

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

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

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
63rd Legislative Day
Wednesday, June 21, 1995

The House met according to adjournment and was called to order by the Speaker.
Prayer by the Hon. G. Steven Rowe of Portland.
The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 224)
Maine State Senate
State House Station 3
Augusta, Maine 04333

June 20, 1995

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

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:
Upon the recommendation of the Joint Standing Committee on Inland Fisheries and Wildlife:

Charles F. Beck of Presque Isle for appointment as a member of the Inland Fisheries and Wildlife Advisory Council.

Eric N. Davis of Vinalhaven for appointment as a member of the Inland Fisheries and Wildlife Advisory Council.

Wilnot "Wiggy" Robinson of Millinocket for reappointment as a member of the Inland Fisheries and Wildlife Advisory Council.

F. Dale Speed of Princeton for appointment as a member of the Inland Fisheries and Wildlife Advisory Council.

Millard A. Wardwell of Penobscot for appointment as a member of the Inland Fisheries and Wildlife Advisory Council.

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-293) on Bill "An Act to Ensure a Sustainable Urchin Fishery in the State and to Promote Competition in the Maine Sea Urchin Processing Industry" (S.P. 337) (L.D. 918)

Signed:

Senators: BUTLAND of Cumberland

PINGREE of Knox

GOLDTHWAIT of Hancock

Representatives: BENEDIKT of Brunswick

BIGL of Bucksport

ETNIER of Harpswell

LOOK of Jonesboro

RICE of South Bristol

VOLENIK of Sedgwick

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-294) on same Bill.

Signed:

Representatives: CLOUTIER of South Portland

LAYTON of Cherryfield

PINKHAM of Lamoine

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-293)

Was read.

Representative CLOUTIER of South Portland moved that the House accept the Minority "Ought to Pass" as amended Report.

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

At this point, the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

Divided Report

Six Members of the Committee on State and Local Government on Bill "An Act to Provide Equal Political Rights for Classified State Employees" (S.P. 407) (L.D. 1095) reporting in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (S-264)

Signed:

Senators:

AMERO of Cumberland

CARPENTER of York

Representatives:

GERRY of Auburn

ROBICHAUD of Caribou

LANE of Enfield

SAVAGE of Union

Six Members of the same Committee on the same Bill reporting in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-265)

Signed:

Senator:

LONGLEY of Waldo

Representatives:

LEMKE of Westbrook

DAGGETT of Augusta

AHEARNE of Madawaska

SAXL of Bangor

ROSEBUSH of East Millinocket

Came from the Senate with the Bill and all accompanying papers indefinitely postponed.

Was read.

Representative DAGGETT of Augusta moved that the House accept Report "B" "Ought to Pass" as amended.

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

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Transportation

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$51,900,000 to Match up to \$135,000,000 in Federal Funds for Improvements to Highways, State and Local Bridges, Airports and Ports" (H.P. 1133) (L.D. 1577) (Presented by Representative O'GARA of Westbrook) (Cosponsored by Representatives: BOUFFARD of Lewiston, CHARTRAND of Rockland, DRISCOLL of Calais, HEINO of Boothbay, LINDAHL of Northport, STROUT of Corinth, Senators: CASSIDY of Washington, PARADIS of Arostook) (Governor's Bill)

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative O'GARA from the Committee on Transportation on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, 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. 580) (L.D. 785) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-557)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-557) 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 Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-550) on Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs" (H.P. 805) (L.D. 1122)

Signed:
Senators: LORD of York
RUHLIN of Penobscot
Representatives: GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham

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

Signed:
Senator: HATHAWAY of York
Representatives: GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

Was read.

Representative POULIN of Oakland 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 State and Local Government reporting "Ought Not to Pass" on

Bill "An Act to Increase the Efficiency of Cumberland County Government Operations" (H.P. 975) (L.D. 1384)

Signed:
Senator: LONGLEY of Waldo
Representatives: DAGGETT of Augusta
AHEARNE of Madawaska
SAXL of Bangor
ROSEBUSH of East Millinocket
ROBICHAUD of Caribou

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-551) on same Bill.

Signed:
Senators: AMERO of Cumberland
CARPENTER of York
Representatives: GERRY of Auburn
SAVAGE of Union
LANE of Enfield

Was read.

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

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

CONSENT CALENDAR

First Day

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

(S.P. 571) (L.D. 1545) Bill "An Act to Update and Clarify the Corporate Laws" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-295)

(H.P. 1072) (L.D. 1507) Bill "An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-554)

(H.P. 1110) (L.D. 1558) Bill "An Act to Deregulate the Costs and Revenues Associated with Acute Care Provided to Involuntarily Committed Patients within the Hospital Care Finance System" (Governor's Bill) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-555)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act Regarding Insurance Coverage for Mental Illness" (EMERGENCY) (H.P. 432) (L.D. 595) (C. "A" H-521)

Bill "An Act to Correct Errors and Inconsistencies with Regard to the Restructuring of Maine Government to Conform with the Provisions of the Texas Compact" (EMERGENCY) (S.P. 383) (L.D. 1060) (C. "A" S-286)

Bill "An Act to Require Minimum Mandatory Sentences for Persons Convicted of Assault Crimes" (H.P. 900) (L.D. 1276) (C. "A" H-513)

Bill "An Act Concerning Ring Holding Devices Used in Packaging" (H.P. 940) (L.D. 1329) (C. "A" H-273)

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

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

Bill "An Act to Exempt the State from the Mandatory Use of Reformulated Fuel" (EMERGENCY) (H.P. 274) (L.D. 376) (H. "A" H-544 to C. "A" H-517)

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 as amended and later today assigned.

ENACTORS

Emergency Measure

An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1996 (S.P. 198) (L.D. 541) (C. "A" S-266)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify the Registration of Snowmobiles by Nonresidents (H.P. 604) (L.D. 814) (H. "A" H-410 to C. "A" H-375)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Improve Maine Students' Preparedness for the Global Economy by Enhancing Opportunities for Global and Geographic Education (H.P. 716) (L.D. 973) (H. "A" H-507 to C. "A" H-396)

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. 102 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify and Expand the Powers and Duties of Lake Arrowhead Community, Incorporated (H.P. 909) (L.D. 1285) (C. "A" H-490)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 4

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

Emergency Measure

An Act to Clarify and Amend Provisions of the Maine Insurance Code and Workers' Compensation Self-insurance (H.P. 1101) (L.D. 1548) (Governor's Bill) (C. "A" H-448)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Require a Review of the Beverage Container Deposit Laws (H.P. 956) (L.D. 1345) (H. "A" H-465 to C. "A" H-450)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Amend the Workers' Compensation Act As It Relates to Incarcerated Individuals (H.P. 697) (L.D. 955) (C. "A" H-440)

An Act Concerning the Liability of Governmental Entities for the Use by Employees of Private Motor Vehicles (H.P. 824) (L.D. 1155) (C. "A" H-423)

An Act to Create the Overhead High-voltage Line Safety Act (H.P. 894) (L.D. 1247) (C. "A" H-484)

An Act to Strengthen the Laws Concerning Labeling and Advertising of Native Produce (H.P. 973) (L.D. 1382) (C. "A" H-481)

An Act to Clarify the Forcible Entry and Detainer Law (H.P. 982) (L.D. 1390) (C. "A" H-479)

An Act to Establish Safety Standards for All Utility Facilities (H.P. 997) (L.D. 1407) (C. "A" H-472)

An Act to Amend the Maine Bail Code (H.P. 1000) (L.D. 1411) (C. "A" H-483)

An Act to Establish the Board of Licensure of Water Treatment Plant Operators (H.P. 1090) (L.D. 1534) (C. "A" H-489)

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

An Act to Exclude Certain Parks from the Definition of Mobile Home Parks (H.P. 372) (L.D. 507) (C. "A" H-142; H. "B" H-480)

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 Increase Access to the Legislature and Government Services for Persons Who Are Deaf or Hard of Hearing and to Make Progress towards Compliance with the Americans with Disabilities Act (H.P. 465) (L.D. 631) (C. "A" H-432)

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 Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks (H.P. 801) (L.D. 1118) (C. "A" H-404)

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

On motion of Representative CAMERON of Rumford 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.

