Insurance Committee and I support this bill and I fail to see why just adding more providers should increase, I really truthfully believe, down the road, this should decrease the cost of counseling, these are licensed counselors. They are presently counseling folks, particularly in rural areas. One Senator who testified at the hearing, said in her area the only alternative was either jail or to a regular hospital for some of these folks that would like to go to these pastoral counselors. They are providing a real service to many people in our state and they are properly licensed, there is no reason why they should not be entitled to insurance reimbursement, same as other counselors. I urge you to defeat the pending motion so we can pass the "Ought to Pass." Thank you.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today and urge support for the pending motion and my good Chair from Winslow, Representative Vigue.

The reason there's been a good deal of discussion this morning about the fact that this bill will, in fact, not really cost more money and we don't understand why it has a fiscal note as such. The fact is, that this bill will cost a lot more money and let me see if I can explain to you why that is. There are currently 550 some-odd providers in this class of counselor. Today these people have customers that are going to them, marriage and family therapist, pastoral counselors, LCPC's which is licensed clinical, I forget what it stands for, but it's a counselor, and these people see clients every day of the week. The clients they see are what they call private pay, these clients walk into the counselor's office, when they are done with the counselling session, they write a check out of their own checkbook and they pay the bill.

If tomorrow, this bill passes and all 550 of these counselors who are now being paid and being supported, their livelihood by people who are writing their own check, if all those checks now come out of insurance funds, that will raise the cost of insurance by all the revenue that these 550 providers now take in. They will go from being private pay customers, paid by the individual who chooses to get the counselling to being paid by insurance companies. You say well that's nice and all, but who pays that premium? It's exactly as the good Chair from Winslow said, Representative Vigue, it's you and I. It's the premium payer. Every single insurance payer in this state will have their rate increased and the aggregate in a year is in the millions of dollars that it will cost in additional insurance rates for all these providers, who are now currently in business, and currently have customers to be thrown into the insurance pool to be reimbursed. The

cost to the state alone in the FY 96-97, which is where the fiscal note comes from, is \$519,000 dollars, that's a half a million dollars to the state's insurance program alone. There are already lots of choices for these providers and for these people to go to as far as providers, there's been some testimony that this group provides the service at a lower costs.

We had testimony in the committee that when we opened insurance to other providers years ago that the rates of those other providers quickly rose to approach those who had the higher rates previously. So all that happens is the provider raises what he gets reimbursed, because now he's insurance reimbursable. Right now the check is being written out of the customer's pocket. He knows he can't get quite as much money so, he's at a cheaper rate. The day the insurance reimburses him, his rates are going to go up and that's another reason there's a fiscal note on this. They don't put fiscal notes on bills because they don't cost money. They put fiscal notes on bills because they do cost money. This will cost the State of Maine a half of a million dollars in fiscal year 96-97 and cost the taxpayers who buy insurance for their own use, each home will pay more money. I encourage you to leave people choice, to leave health care affordable to Maine people and to support the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: To anyone on the committee who can answer, how do insurance companies differentiate between the qualifications to become a provider paid through insurance and the people who are not? Can you tell me is it qualifications or is it a matter of applying and meeting certain requirements? I'd just like to know.

The SPEAKER: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Sitting on Business Legislation for two terms, I have seen this same legislation up in the 115th, the 116th, and the 117th and what they were doing is battling their licensing, because being licensed and by being put into the fold, so to speak, they then could be covered for their benefits by insurance. They were in-fighting from one licensing group to another licensing group to try to get into being covered by insurance. What we're seeing here is the end result of the licensing process. I hope this answers your question. Mr. Speaker.

The SPEAKER: The Representative may proceed.

Representative VIGUE: In the 115th, 116th, 117th the same legislation was up for consideration. This is not a new piece of legislation. This has been around and probably will continue being here, part of it. I apologize for my million dollar statement, when it was \$908,000. Which is still, if you take Everett Dirksen's definition of money, this gets close to his definition of what real money is. The cost, the cost per family is \$33 per family that we are mandating, so if you take \$2.75 and multiply by

12 you're looking at \$33 per family. This is like adding a tax. Everybody here is supposedly, anti-tax, anti-adding costs, gentlemen, this comes very close to meeting the criteria. I urge you to support the Minority "Ought Not to Pass." Thank you.