On motion of Representative JACQUES of Waterville, the House recessed until the sound of the bell.

(After Recess)

On motion of Representative JACQUES of Waterville, the House recessed until 2:00 p.m.

(After Recess)

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. 571) (L.D. 1545) Bill "An Act to Update and Clarify the Corporate Laws" (C. "A" S-295)

(H.P. 1072) (L.D. 1507) Bill "An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill" (C. "A" H-554)

(H.P. 1110) (L.D. 1558) Bill "An Act to Deregulate the Costs and Revenues Associated with Acute Care Provided to Involuntarily Committed Patients within the Hospital Care Finance System" (Governor's Bill) (C. "A" H-555)

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 Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, 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. 580) (L.D. 785) (Governor's Bill) (C. "A" H-557)

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

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

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

Senate Divided Report - Committee on Marine Resources - (9) Members "Ought to Pass" as amended by Committee Amendment "A" (S-293) - (3) Members "Ought to Pass" as amended by Committee Amendment "B" (S-294) on Bill "An Act to Ensure a Sustainable Urchin Fishery in the State and to Promote Competition in the Maine Sea Urchin Processing Industry" (S.P. 337) (L.D. 918) which was tabled by Representative CLOUTIER of South Portland pending his motion to accept the Minority "Ought to Pass" as amended Report.

At this point, the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House: Please vote against the Minority Report so that we may pass the Majority Report. The major difference between the Minority and the Majority Report centers on the length of the urchin fishing season.

Let me give you a little background to this issue. In a few short years the sea urchin industry has exploded from obscurity to Maine's second most important harvest from the sea. In recent months I have talked with urchin divers, draggers, buyers, transporters and processors. Nearly all are in agreement that we have not regulated the industry adequately. Divers tell me there are fewer urchins on the bottom. They are bringing in sometimes half the daily harvest that was possible a year or two ago. The draggers are exploring further and deeper beds as their old harvesting grounds are depleted. Buyers, transporters and processors have more difficulty supplying markets with adequate numbers of quality urchins.

Do we continue as we are and watch the resource disappear or do we act? The large processors want to be able to purchase, process and ship urchins to the Far East as much of the year as possible. They favor roe count standards. Even though urchins are spawning heavily from April to July, it is still

possible to find some urchins with the roe standard of 10 percent or better even in this time. Therefore, instead of closed seasons these large processors called for a minimum roe standard of 10 percent for urchins to be sold and processed. Now it wouldn't matter how many urchins were harvested and brought to the processors. They would only take those with a high roe count. They would be guaranteed a high quality product that would sell in Japan.

In the spring and summer, how many tons of urchins would come out of the water, fail the roe test, and be sent back? Many dying on the roe count table. Many dying on the boats. Many dying after being dumped back in the water. Two weeks to survive in a habitat often far different from that from which they came. The roe standard test has potential. It is currently used by buyers to determine how much they will pay for a lot of urchins. It has enough potential that both the Majority and Minority Report authorize the Department of Marine Resources to study it and come up with a plan to implement it next year. However, the implementation of a roe standard test now, without that study, might have a negative effect on conservation as harvesters, buyers and transporters in order to maximize their earnings would encourage overharvesting in order to ensure adequate income for as much of the year as possible.

We need time to work the bugs out and see that this does not happen. The harvesters asked that we shorten the season from seven and a half months to five and a half or six months. The Minority Report only asks the commissioner to close areas for spawning, if necessary, with no set closing date. This may actually increase the fishing season. It fails to do what the Majority Report will do, which is to shorten the season by two weeks in August for Zone 1 and two weeks in May in Zone 2 and eliminate fishing on Sundays and Wednesdays in September, October, March and April.

If we pass the Minority Report, we will fail to reduce harvesting. The critical time to protect the urchins is spawning season, which varies from coast to coast and can start as early as February and last until August. This is also the time when roe count is lowest. The edible part of the urchin, the roe, reaches its maximum from October thru February. This is the best time to harvest top quality urchins. For now, the best way to reduce fishing efforts is to reduce the number of days fishing. This is what the harvesters want and know the bottom best and it is what the buyers and transporters have already agreed to.

It is only a few very large processors and their lobbyists who are fighting this reduction of efforts. They make a lot of money and they stand to lose some of it. Unlike the harvesters who value and respect the resource, they are unwilling to compromise and stand in the way of effective resource management. I urge you to support the harvesters and responsible buyers and transporters who want to save a valuable resource for future generations. Please oppose the Minority "Ought to Pass" as amended Report, so that we may move onto the Majority Report, which is a better bill. Thank you.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Bristol, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to oppose the pending motion. This was a bill that was supported by many, many harvesters. Lots of hard work went into this by the committee. It is a good compromise bill to save the urchin industry. Thank you.

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

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: I, too, strongly urge you to oppose the current motion, which is the Minority "Ought to Pass" and urge you to stick around and support the Majority "Ought to Pass."

The primary difference between the two, as was alluded to by Representative Volenik, has to do with the dates being in statute for the opening and closing of the urchin season. Last year in the 116th Legislature, they set dates in statute for these time periods. Our committee had numerous work sessions on this issue. There were actually nine bills in front of us at one time related to urchins. We consolidated them into the bill that is in front of you now.

We feel in the majority, that the Majority Report is a better report because it maintains these dates of opening in statute. They were definitely a compromise. The harvesters in my area wish that we had moved the opening day later in the season, in other words, keeping the season even shorter than it is now. The processors who were there strongly wanted us to at least keep them the same or possibly make the season a little bit longer, more toward the beginning of August. We do feel this bill is an adequate compromise. We worked long and hard on it.

The harvesters have accepted the two week additional closure of this season and believe it is a means of helping to conserve the resource. We have also added two days on either end of the season when the weather is the best, in the fall and spring. Wednesdays and Sundays, we have taken those days at the suggestion of the harvesters, actually, out of the fishing schedule. We have left seven days a week in during the middle of the winter when the weather is the worst, but at the request of the harvesters, they thought as a conservation measure, perhaps taking Wednesday and Sunday harvesting dates out was also an additional means to achieve that.

There is a lot that is unknown about the urchin fishery. That is one thing that we all agreed on. There is a lot that we need to learn about it. In this stage of the game we thought this was an adequate compromise and I urge you to oppose the pending motion and to please support the Majority "Ought to Pass." Thank you.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: The Minority Report out of the Marine Resource Committee essentially retains the good aspects of the bill and simply removes or amends those parts of the bill which would have an adverse impact on both the urchin harvesters and the urchin processors who work this very, very important industry. The Minority Report is supported by the commissioner and is supported by the industry. As

chair of this committee, I was not in committee nor was the Senate chair in committee when this Majority Report was voted out.