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

Representative LUMBRA: Mr. Speaker, Ladies and Gentlemen of the House: I also am on the Banking and Insurance Committee and along with the fiscal note and along with the increase in insurance premiums, I would like to say to you that I was not contacted by one patient or individual utilizing these services. Not one, wanting this mandate. Hearing the arguments from the counseling professionals there, I decided that a good alternative may be a mandated offer. Therefore, saying that we would allow this coverage and if you wanted to pay for it and you felt it was important, you could purchase it. Then we would have the Bureau of Insurance do a two year report and report back to us letting us know if there was truly an increase in costs, increase in premium, increase in cost to the state. However, this wasn't good enough. They wanted it mandated across the board, not a mandated offer. I have received calls from people telling me they're on the edge of not being able to pay for their health insurance premiums. Considering that, I certainly can't stand here or sit on committee and support a mandate on families struggling and working very hard to keep their health insurance coverage. I would ask you to consider that and I would ask you to remember those working people that are right on the edge of becoming uninsured, because they can't afford that. I would ask you to consider the option that was provided to these counselors and they refused and I would encourage you to accept the Minority "Ought Not to Pass" Report. Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I'm sorry to rise again. I'm rising to attempt to answer the question presented by the Representative from Hampden, Representative Plowman. The truth is, Representative Plowman, we do not know. I don't think any person in this body knows how an insurance company chooses which categories of providers to reimburse. At least, I believe that's the honest answer. In law, however, we do require that certain providers are reimbursed and those reimbursable providers are psychiatrists, psychologists, psychiatrist nurses and licensed clinical social workers.

In addition, there are providers that are licensed under law and those licensed providers are licensed professional counselors, licensed marriage and family counselors, and licensed pastoral counselors. If you look at the handout I've passed out to you, on the inside pages and on the back are lists of insurance companies and employers who have chosen to reimburse those providers. I assume it's based on the fact that they are licensed in the State of Maine, but I'm not privy and I don't think anyone in this body is to how an insurance company or an employer makes a decision to reimburse those providers. I would assume it has something to do with popularity, need, accessibility, and cost. I would just like to add one more thing and that's to the point made by the good Representative from Bangor, Representative Lumbra. When she urges us to think of the working

people who are on the edge of paying for their health insurance coverage, I agree we should. Those working people who have insurance coverage also have provided to them under law the services of fairly highly paid psychiatrist. What we are trying to do is lower the costs of mental health counselors by opening up the field to other licensed providers who tend to charge less. The diagnosis will not change. You will not get coverage for a new sort of illness or situation.

The illnesses and situations that are currently covered under your insurance policy now, will continue to be covered, but you can see your pastoral counselor, your family counselor, your licensed counselor, instead of seeing a psychiatrist or psychologist. Thank you.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I think the point raised by the Representative from Bangor is a good one. From my experience on the Banking and Insurance Committee over two terms, there were perhaps a dozen bills introduced each session which could be called mandates. On a couple of those bills, I remember, the client and the patient, initiated the bill and pushed the bill, but usually it is the particular provider that's involved which causes the bill to be introduced and provided most of the testimony and most of the push toward enactment. Of course, it's not unreasonable for them to do that, it's in their interest to be insurance reimbursable. However, when we say we are going to mandate coverage by a certain group, or mandate coverage for a particular condition, what we are saying is that we don't care what health care plans wish to provide for their customers. We don't care what employers want. We don't care what insured want. We are deciding that we are going to just require them to do it. There has been a change in the past two or three years in health care in this country and in this state. I suppose that mandates might have been something that could be understandable if we have a system that does not respond well to competitive pressures. I agree with a lot of other people that we have not had a system of health care that has responded to competitive pressures for various reasons, however, I do not think that's the case now. I think competitive pressures do exist. We have a lot of health care plans out there and they are competing, perhaps for the first time in 30 or 40 or 50 years. To say that this legislature is going to substitute it's judgment with regard to these matters when there's effective competition out there, I think is to ruin that effective competition. I hope you'll vote for the Minority "Ought Not to Pass" Report. Thank you.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I, too, am a member of the Banking and Insurance Committee and I rise to urge you to vote against the current motion. A couple of things that I would bring to your attention. It is correct when the good Representative from Wells, Representative Carleton, says that this is a mandate as did the Representative from Bangor. The committee will be bringing before this group a number of mandates and we did prioritize those both for this group and for the Appropriations Committee. There are two that will be coming to you later that have rather wide

spread support. The committee spent a lot of time on this bill and all of the other bills that are being reported to you and it is very difficult to separate each and every one of these bills.

You should be aware of the fact that a number of insurance companies do include these four types of counselors in their coverage. Blue Cross and Blue Shield does not and did not and this bill basically applies to them.

In the fiscal note, we've heard a lot about it referring to it in millions as well as thousands, the last sentence in the fiscal note stated that the ability of the individual state agencies and departments to absorb these costs are undetermined. In other words, some of the departments, some of the agencies, it is felt, do have the funds to absorb this increase and will be able to do it without a major impact. Over time a majority, a bipartisan majority of the Banking and Insurance Committee felt that this bill would save money on health care cost. I urge you to vote against the pending motion and to accept the committee's "Ought to Pass." Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I would just like to share with you a situation that occurred in my family.

Counseling was provided on a sliding scale based on income, because the insurance company denied coverage. When we went through and filled out all the paper work correctly and coverage was provided, the fee didn't stay the same. My share of the fee stayed \$25 and the company got reimbursed another \$25, so my \$25 fee went to a \$50 fee because it had been based on my income previously and that was based on my income and the insurance company's income. I worry that the providers that are now doing this are actually offering the service on a sliding scale basis based on the ability to pay because it's not covered, but once it becomes covered, the price will double. Thank you.

Representative LUMBRA of Bangor requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is acceptance of the Minority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 148

YEA - Aikman, Bailey, Barth, Bigl, Birney, Cameron, Campbell, Carleton, Chick, Clukey, Damren, Donnelly, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Joy, Joyce, Joyner, Keane, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JL; Lindahl, Lumbra, Marshall, Marvin, McElroy, Murphy, Nass, Ott, Paul, Pinkham, Plowman, Poirier, Povich, Reed, G.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, Tufts, Underwood, Vigue, Waterhouse, Winglass, Winsor.

NAY - Adams, Ahearne, Ault, Benedikt, Berry, Bouffard, Brennan, Buck, Bunker, Chase, Chizmar,

Clark, Cloutier, Cross, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heesch, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Libby JD; Look, Lovett, Luther, Madore, Martin, Mayo, McAlevey, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nickerson, O'Gara, O'Neal, Peavey, Pendleton, Perkins, Poulin, Reed, W.; Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, Winn.

ABSENT - Chartrand, Dexter, Meres, Pouliot, Saxl, J.; Saxl, M.; True, Whitcomb, Yackobitz, The Speaker.
Yes, 57; No, 84; Absent, 10; Excused, 0.

57 having voted in the affirmative and 84 voted in the negative, with 10 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (S-211) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, June 13, 1995.

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

CONSENT CALENDAR

Second Day

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

(S.P. 353) (L.D. 981) Bill "An Act to Amend the Teacher Certification Laws Relating to Certification Waivers" (C. "A" S-225)

(H.P. 558) (L.D. 759) Bill "An Act to Encourage the Use of Tire-derived Fuel" (C. "A" H-409)

(H.P. 860) (L.D. 1191) Bill "An Act to Amend the Substance Abuse Testing Laws" (C. "A" H-415)

(H.P. 1066) (L.D. 1501) Bill "An Act to Include Child Care Centers in the Property Tax Exemptions and to Amend the Review Schedule for Property Tax Exemptions" (C. "A" H-406)

No objections having been noted at the end of the Second Legislative Day, 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.