I would just like to explain to you a couple letters through the industry, if you would bear with me. There is one from the President of the Maine Urchin Processor's Association. I will paraphrase. "Managing the sea urchin resource has been one of my top priorities since entering the fishery eight years ago. Many of the management and conservation laws in place today are due, in large part, to my efforts, time, cooperation and commitment with prior Marine Resource Committee. With this in mind, I am truly astonished that the Marine Resource Committee has taken it upon themselves to shorten the number of days harvesters are allowed to fish. They did this without any legitimate scientific support or critical necessary knowledge that would substantiate their position. This legislation will only promote the harvesting of more urchins that are immature on the spawning cycle to cover the shortfall in total pounds available due to the less days fishing and only worsen the density problems that currently exist." That was from the President of the Maine Urchin Processor's Association. It goes on to page 2, but I won't read the whole letter.

Another letter from a business in Biddeford, Maine, Gloves, etc. I will paraphrase a part of this letter. "A large percentage of my annual business plans concern this industry. The losses in sales that my company would incur during extended closed periods would cause me to reexamine my payroll jobs."

From Perkins Paper on Pearl Street in Portland, Maine, "Dear Representative Cloutier: It has been brought to my attention that the sea urchin industry is in jeopardy of having its season curtailed. As in any business, restricting the season even more than it is now would cause the urchin industry, packaging industry and the local economy to suffer greatly."

From Coastal Products Company, "Dear Representative Cloutier: Coastal Products Company has spent a great deal of time, effort and dollars researching and developing the appropriate cleaning compounds needed for seafood industry and a significant portion of our business is with the urchin industry. The loss of sales resulting from the recent moratorium have cut heavily into the bottom line of our company and if allowed will continue to affect suppliers as well. More jobs, more businesses being affected."

From Tex Tech based in Massachusetts, South Portland and Clearwater, Florida, "Dear Representative Cloutier: As manager of Tex Tech, I can state that the sales losses that we experienced during the moratorium are severe. If the moratorium were extended, these losses would not only impact our employment picture, but would also affect those who service and supply us. It is hoped that if legislation is necessary to protect the resources, it can be enacted without hurting the industry and those who serve it. It has been suggested to me that this is possible." The possibility is in the Minority Report.

If you cut out the two days, the Wednesday and the Sunday out of the urchin diving week in the month that it takes place, as you all know, it is rather rough weather at sea. What you are doing is you are taking away a safety factor and you are jeopardizing the divers. Here is a letter from a wife addressed to Senator Butland as a wife of a sea urchin. Once

again, I will only take a part of this letter, but it says, "My husband averaged only 15 harvest days each month last season. If some of those good weather days happen to fall on closed harvest days, he would have felt it necessary to take more chances in questionable weather. This also leads to the harvesting of lower quality urchins because they cannot go into areas with higher quality because they are constrained by the weather. I believe that the natural weather conditions already dictate a harvester's catch. Lets work on a safer and more reasonable way to conserve our resource."

From W.M.I. Exports on Commercial Street in Portland, "Mandatory Sunday and Wednesday closures force fishermen in a weather driven industry to put themselves at risk to harvest during potential hazardous weather. It is a fact. If a fishermen knows he is not going to be able to fish the next day, he is far more likely to take chances on a day that he would not normally have fished because of the poor weather. What is he going to do? He is going to stay down in the water longer and maybe use his reserve supply and say maybe I can get that extra 10 pounds of urchin because I know the blow is going to be up tomorrow. I am not going to be able to fish, one urchin diver, 15 days out of the month and they want to cut two more days out of every week. Urchining is all about weather and in the best three months of the spring and fall, fishermen can go weeks waiting for a break. Diving is one of the most exposed methods of fishing. If the weather comes up quick or it is marginal days that get worse, danger could be quick to follow."

This legislation forces fishermen to fish, not at their discretion, but at their own jeopardy. The days they can fish may decrease, but the bills and the mortgage payments do not. Desperation is a horrible thing, ladies and gentlemen. Don't allow this Majority Report to go. It will take away the fishermen's greatest asset at sea, his own discretion.

Lastly, I would like to say this. This is probably one of the largest urchin harvesters in the state. Just a little facted note that we received. "You would think the DMR would be more receptive to the industry's 149 million dollar export business in the Maine urchins."

Here is a business that wants this Minority Report to pass, along with the commissioner. The commissioner came up and said to me, this Minority Report is a good report, along with the industry. This is the industry we are talking about right here, the 149 million dollar export industry. They have a payroll of 1.3 million. Purchases for Maine divers, 6.3 million. Export sales, 12 to 15 million. These businesses are Eastern Horizon, Great Atlantic, the Urchin Merchant, Machias Bay Seafood and Family Seafood. They all represent different percentages in this business.

Ladies and gentlemen, this is a very important issue. We are talking about a piece of legislation, this Minority Report, that the commissioner would like to see, the industry would like to see and we would all like to see jobs left here. Spin-off jobs left here. We would like to see the export industry of 149 million dollars remain here in the State of Maine. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: Some four years ago, this legislature, the members here in this House and in the Senate took a really hard stand and showed some intestinal fortitude that I think was rather remarkable. They took the bull by the horns and set up some regulations that, in my opinion, is the first step in saving an important industry in the State of Maine. This industry in the State of Maine, without strict regulations could have gone by the boards such as the same industries in some of the other states.

The Minority Report, in my opinion, should not receive your support. I would hope that you would support the Majority Report in this industry. In fact, it is true that it does mean jobs, it means thousands of jobs, but those jobs won't be there if we are not very careful of the regulations in the industry. In my opinion, many, many fishermen or divers along the coast would like an even shorter season than we have now. They are concerned that if they don't, the resource will be completely depleted and two or three or four or five years from now there may be no jobs. There may be no exports.

Scientific information on this is lacking. We know very little about the urchin itself as stated by the good Representative from Harpswell. However, my experience in the Marine Resources Committee, I have to give a great deal of credence to what the divers would tell me about this industry. The divers are telling me that there are fewer and fewer urchins all the time out there. Shortening of the season a couple of days a week, I don't think, is going to hurt anyone. I think in the long run it probably is going to help a great deal.

Wouldn't it be too bad if we let up on these regulations and we found ourselves in a situation down the road, such as California and many of the countries of the Far East, who have completely raked their urchin resource to a point where there is nothing there. Urchin fishing in the State of Maine is not a new industry. You can find divers who have been fishing for urchins along the coast of Maine for about 20 years. It only became a big dollar item in the State of Maine when all of the other states and all of the other countries in the Far East didn't have a product. It was then and only then that our industry, because we had a lot of them at that time, came to fruition.

I would urge you, strongly urge you, to vote against the Minority Report, so that you can go on and adopt the other report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bucksport, Representative Bigl.

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I also urge you to not to pass the Minority Report. The reason why we are debating this today, obviously, is because someone came to us concerned about the fishery. The concern that we heard from both sides of the processors and the harvesters was the urchins are disappearing.

I can hear a harvester say to me. I like that stuff now, but I have been fishing urchins for a while and I would like to keep on doing that. My job is secure right now, but will my job be secure in two or three years. I am very nervous about that. We listened and we have this bill before you because there is a need, a need in the fishery, for us to make a step. This step is to protect the fishery.