BILLS IN THE SECOND READING As Amended

Bill "An Act Relating to the Renewal of a Teacher Certificate That Has Lapsed for More Than 5 Years" (H.P. 759) (L.D. 1033) (C. "A" H-400)

Bill "An Act to Implement the Recommendations of the Commission to Study Potato Quality Issues" (H.P. 1060) (L.D. 1489) (C. "A" H-408)

Bill "An Act Concerning Potato Blight Eradication and the Disposal of Cull Potatoes" (EMERGENCY) (H.P. 1096) (L.D. 1540) (Governor's Bill) (C. "A" H-418)

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 non-concurrence and sent up for concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

Bill "An Act to Connect Libraries and Communities Electronically" (S.P. 191) (L.D. 500) (C. "A" S-223)

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

On motion of Representative MITCHELL of Vassalboro was set aside.

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

SENATE PAPERS

Non-Concurrent Matter

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) on which the Majority "Ought to Pass" as amended Report of the Committee on Appropriations and Financial Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-386) as amended by House Amendment "A" (H-402) thereto in the House on June 8, 1995.

Came from the Senate with the Minority "Ought to Pass" as amended Report of the Committee on Appropriations and Financial Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-387) in non-concurrence.

Representative KERR of Old Orchard Beach moved that the House Adhere.

Representative CARLETON of Wells moved that the House Recede and Concur.

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

Representative KERR: Mr. Speaker, Men and Women of the House: Nothing has changed from this document, Majority, Minority Report since we last voted. As we all know, this will not be the final budget document, negotiations are going to have to take place. We'd like to remind you that some of the items that are in the Minority Report, one is the repeal of the hospital tax in 1997, provides an additional 22 million dollars to the hospital to cover the impact of this tax. Also, cut state employees benefits by encouraging state employees to pay 20 percent of their individual health insurance plans, it also suspends the merit pay. It reduces the snack tax. It reduces the sales tax from 6 percent to 5 percent. The reason why I'm asking you to vote against the pending motion to Recede and Concur is because I thought we got away from putting costs into the future. The Minority Report put

approximately 550 million dollars into the next biennium, which I consider a future cost. I would urge you to vote against the pending motion.

The SPEAKER: A roll call has been 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. 149

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

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

ABSENT - Chartrand, Dexter, Fitzpatrick, Meres, Nadeau, Pouliot, True, Yackobitz.

Yes, 68; No, 75; Absent, 8; Excused, 0.

68 having voted in the affirmative and 75 voted in the negative, with 8 being absent, the motion to Recede and Concur was not accepted.

Subsequently, the House voted to Adhere.

On motion of Representative ROBICHAUD of Caribou, the House reconsidered its action whereby the House voted to Adhere to L.D. 706.

Representative ROBICHAUD of Caribou requested a roll call on the motion to Adhere.

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 Adhere. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 150

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, 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, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Paul, Poulin, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson,

Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, 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, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Chartrand, Dexter, Meres, Pouliot, True, Yackobitz.

Yes, 74; No, 71; Absent, 6; Excused, 0.

74 having voted in the affirmative and 71 voted in the negative, with 6 being absent, the motion to Adhere prevailed.

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

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1995-96 (EMERGENCY) (H.P. 701) (L.D. 959) (H. "A" H-368 to C. "A" H-336) which was tabled by Representative TUTTLE of Sanford pending passage to be enacted.

On motion of Representative DORE of Auburn, under suspension of the rules, the House reconsidered its action whereby L.D. 959 was passed to be engrossed.

On further motion of the same Representative, under further suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-336) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-368) to Committee Amendment "A" (H-336) was adopted.

On further motion of the same Representative, House Amendment "A" (H-368) to Committee Amendment "A" (H-336) was indefinitely postponed.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Just to let you know, we are simply removing a one line amendment, it's because on further reconsideration we discovered it was redundant and that the matter was dealt with in the legislation. Thank you for your patience.