I would like to make a couple of quotes for you from people who process the urchin. Here is one. I

will quote a paragraph. "I urge you not to be swayed by the plight of those short-sighted business owners who have put themselves in this position by their uncontrolled growth and unrealistic expectations of the size of their resource." Here is another, "I believe limiting the fishing days per week would make good sense and would probably increase the value of the urchins by stabilizing supply and demand."

You talk about good business sense. Well there it is right there. If you have the product and you have a minimum of the product where you can control the price, that is pretty good business sense right there. On the business of jobs, well I will just repeat that over and over again. There is immediate jobs right now. I talked to the harvester this morning. He said, "I am nervous with this bill, because I won't be able to fish as much, but I know you have tough choices to make and I know the choice you are going to make is to make sure that fishery keeps on." I urge you to vote no for the Minority Report and let us get on with the Majority Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Mr. Speaker, Men and Women of the House: I would just like to remind you that there already is a moratorium on entry into this fishery. This was done as a conservation move to lessen the impact on the urchin. I represent eight towns in Washington and Hancock Counties and seven of the eight towns are fishing towns. I have not had any one person in support of the Majority Report.

The season, for those of you who don't know, runs from September to April. It is through the winter months when we have very inclement weather. As previously mentioned in the past, this body did impose laws that would require these divers to go through safety courses to better educate themselves on situations that could harm them, for safety reasons. They also had boat tenders that are required to be certified in CPR to help these divers when they are in trouble.

If the Majority Report were to pass, the safety effort would be done away with, because you are now going to force these divers to dive during inclement weather. If there is a Sunday and Wednesday closure, then that only leaves the five other days. If you have three days of bad weather that they can't get out, that leaves two. It is either that or go out on the bad days. It would just seem contradictory to me for this body to be so concerned with their safety one session and the next session totally disregard that safety. I strongly urge you to support the pending motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I have heard from my harvesters on this issue and they have a great deal of concern with the Majority Report. The Majority Report would include closures between September 1 and October 31, March 1 and April 30, for both Wednesdays and Sundays of every day during the week.

Last season during these months, the divers were able to harvest only 15 days a month. Human nature the way it is, if these harvesters have days they can't fish, they are going to push the envelope. They are going to go days when they shouldn't dive and you are going to have a situation of dollars

versus safety. The Minority Report provides for all the conservation measures put in by the 116th Legislature. It in no way repeals the moratorium. It in no way repeals the two inch minimum size. It does not affect culling at sea and we will still have closed seasons to promote conservation. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I am sure you have heard about all you want to know about urchins, but let me go back, you heard Representative Heino speak of the previous legislature that had addressed this issue. I want to go back a little bit before that. I went to our town dump, when we still had one, in the middle of July and I was confronted with two seven-yard truckloads of urchins that were dumped in the entrance to the town dump. I complained to the town officials and they said, yes, that is what they are doing. This is a waste of a product.

Then we addressed this issue here in the legislature. I guess it must have been the 115th Legislature and then in the 116th, we addressed the issue of the diving. Why did we do that? Because through the media, the public had been advised of the gold at the bottom of the sea. How easy it was to go out there and pick up these little creatures and sell them. It was true, but in that gold rush, so to speak, we lost four young men, because they were not prepared to address the elements of the ocean. The fear that they were struck with and any other problems that they might have had that we will never know what it was. Now we come down to this.

At that last turn, we imposed a closed time. This was the time when these urchins are in the spawning season. The first zone in the southern part of Maine was closed to preserve the species. The eastern end or Zone 2 was closed at a little later date. I believe the first one was closed April 1 and the second one on May 15. They both ran the same length of time, but at different time frames.

Now let me go to a trip I took a year ago to the northern part of Japan. There is the market for many of these urchins. It is also all over the Far East. This is a very relished seafood that they want. They do pay large money for it. However, if we do not take some provisions to provide for the continuation of this species to be grown in Maine waters, we may reach the point where we would be in the same situation as the off shore waters are with the Fin Fish. Yes, there is big money in this. There is a wonderful market for this, but shouldn't we be looking after a future for this fishery. I think we should.

This Minority Report wipes out any closed season that exists. I don't think we want that. I think we want to have some means of controlling the continuation of the species. This is one way that we can do it. I hope you will vote "Ought Not to Pass" on the Minority Report so we can go on to the Majority Report and enact it. Thank you.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: I commend all the people on the committee for doing a lot of work and coming out with basically two good reports, differing only in the closure time. However, I wish they would have stuck to managing and preserving the resource instead of, as I read it, they both mandate that adult people on

these tenders take the same course that divers take. To me this is just another overreaching of government, probably in the name of doing something for the resource.

It is very easy to crowd the issues here and slip these things in. The last time I fished commercially on the west coast, three years ago, the coast guard was proposing that all commercial fishing boat owners take a safety course. We were fighting it tooth and nail. I don't know how it came out. Government is insatiable in its appetite to control adult behavior. Why this was stuck in both of these bills is beyond me. These are adult people and just the economic factor because a lot of these tender operators only are tending for a week. A different will come on. It is just another license that the government has to sustain and force on these people. I can't support either one of these bills. Thank you.

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

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

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

Representative BAILEY: From meeting with my draggers and divers in Eastport, Lubec and Machias area. I was under the impression that right now the season is opening way too early before the roe count is up and is closing after the urchins have started to spawn and dropping their spawn. Does either one of these bills or amendments deal with shortening the season by extending or bringing back the date and extending it to say October 15 to November 1?

The SPEAKER PRO TEM: The Representative from Township 27, Representative Bailey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: It does close it at the last two weeks of the season and it shortens it by two weeks on both ends and eliminates two days in the middle, to answer your question. I would just like to say that the urchin processing industry represents a growing marine industry. Rather than declining in the past few years, has a 25 percent increase in total urchin landings, which indicates that there does remain a strong supply of urchins along the coast.

We have a situation here by taking these two days, the Wednesday and the Sunday out of the week and during the high hard winter seasons when the urchin is the best to fish for and I have mentioned this before, you have divers who have to make a decision to jump into that water on a Tuesday, because he knows Wednesday is going to be closed, because of foul weather conditions, he is going to get into that water and he is going to say I have got to get more urchins. He is going to take that chance. That is what we are doing right now, by closing those two days out of the week, we are going to force that diver to take chances that he normally wouldn't take. I would do that, if that were to provide bread and butter on my table.

If that were to provide for my children, I certainly would do that. At a young age, which most of your urchin divers are, they probably would be foolish enough to do that. By closing it the two days what we are technically doing is threatening

these divers with a death sentence. Think about it. Saturday, I can go out Saturday, but I know Sunday there is going to be a blow coming in. It is going to happen, ladies and gentlemen.

I urge you to strongly support the Minority "Ought to Pass" Report. It is a report that the industry wants. It is a report that the commissioner wants. The commissioner will accept the dates. Nobody better in the State of Maine understands this business. She has her people reporting to her from all over the state. Nobody has the information that she has to open and close seasons. It may be more stringent in some areas. It may be less stringent in others. Let's give the commissioner the opportunity that she so desires, along with the industry, to set the date. The commissioner will set the date.