Committee Amendment "A" (H-336) was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-336) in non-concurrence and sent up for concurrence.

Resolve, Prohibiting the Maine Court Facilities Authority from Locating Court Facilities upon Certain Property (H.P. 1124) (L.D. 1569) which was tabled by Representative KERR of Old Orchard Beach pending reference.

Subsequently, the Resolve was referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

Bill "An Act to Connect Libraries and Communities Electronically" (S.P. 191) (L.D. 500) (C. "A" S-223) which was tabled by Representative MITCHELL of Vassalboro pending passage to be engrossed.

The Bill was committed to the Committee on Appropriations and Financial Affairs in concurrence.

BILL HELD

An Act to Reimburse Former Temporary Hearing Officers of the Workers' Compensation Board for Lapsed Vacation Time (S.P. 234) (L.D. 599) (C. "A" S-88)

- In House, Passed to be Enacted.

HELD at the Request of Representative LEMONT of Kittery.

Representative LEMONT of Kittery moved that the House reconsider its action whereby L.D. 599 was passed to be enacted.

Representative JOYCE of Biddeford moved that the Bill and all accompanying papers be indefinitely postponed.

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

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

Representative LEMAIRE: Mr. Speaker, Ladies and Gentlemen of the House: Just to re-explain this bill, it's been a very long time since we've heard it. It was up for enactment and then it was tabled, so if you would please let me explain what this bill was all about.

Former workers' comp commissioners were hired on as temporary hearing officers in 1993. They were given one year to clean up all of the cases. The reason they wanted these cases cleaned up is they did not want them to be re-litigated and in most of these cases it would have caused a lot of emotional stress on those people who had to have cases re-litigated.

History behind this is basically when these people were hired, they were hired, number one, with a verbal promise that they were going to be rehired in this same position on a permanent basis. They were also told they could not, may I repeat, could not, take vacation time. They knew they had a time-line to get this done and that's exactly what they did. They worked extremely hard to complete this work. Now I think what I would like to say is the Workers' Comp Board, number one, is very much in favor of giving these people their vacation time. The cost is approximately \$13,528 and the Workers' Comp Commission has the money to take care of this. It doesn't come out of the general fund, it has nothing to do with the state. Workers' Comp is not only in favor of passing this, they have the money to take care of it.

On a final note, I would like to say, the Bureau asserts that this bill sets a precedence of legislative involvement in the administration of rules for vacation time. I'm going to submit to you that the danger posed here by this bill is to the Bureau of Human Resources and that it may be forced by the legislature to change an outmoded and unfair policy. Let me repeat that, outmoded and unfair. They have applied it so zealously that they don't look any more at the merits of the case and understand this is a very unique situation. These people were hired on for a specific purpose, with a promise of a permanent job and told not to take their

vacation time. I urge you to defeat this pending motion. Thank you, Mr. Speaker.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I, too, would urge you to vote against the indefinite postponement of this bill and all its papers. With this roll call vote, if my memory serves me correctly, this will be the sixth roll call we have had on this particular issue. I would hope that at this junction, we can put this bill behind us and move on to some of the more important things that are before us. These gentlemen, that we are talking about were not your typical state employees, they were gubernatorial appointees, their jobs were terminated by statute and they were asked by their boss to forgo any vacation time so that they could clear up the open cases. I would remind you that one of the things that was said about six weeks ago on this bill, that it would effect collective bargaining. That has been laid to rest in two communiques from the Attorney General's Office. I would also pick up on a point that the good Representative from Lewiston made. The Workers' Compensation Board voted eight to nothing in support of this piece of legislation. Those of you who follow the Workers' Compensation Board know that most of their votes, if they are able to vote and have a quorum tend to break down on a four four basis. So for those reasons and all of the other things that have been said about L.D. 599, over the past six weeks, I would strongly urge you to vote against the motion and let this bill go forward. Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I want you to know that this report came out of the Labor Committee with a solid majority and it was bipartisan. I'd also like to ask the Clerk that he read the Report and I'd also like to also ask that you vote against the indefinite postponement and give this bill a ride out of here. Thank you.

The Clerk read the Committee Report in its entirety.

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 indefinitely postpone. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 151

YEA - Aikman, Barth, Benedikt, Birney, Buck, Cameron, Campbell, Carleton, Clukey, Cross, Damren, Donnelly, Dunn, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, Lane, Layton, Libby JD; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, McElroy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Ploverman, Poirier, Reed, W.; Robichaud, Savage, Spear, Stedman, Stone, Taylor, Thompson, Tufts, Underwood, Waterhouse, Winn, Winsor.

NAY - Adams, Ahearne, Ault, Bailey, Berry, Bigl, Bouffard, Bunker, Chase, Chick, Chizmar, Clark,

Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JL; Luther, Martin, Mayo, McAlevey, Mitchell EH; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Povich, Reed, G.; Rice, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Strout, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Wheeler, Whitcomb, Winglass.

ABSENT - Brennan, Chartrand, Dexter, Kilkelly, Meres, Mitchell JE; Poulin, Pouliot, Richardson, True, Watson, Yackobitz, The Speaker.

Yes, 54; No, 84; Absent, 13; Excused, 0.

54 having voted in the affirmative and 84 voted in the negative, with 13 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Subsequently, the House reconsidered its action whereby L.D. 599 was passed to be enacted.

The Chair ordered a division on the passage to be enacted.

A vote of the House was taken. 79 voted in favor of the same and 47 against, subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Extend to Businesses the Laws Concerning Protection from Harassment (H.P. 275) (L.D. 377) (C. "A" H-328) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

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

An Act to Provide a Tax Credit for the Rehabilitation of Historic Properties (H.P. 715) (L.D. 972) (C. "A" H-322) which was tabled by Representative TUTTLE of Sanford pending passage to be enacted.

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

An Act to Exempt Bows from the Firearms Discharge Ordinances (H.P. 785) (L.D. 1102) (C. "A" H-335) which was tabled 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.

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

Resolve, to Provide Clear Title for the Maine Judicial Center (EMERGENCY) (S.P. 507) (L.D. 1366) which was tabled by Representative JACQUES of Waterville pending passage to be engrossed.

Representative DAGGETT of Augusta presented House Amendment "A" (H-414) which was read by the Clerk.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I put before you today an amendment which would give the judicial system permission to make a payment in lieu of taxes, in regard to a property at 65 Stone Street in Augusta. The bill which has been considered by the Judiciary Committee, L.D. 1366, provides a clear title for the Maine Judicial Center for the 65 Stone Street property.

It's my understanding that there has been some discussion on the committee regarding allowing the Judiciary permission to make a payment if they so choose, but it's my understanding that there was never a motion and a vote on that in committee. There was some concern that perhaps it might cause the bill not to be passed. I know the issue has been in front of you once before, but I'd just like to tell you it is a little bit different this time, because it would be a Resolve and it would be unallocated language and I think that is different. I hope that you will allow this amendment to be put on this bill to allow the possibility of a small amount of fairness. There is no requirement that a payment be made, it simply allows the Judiciary to make the payment if they so choose. Chief Justice Wathen has indicated that he is not opposed to making this payment so I hope you will join me in supporting this amendment. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will move to defeat this amendment and let me tell you why. I'm pleased that Chief Justice Wathen has no objection to making the payment, he's perfectly free to take his own money and make that payment, but what we are talking about when we are talking about the judicial budget is we are talking about our state revenues. I think we have to decide a couple of different things. The first thing we have to decide is should all tax-exempt property make payment in lieu of taxes and to date we've decided no. I think that is an ongoing and unresolved issue about what you do, particularly in communities that have a lot of tax-exempt property. The problem with this is this allows for one exception, for one community and for what I consider to be one of the most difficult cases to allow the exception for because it's from the State of Maine to the State of Maine. Now you can say it is the judicial budget and another time we might be able to say well this is through some departmental budget, in Orono, if it were the University, well we'd say it is through the University budget and Auburn. If it were the Technical College, we'd say well this is the Technical College budget.