I don't understand, for the life of me, ever since this bill hit committee, why the Marine Resource Committee would come out with a Majority Report saying, I don't want the business to do well and I don't want to believe in my commissioner. I have always put my cards right up on the table and told it like it is. To this day, I cannot understand why the Majority Report came out the way it did. I think that is the question everybody here has to answer themselves. Why would a 150 million dollar industry be fought by members of the committee when the commissioner wants it and the industry wants it. I want it for jobs in the state and so does every other member on the Minority Report.

I urge your thoughtful consideration, ladies and gentlemen, and I strongly urge the Minority "Ought to Pass" Report. Mr. Speaker, I request the yeas and nays.

Representative CLOUTIER of South Portland requested a roll call on the motion to accept the Minority "Ought to Pass" as amended Report.

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

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

The Chair recognizes the Representative from Boothbay, Representative HEINO.

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: We have been giving a great deal of time to safety. I don't think safety is the issue here. What hasn't been told to you is the amount of money that divers make. If you take out the two days that we are talking about and as testified here this afternoon, they could average 15 days a month, a decent diver can make \$300 a day. They don't need to go out in foul weather when they are making that kind of money.

The bill does not require that the two days be deleted from their schedule during the mid-winter when the foul weather is here. If you check your bill, I believe you will find that the season opens up in August and two days a week will be taken out in September and two days a week in October, not in November, December, January or February. Back in March and April, again, the two days a week would be gone.

Keep one thing in mind as you vote on this issue. If you know a great deal about the fishing industry itself, you will know that in the State of Maine and

throughout the entire country, processors move on when the resource is gone, but the fishermen have to stay where he is. If and when there is a time there is no urchin roe to be harvested, the processors will move on to something else or to some other resource, but our Maine fishermen will have to stay here and probably with many, many fewer jobs. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative VOLENIK.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: I would just like to make one correction. The Representative from South Portland is 100 percent correct when he said Commissioner Alden of the Department of Marine Resources supports the Minority Report, but that is only a half truth. The commissioner also supports the Majority Report. In fact, what she has said is that she would be happy to enforce the rules of the Minority Report and set up the seasons if she has to, but she would much prefer it if we, as a legislature, can establish exact seasons for ourselves that she can abide by. However, she will live by either report and she will accept either report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bucksport, Representative BIGL.

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I thank Representative Volenik for taking away one of my points. I am going to confirm what he had said and what the commissioner had said.

I would like to touch a little bit on the safety issue. I chatted with an urchin diver this morning. Number one, he was a pretty intelligent man. He was a pretty smart guy. He knows what he is doing. He has been urchin fishing out there for a number of years. We got to talking about Wednesday and Sunday. He said, last year I really had to work hard to get in good fishing days, because of the weather and then in the next breath he said, last year was a bad weather year. It was really bad for his business. Prior to that, it wasn't quite as bad. Then he followed this up with, I'm not dumb. I am not going to go out and kill myself.

Along with the safety issue, you have already heard reports of what has been done earlier to make sure everybody knows and understands how to operate in a fishery. You also know now there are some real smart and intelligent men out there doing some urchin fishing. They know what they are doing. They have to know what they are doing. The other thing you want to remember is and, again, you have a history here of a couple of representatives, this started a few years ago. We are still trying to make sure the fishery is going to be here for a long, long time. This is another step. When the fishery gets to a point where everyone is comfortable, the harvester and the processors, when they get comfortable and say to us, ok, you can slack off now, we can fish a little bit more, because we feel as if we have a fishery that is going to last a long time, then we can make a move to back off. I, again, urge you to say no to the Minority Report and say yes to the Majority Report.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I think all members of the committee felt very, very bad for the commissioner in the position the committee had her in. Put yourself in the commissioner's position. If you had as much knowledge as the commissioner has about the marine resource industry and you had the opportunity to set the dates yourself based on what is happening in the industry, would you take that upon yourself and make that decision yourself or would you let the legislature do it for you? That is my question. I think she is in that position because she knows best how to do it. She was caught between a rock and a hard place. You set dates and there is no flexibility whatsoever, none.

I would also like to point out that it is important for us here to remember that the urchin industry is a global market place. They don't just buy urchins from Maine. You cut the season short by two weeks in the front and two weeks in the end and eliminate two days in the middle of every week, you know what is going to happen. We are going to lose our niche in the marketplace, I have a letter from W.M.I. Exports, that says that, too. Not just because they say so, but for that two-week period at the beginning and two-week period at the end, they are going to go pick up their urchins from some other country.

The State of Maine has worked extremely hard to develop a very strong lasting relationship with the Japanese enterprise market. We have done a great job. You want to hang it up. Vote against the Minority Report. If you want to continue this 150 million dollar industry, then I strongly urge you to vote with me on the Minority Report. Thank you very much.

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

ROLL CALL NO. 200

YEA - Ahearne, Aikman, Ault, Bouffard, Bunker, Carleton, Chizmar, Cloutier, Clukey, DiPietro, Dunn, Fisher, Guerrette, Hartnett, Hatch, Jacques, Johnson, Jones, K.; Joseph, Joyce, Joyner, Keane, LaFountain, Layton, Lemke, Lemont, Libby JD; Martin, Mitchell EH; Morrison, Nass, Nickerson, O'Neal, Ott, Poulin, Pouliot, Rosebush, Samson, Saxl, M.; Thompson, Tripp, Truman, Tuttle, Tyler, Vigue, Wheeler, Winglass, Winsor.

NAY - Adams, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Brennan, Buck, Cameron, Campbell, Chartrand, Chase, Chick, Clark, Cross, Daggett, Damren, Davidson, Desmond, Donnelly, Dore, Driscoll, Etnier, Farnum, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Heeschen, Heino, Hichborn, Jones, S.; Joy, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Lemaire, Libby JL; Look, Lovett, Lumbra, Luther, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell JE; Murphy, O'Gara, Paul, Peavey, Pendleton, Perkins, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rowe, Savage, Saxl, J.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Townsend, Treat, True, Tufts, Underwood, Volenik, Watson, Whitcomb, Winn.

ABSENT - Dexter, Lindahl, Marshall, Nadeau, Pinkham, Povich, Rotondi, Waterhouse, Yackobitz, The Speaker.

Yes, 48; No, 93; Absent, 10; Excused, 0.

48 having voted in the affirmative and 93 voted in the negative, with 10 being absent, the Minority "Ought to Pass" as amended Report was not accepted.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (S-293) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, June 22, 1995.

House Divided Report - Committee on Natural Resources - (8) Members "Ought to Pass" as amended by Committee Amendment "A" (H-550) - (5) Members "Ought Not to Pass" on Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs" (H.P. 805) (L.D. 1122) which was tabled by Representative POULIN of Oakland pending his motion to accept the Majority "Ought to Pass" as amended Report.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-550) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, June 22, 1995.

House Divided Report - Committee on State and Local Government - (6) Members "Ought Not to Pass" - (5) Members "Ought to Pass" as amended by Committee Amendment "A" (H-551) on Bill "An Act to Increase the Efficiency of Cumberland County Government Operations" (H.P. 975) (L.D. 1384) which was tabled by Representative DAGGETT of Augusta pending her motion to accept the Majority "Ought Not to Pass" Report.

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

An Act to Exclude Certain Parks from the Definition of Mobile Home Parks (H.P. 372) (L.D. 507) (C. "A" H-142; H. "B" H-480) which was tabled by Representative JACQUES of Waterville, pending passage to be enacted.

On motion of Representative KNEELAND of Easton, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 507 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-142) was adopted.