This is State revenue and these are State Institutions that are run to benefit the entire state and to meet the obligations of the state to run such institutions. The benefit to us that we have a court system, it's also an obligation on our part to have a court system. It's a benefit to us that we have a University and a Technical College, but it's an obligation that we have one. How much we decide to fund each and every one of these institutions is something we need to consider as a whole in our budget. We don't start saying in addition to funding you now, we need a kick back to the communities where you are taking up a lot of property because you're tax-exempt. I agree there's a problem. We maybe

need to do something about it, but whatever we need to do, we don't do in Augusta, Maine for the problem the Judiciary is creating here or that State Government is creating here, because believe me, there's a problem being created in Orono, there's a problem being created in every campus town in this state. There's a problem being created in Lewiston because it has both hospitals, Auburn doesn't have one of the hospitals, Lewiston has both. There's a problem in Brunswick from Bowdoin. There's a problem in Waterville from Colby. There's a problem in Lewiston from Bates and there are benefits in all of these communities from these institutions. They take up a great deal of space.

Maine Medical Center takes up a great deal of space and provides some concurrent benefits. How you weigh the benefits against that status of tax exempt is something we need to analysis in a much more thoughtful way. If we go down the road case, by case, you're going to build resentment in your communities, because you're going to go home and they're going to say, "How come you didn't make an exception for this institution in my community that just took a \$6,000 property tax bill off the tax roles. How come not an exception for my community and my institution?" They don't think it is quite worthy of the space it's taking up in the town and the people from a lot of other towns are utilizing. It's really true that we should be addressing this issue. It's really true that growing property tax-exempt property is a problem. Charitable benevolent properties, but we're going to have to do it in a way that's uniform throughout the state or where we are saying to each town, we give you all the same right to analysis and decide if this is of that benefit to your community and if not, you can have a scheduled payment in lieu of taxes. Maybe we should say that all charitable property, the town ought to be able to say, there ought to be a 50 percent tax rate in lieu of taxes.

I don't know what the solution is, but I know you don't cherry-pick off solutions for this particular problem and this particular town as much as I recognize that Augusta has severe problems. The problem I'm having with this amendment, although it's not exactly like the law the Taxation Committee overwhelmingly turned down. It is nearly exactly like the proposed law that the Taxation Committee overwhelmingly turned down because it was a solution for one community in one building, that was having one crisis with one piece of property coming up the tax roles. Not only was it turned down overwhelmingly by the Taxation Committee, but I just want to remind you that on April 4th, 1995, in roll call number 24, this concept was turned down by a vote of 104 to 38. We have pressing property tax problems and I would like to address all of them in a uniform way that's fair to every community in this state that has the burden of excess tax-exempt properties. I hope you turn down this amendment. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: This is a Judiciary Committee bill that was supported by all 13 members of the Judiciary Committee. We did discuss this proposed amendment, whether it was in the form of a formal motion or not, it was the consensus of the committee and I believe it may have been the unanimous consensus of the

committee not to put this language into this bill. I will say that part of our thinking was that it had been previously defeated on another bill on another bill on the floor of this House. We did not want to put language into this bill that would threaten its being passed by this legislature and that was certainly part of our thinking. I will say that it was discussed by the committee, we did not put it onto this bill, just to clarify the record for you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I'm a little confused here, do we not have a clear title to the property now?

The SPEAKER: The Representative from Kennebunk, Representative Libby has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: The bill is in front of us because there was not a clear title. The legislature has been asked to pass a law to give clear title to this property. It is the amendment that I am suggesting will go the bill, it would only effect the one particular property.

I'd like to take a minute to address a few comments by Representative Dore, and I know there were a lot of issues that were raised by Representative Dore, for some reason this seems to have gotten a referendum issue on all the property tax inequities across the State of Maine. That's not what we are talking about here. This is not property that the Judicial System went out and looked for, and said, "Hey, let's go buy a piece of property, that would be appropriate for everyone." This is a piece of property that was a residential home, a beautiful residential home in Augusta, that was given to the Judicial System. In fact, the deed restriction was that it continue to be residential property and the deed restriction was related to the requirement that there be residential property. It is a specific case.