On further motion of the same Representative, Committee Amendment "A" (H-142) was indefinitely postponed.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "B" (H-480) was adopted.

On further motion of the same Representative, House Amendment "B" (H-480) was indefinitely postponed.

The same Representative presented House Amendment "D" (H-560) which was read by the Clerk.

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

Representative KNEELAND: Mr. Speaker, Men and Women of the House: This is just an action where language had to be cleaned up within the bill that was never stricken out when they amended Committee Amendment "B" was put into effect, it didn't take out the facts in Committee Amendment "A" and now it is being taken out in House Amendment "D." This cleans up the language in the bill. Thank you.

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

Representative LEMAIRE: Mr. Speaker, I would, again, like to concur with the good Representative from Easton. I would also like to add, if I may, Mr. Speaker, for the record, I did not wish for this to go back to the Revisor's Office again. I thought it would be nice if we could put it to bed. I would like to read into the record that the statement of fact, which was not removed by the Revisor's Office and is no longer germane. I would just like to put on the record that it is null and void. Thank you.

House Amendment "D" (H-560) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "D" (H-560) in non-concurrence and sent up for concurrence.

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

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

ORDERS

On motion of Representative KILKELLY of Wiscasset, the following Joint Order (H.P. 1134)

ORDERED, the Senate concurring, that Bill, "An Act to Regulate Hybrid Wolves," S.P. 360, L.D. 986, and all its accompanying papers, be recalled from the Engrossing Department to the House.

Was read and passed and sent up for concurrence. Ordered sent forthwith.

CONSENT CALENDAR

First Day

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

(H.P. 1084) (L.D. 1526) Bill "An Act to Allow Involuntary Commitments at Hospitals under Contract with the Department of Mental Health and Mental Retardation" (Governor's Bill) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-563)

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

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-357) - Minority (6) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State" (H.P. 332) (L.D. 453)

TABLED - June 15, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative JOY of Crystal to indefinitely postpone Bill and all accompanying papers.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: We have already had some debate regarding this bill. Unfortunately there seems to be a little bit of confusion about what the bill actually does. I don't think there is confusion in the bill. I hope you will oppose the motion to indefinitely postpone. I think it is time that we had some statutory guidelines for privatization. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, wish that there were guidelines for privatization. I think we need to take a little bit of a look at the history that has surrounded the growth of state government in the State of Maine, not only here, but nationwide. The legislature has created bureaucracies. Bureaucracies have only one purpose and that is to grow. They have reached down into the private sector and have taken away many things that were done by the private sector until they have grown into what we have now as our super bureaucracy. It is very, very difficult to try to revert that process and help us shrink state government. These guidelines that are here would, in effect, eliminate any possible opportunity to privatize any of the functions now done by state government. I urge you to support the pending motion and indefinitely postpone this bill and all its papers. Thank you.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Men and Women of the House: I want to point out, as a member of State and Local Government Committee, when this bill was presented to us, we had no businesses coming to us asking us for guidelines. We had no state agencies coming to us to ask us for the necessary guidelines. We did have the MSEA. I believe that these guidelines do impose restrictions on privatization. I urge you to support the indefinitely postponing of the bill and accompanying papers. Thank you.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: It pains me to have to repeat information that I have given you before. I will tell you that there is nothing in this bill that has to do with private business. This bill addresses solely when a state agency considers privatizing work that is currently done by the state.

It says simply, when you make this proposal, we want to know what the costs are. We want to know the figures that you are comparing. We want to know that you have looked at what you want to buy and what it costs. We want to have all of the costs considered. It only has to do with when a state agency wishes to privatize.

There was reference earlier to the fact that this might affect the Productivity Task Force. There was reference to the fact that the amendment deleted a reference to bringing a issue in front of the legislature. The reason the legislative piece was deleted is because no one needs permission to bring a bill in front of the legislature. At anytime a legislator or a private individual or anyone who can get someone to put a bill in front of the legislature, that includes any department, they can bring a bill forward in lieu of presenting the cost information. Anybody can put a bill in front of the legislature.

What this bill says is when you choose to privatize we need to know what the costs are that you are comparing. It does by no means limit any kind of privatization. If fact, the entire first part of the bill recognizes that there are many instances when privatization is appropriate. Today the state privatizes millions and millions of dollars worth of services. I have passed out to you an article that talks about some pointed questions about privatization. There are many issues raised in this article that, frankly, if I were to put what I felt the very best privatization legislation forward, it would include asking us to consider some of these questions.

The piece in front of you is only related to cost. It is not related to philosophy. It is not related to whether you think it is appropriate or not. It is not a philosophical issue. It is a business issue. It says we are spending taxpayer dollars when we do things and we want to know what those dollars are being spent for.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Men and Women of the House: I suppose it comes down to how you read it. I beg the indulgence of the men and women of the house as I read the third section under procedure.

Procedure. Any state agency proposing to execute a contract exceeding \$15,000 pursuant to this section shall notify the Commissioner of Administrative and Financial Services of its intention. All organizations that represent state employees who perform the type of work to be contracted must be contacted immediately by the Commissioner of Administrative and Financial Services upon receipt of this notice so that they may be given a reasonable opportunity to comment on the proposed contract. Departments or agencies submitting the proposed contracts shall retain and provide all data, including written findings and other information relevant to the contracts and necessary for a specific application of the standards set forth in subsections one and two. Within three business days of notification, any employee organization may request that the commissioner of Administrative and Financial Services review any contract proposed or executed pursuant to this section. The review must be conducted in accordance with the Maine Administrative Procedure Act. Upon such a request,

the Commissioner of Administrative and Financial Services shall review the contract for compliance with the standards specified in subsection one and two.

If that isn't a log jam, ladies and gentlemen, I don't know what is. Thank you.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I rise to agree with the comments of the last speaker. I have just read for the first time the procedures that are required and it seems to me that they are fairly substantial. In addition, it seems to me that when you are required to go through the Administrative Procedure Act and make findings that you have quite an extensive list of findings that have to be determined. As you can see from section two of the bill, the contracting agency clearly demonstrates that the proposed contract would result in actual overall cost savings to the state. There are five or six more.

I can well imagine that anybody who is opposed to privatization would be able, through the Administrative Procedure Act, to gum up the works, spend a lot of time, cause a lot of expense in going through the hearing process itself and delaying things to the extent that it is not even worthwhile to try, even though in that particular case privatization might be a good idea. I hope you will vote for the pending motion to indefinitely postpone this bill.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would like to let you know that the current administration is in agreement with this bill and worked with me to develop an amendment and several areas were adjusted so that it is agreeable with the current administration. I find it very difficult to believe that the administration would be agreeable to this if they thought that it would hamper any of their efforts to run state government efficiently.

I find that it is always easy to raise areas and sometimes it is difficult to find a reason to do something. I would suggest to you that the intent and what this bill actually does is very basic. On the second page of the bill, the heart of the bill, indicates the purpose is to achieve cost savings and to make sure that when we privatize we are achieving cost savings. For those of you who do not believe that it is appropriate to look at the figures and the data in order to achieve cost savings, that you would prefer to make a decision without that data, then I suggest you support the motion in front of you. However, if you like to make a rational decision based on information and data, then perhaps you would like to support this bill and in doing so you would vote against the motion. I ask that there be a roll call.