You may have heard the idea that we have to solve every problem at once, but I would suggest to you that on a regular basis, we handle things in an incremental fashion and we use these kinds of incremental ways to say, "This is an inequity that we would like to address." I think this is a moment when we can say, "yes, it is inequitable and we would not stand in the way of the Judicial System making a payment in lieu of taxes."

There was reference made to Universities, Augusta has a University. We also have two other courts that are tax free property. We have a little bit of every kind of tax free property, but I would submit to you that this one is somewhat different and that amending this Resolve is different than the statutory language that was suggested earlier and it is a very small step that says, "State government should not be trampling on the right of it's communities and we're willing to make that one little step and say that now." It's not a mandate, it's permission.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I rise on this bill today to agree with my good Chair from Taxation Committee and she is absolutely correct. When we had this amendment before Taxation, we realized that there's

nothing stopping the Judiciary from paying the fee now, so they don't need a law to do it. Why they really want this legislature to pass this amendment, I really don't know when they have the right to do anything they want to as far as paying user fees. If we are going to do this, I think we should take a look at it state wide and everybody should be treated fairly. I come from a district that does not have a lot of tax-exempt property as far as the state is concerned or Universities. As you know, we don't have any University in York County. Thank you.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I, too, hope that you join with the sentiments of Representative Dore, except for the fact that this amendment before us is now titled a Resolve and L.D. 127 was an L.D., they are, in fact, identical. L.D. 127 had a full and fair hearing in the Taxation Committee and as Representative Dore said to you, was defeated rather soundly on the floor, because it's not a particularly good idea. There was then apparently an attempt to get the Judiciary to endorse this, which was not successful. Ladies and gentlemen, this is not pitch until you win, this idea has been tried and it lost and should be defeated this time. Thank you.

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

Representative LIBBY: Thank you, Mr. Speaker, another question. Suppose when this was voted down, what happened to the clear title that we don't have now?

The SPEAKER: The Representative from Kennebec, Representative Libby has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: If you vote down the amendment, it won't have any effect on having clear title or not. Clear title is only depending on voting for the bill itself. When we get to that we can talk about that, but at the moment we are talking about the amendment that has nothing to do with clear title. It has to do with paying money out to the City of Augusta.

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

Representative MADORE: Mr. Speaker, Ladies and Gentlemen of the House: A comment that was made just a moment ago, pitch till you win, there was no change between the previous bill and the amendment. I find a big change and it's in the change of one word and that is from the word "shall" to "may" and that previously we did say that they would enter an agreement and this time we are saying that the two parties can sit down and simply discuss the possibility. We are not mandating anything. I've spoken to both parties, both of them are saying that they would be willing to talk without any type of agreement on the table at first, but simply working out some sort of idea as a payment plan or whatever.

I spoke to Justice Wathen as early as a week ago and he said to me, when I point blank asked him, what was holding everything up? He simply said that he was waiting for a nod from the legislature and at that point he would, in fact, discuss something with the city.

We're not talking a lot of money. We're talking probably something in the vicinity of \$5,000 to

\$6,000. We're not asking them to pay it now. They could be paying it in the next annual budget, if they wish. This is simply an amendment that comes from constituents saying, "enough is enough." I urge you to support Representative Daggett's amendment. Thank you.

The Chair ordered a division on adoption of House Amendment "A" (H-414).

The SPEAKER: The pending question before the House is adoption of House Amendment "A". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 19 voted in favor of the same and 94 against, House Amendment "A" (H-414) was not adopted.

Subsequently, the Resolve was passed to be engrossed and sent up for concurrence. Ordered sent forthwith.

On motion of Representative JOY of Crystal the House adjourned at 5:35 p.m., until 9:00 a.m., Tuesday, June 13, 1995 in memory of S. Glenn Starbird, Jr. of Kingman a former member of the Maine House of Representatives.