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

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 Enfield, Representative Lane. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for standing up a third time, however, I do believe if you would take the time to read the bill, you would see that it goes well ahead of its time. We have the privatization task force and a movement toward privatization. I do not believe that we need to enter into statutes any kind of guidelines, at this point. I urge you to vote to indefinitely postpone the bill and accompanying papers. Thank you.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Rosebush.

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I have to disagree with the previous speaker. This is a standards bill. One thing we talked about in committee was privatizing out. I brought up the fact that I have some roads that are contracted out. Come wintertime, they save some money. The reason why they save some money is basically because they didn't plow the roads during the storm. They waited until the storm was completely over and went out and plowed. Up where I come from, out on Route 11, I have many people who travel this back road back and forth to work for the mill. The reason why they save money on this one instance of contracting out is because they didn't plow during the storm, which we would do knowing people travel that road for their safety. We need some procedures and I think this is a good standard.

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

ROLL CALL NO. 201

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

NAY - Adams, Ahearne, Ault, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Meres, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Paul, Poulin, Pouliot, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah,

Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

ABSENT - Dexter, Lindahl, Martin, Nadeau, Povich, Wheeler, Yackobitz.

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

68 having voted in the affirmative and 76 voted in the negative, with 7 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: During the debate that was going on, I was sitting here reading the bill as the good Representative suggested we do. I find it very disturbing. I think if people did take time to read section one of this bill, it basically eliminated, in my understanding, the state from going out to bid for practically every service that is provided. General Conditions say that except for contracts requiring specific legislative approval, personal services contracting is permissible and then it lists the conditions where it is permissible.

The first condition is when services are not currently available from the state. I believe the state probably provides most services that most people would want a contract for and that eliminates 99 percent of the ability for people to go out and contract.

The second one is for services to maintain office equipment and computers, which is understandable. I don't believe the state is involved in that.

The third one is for legislative, administrative or legal goals and purposes that cannot be accomplished by using persons selected, etc.

The fourth one talks about a state agency that needs private council.

The fifth one talks about a contractor that provides equipment, materials, facilities that the state cannot feasibly provide in the location where the services are to be performed.

The sixth one talks about a contractor who conducts training courses that appropriately qualify civil service instructors that is not available within the state.

Primarily item A says, services contracted are not currently available within the state agency and cannot be performed satisfactorily by civil service employees. That first paragraph, paragraph A, in my estimation, basically eliminates every possibility of going out and privatizing any item. I think this is a bad bill. Thank you.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: Again, I hate to be redundant. I felt that I had addressed this when I first spoke to the bill. The section referred to by the good Representative Stone includes a number of areas in which contracting is permissible. Letter A, which has been referred to, if services contracted are not currently available within the state agency. I would be glad to give an example of that, social services.

Today, as opposed to 25 years ago, the state contracts for virtually 100 percent, not all, but almost 100 percent of social services. It is simply not a service that the state provides anymore. We do that through contracting with social service agencies

of which there are a variety available. There are many other kinds of services that are fairly standard that we contract for. Those are the kinds of things that are here. We are talking about services which the state currently provides. That is what this bill covers. If they are services that the state does not provide now, that would not be something that then could be brought back in to state services under this. The things that are privatized now that are out in the private sector would continue to be.

The bill addresses those things that the state currently does that are being proposed for privatization. It doesn't say you can't. It says we want to know what kind of shopping you have done. We want to know the cost comparisons of those services that are currently provided by the state and we are looking at buying them in the private sector, that is all it is.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: The good Representative Daggett brings my point right to the front. When she talks about the services that the state currently provides. If we allow this to happen, all state agencies will act in a vacuum. There will be no incentive for state agencies to be competitive with the private sector, because they will not have to fear competition from anybody and that does not make a good practice.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Men and Women of the House: The key word here that appears over and over in this bill and that word troubles me, it is permissible. Personal services contracting is permissible. I don't know about you, ladies and gentlemen to me it says, if you are good enough, we will permit it. If you meet all the qualifications, then maybe we will contract out to you. If you do take the time to read the bill, let me just read this to you. Personal services contracting is permissible to achieve actual cost savings when all of the following conditions occur. You are permitted to contract out if the following conditions occur. To me this is not just a stumbling block in a way of privatization, it also adds red tape and bureaucracy to the agencies involved. I urge you to vote against the Majority "Ought to Pass." Thank you.

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

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to emphasize the point again. This bill requires what is potentially an adversarial proceeding under the Administrative Procedure Act in which there are at least six or seven things that need to be shown with people coming in and submitting evidence and other people coming in and submitting counter evidence under the Administrative Procedure Act. Some of these things we may all agree with.

Let me just go through what these requirements are. You have to clearly demonstrate that the proposed contract would result in actual overall cost savings before you can even go forward. There will be a fight over evidentiary matters about whether or not you have clearly demonstrated this for which there will be lawyers arguing pro and con before the Commissioner of Administration and Finance under the Administrative Procedure Act. You have got to show

that the contractors awarded in accordance with sections 1825-A and 1825-B, whatever that is. The contract has to include specific provisions regarding the qualifications of the state. Can you imagine how people could go into that? Qualifications of every single person.

If you wanted to stop a contract, you could drag this thing out forever by asking questions about the qualifications of the different people who are going to be involved in this. The potential for future economic risk to the state from potential contract and rate increases or work interruptions is minimal. You have to show that. Think of how many questions somebody could ask and how many questions somebody on the other side could ask about that in an Administrative Procedure Act proceeding. You would have to show that the firm to which the contract is awarded has no more than a total of x number of OSHA or labor law violations within the previous x number of weeks or years.

All of these things, some of which may be desirable conditions, but all of these things may be contested and probably would be contested by those who would oppose the awarding of the contract. The cost, the time, the expense of going through all of this certainly is going to mean that a lot of contracts that would otherwise benefit the state would certainly not go forward if they have to go through the proceedings under the Administrative Procedure Act, which is going to be very, very costly. Thank you.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: In addressing the issues that the good Representative Carleton has raised, he has been reading from the bill and several of the issues that he has raised have been amended out. I won't go over all of those, but I would suggest that if there are concerns about looking at contracts relative to those people who are doing the job, looking at them in light of the rules with the Administrative Procedure Act and notice of personal service contracts of over a certain amount, that perhaps there is a need to look at current legislation, today, with the contracts that the state is involved in.

We are extremely overbearing in regard to the kinds of people who are going to perform those functions, that is current language today. Whenever we review contracts it is according to the Administrative Procedure Act, because we need to have rules and procedures so people understand the rules that contracts are being given by. Today there are current mechanisms to take a look at contracts. There is nothing new or different in that. If there are that many concerns over it, then perhaps people need to be looking at current legislation instead of raising red herrings regarding proposed legislation.

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

Representative JOY: Mr. Speaker, Men and Women of the House: I think probably that if we have current standards already in effect to establish contracting procedures then we really don't need these which hamstringing the whole process. Mr. Speaker, I request when the vote is taken, it is taken by the yeas and nays. Thank you.

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

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

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

The pending question before the House is acceptance of the Majority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 202

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

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

ABSENT - Bouffard, Dexter, Lindahl, Nadeau, Povich, Strout, True, Yackobitz.

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

69 having voted in the affirmative and 74 voted in the negative, with 8 being absent, the Majority "Ought to Pass" as amended Report was not accepted.

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

HOUSE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (H-529) - Minority (1) "Ought Not to Pass" - Committee on Criminal Justice on Bill "An Act to Appropriate Funds for the Building Alternatives Program" (EMERGENCY) (H.P. 1120) (L.D. 1564)

TABLED - June 20, 1995 (Till Later Today) by Representative CLARK of Millinocket.

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

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-529) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, June 22, 1995.

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-416) - Minority (6) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Amend the Occupational Disease Law" (H.P. 957) (L.D. 1346)

TABLED - June 13, 1995 by Representative HATCH of Skowhegan.

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

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: This bill is a rather large extension of the Workers' Compensation Law. It will have the very profound effect to increase workers' compensation costs in the State of Maine. As a matter of background, the Occupational Disease Law was enacted by the legislature in 1945 to extend workers' compensation coverage to persons injured by other than sudden events or accidents. This law was carried over in its essentially same form as part of the 1992 reform. The whole concept of what was covered and was not covered was revisited by the special commission at that time.

The principal reason for having a separate and distinct statute for occupational disease as is, the claim that special problems in terms of proof. In terms of nonemployment related contributions to causation. In other words, I am very light skinned and people like me are prone to melanoma by exposure to sunlight. I had a job, when I was younger, as a lifeguard. If I presume that, if I could, if I got melanoma of the skin or skin cancer, because of my job as a lifeguard, it is hard to prove and so the existing law reflects a very delicate balance between these concerns and a workers right to benefit from diseases that are characteristics of a worker's occupation causing inability to work.

This bill, ladies and gentlemen, will cause an increase in the cost of workers' compensation. We have been very careful this year, I think, to avoid changes in the law so that the 1992 reforms will have a chance to be worked out. The changes proposed in this legislation will increase costs of the following. The medical benefits will be extended to a whole new group of category workers that do not have any incapacity or disability. This bill eliminates the apportionment provisions of the existing law. This limits benefits to that portion of disease or disability caused by workplace exposure. Even more seriously, this eliminates the existing three-year statute of limitations and creates an open ended statute of limitation that allows claims to be made to any point in the future notwithstanding the time exposed between alleged exposure and the manifestation of the illness. This repeals the specific limitation on claims.

This is a pretty serious and far reaching change in our workers' compensation laws, ladies and gentlemen. It will increase costs. I just hope that you will consider that when you vote and vote against the pending motion. Thank you very much.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I am glad you listened to a history of how we are and where we have been with this bill since 1945. I wish you would take time and look at the majority amendment that has been offered (H-416). It gives insight of what we are trying to

do with this piece of legislation. Basically, what happened in the law courts in 1992 is an injustice, as far as I am concerned, to the working class people of the state. This had to do with people who had asbestosis.

I want to share with you a case that happened to one of my constituents that worked for a plant that I represent in my area, who worked there for 42 years. I, when I am not here, work as a pipe fitter. A lot of my duties over the years have been taking off insulation and none of us were really led to believe that that asbestos or that piping can really kill you in time. Here is an individual who worked for this plant for 42 years and very seldom missed a day of work, all of a sudden, when he gets ready to retire, he comes down with asbestosis. Just because he had not missed any work and didn't have to go out on compensation, the owner deprived that person of getting medical expenses for something that happened to him, which was proven that he got this asbestos in the workplace, where he worked.

The decision in that court case in 1992, as far as I am concerned, was really detrimental to the people of this state, particularly the working people. He was not trying to get anything. She is not trying to get anything. All they are asking for is for their medical bills to be paid. I don't think that is too much to ask for. Take time and look at the amendment that is being offered, (H-416) and that will really tell you what we are trying to do with this bill. We are not trying to go back to 1945.

Look at the people who worked in 1945 in a shipyard and 30 or 40 years later they are coming down with a disease. What do they get? Nothing. Is that what you want to give to your constituents back home that get this terrible disease? One little fiber will kill you. Do you want them to pay for medical expenses out-of-pocket? It is totally wrong. It is totally wrong what is happening to these people, particularly the court decision in 1992. It is totally wrong and totally irresponsible. I hope when you take the time, read the amendment and look what we are trying to do and pass this bill for the working people of the State of Maine.

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

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: The honorable Representative from Millinocket has made the point that I was going to stand up and make earlier. This bill did not belong before the Labor Committee. It should not be addressed under workers' compensation. It should be addressed by Banking and Insurance because this is strictly an insurance issue. The covering of the person's illness after he has been diagnosed as having an occupational disease. If they reach that level, if their company does not have that type of coverage, they fall into a pocket where they are liable for their own costs because they have medical expenses and yet they are not disabled. For that reason, I feel that this bill does not fall in the place where it came and before the committee that it was before it more appropriately should have been before Banking and Insurance. I would like to make the motion that we take this bill and indefinitely postpone this bill at this time and all accompanying papers.

Representative PENDLETON of Scarborough moved that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Millinocket Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope when you do vote you don't vote to indefinitely postpone. As far as I am concerned, this is totally irresponsible on the Representative's part of saying that this probably should have gone to another committee. I had a lot of bills in my committee this year in Criminal Justice that probably shouldn't have gone there, but we dealt with them. We dealt with this bill in Labor, maybe it should have gone to another committee, but we dealt with it. Don't be irresponsible and try to kill a bill that is going to help the working people of the state. As far as I am concerned, if you do that you are hurting everyone who needs some help. Thank you.

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

Representative CHASE: Mr. Speaker, Colleagues of the House: I urge you to vote against indefinite postponement of this bill and all its accompanying papers. The good Representative, Representative Pendleton made the point that this was inappropriately before the Labor Committee and rather it should have been heard by Banking and Insurance. I serve on both committees and I can tell you that no matter what committee it came before, we would still have to discuss the problem of the Occupational Disease Law. In fact, the Occupational Disease Law is a sort of subset of workers' compensation and is quite appropriately before Labor. Either way, we would have the same problem before us, which is that a change in Occupational Disease Law is going to cost us money. Those representatives that have stood up and made that point are absolutely correct.

This will cost us something, men and women of the House. Likewise, Representative Clark is absolutely correct. There is an injustice in our laws. The injustice is simply this. If you are injured at work and you can return to work, if you twist your ankle because you are on a ladder and normally you are a data input specialist, and you go to the doctor and have your ankle taped up and return to work, you will receive coverage for your medical only case. That is, you have certain medical bills associated with a legitimate injury at work. You have returned to work and you are not disabled nor do you have to pay out-of-pocket for your medical bills.

Not only does Representative Clark have a constituent in this situation, there was a former Representative of this body, of the 116th, in fact, who was a victim of exactly the same situation, occupational disease received through his work. He continued to work and was an active member of this body and all his medical bills including his routine coverage and medications from his doctor were not covered. Now perhaps this is the fault of the insurance industry. As I say, men and women of the House, it does not matter whether we talk about amending the Occupational Disease Law or whether we come up with a mandate for the insurance companies.

If Representative Pendleton and others would agree to support that sort of bill, then perhaps I would be in favor of indefinite postponement or referral myself. I don't think we will get that support, because it will cost money. However, in the current system, if you see your doctor for whatever injury

and you go to fill out your medical claim form, there will be a simple question. Is this injury work related? If you say yes, you will be denied, because under our current system all medical claims that have to do with work related injuries or diseases are denied by coverage. What we have here is a conundrum, we have to pay for it or suffer the injustice. I suggest to you that we cease suffering the injustice and we pay for it. You can do that by voting against the indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Mr. Speaker, Men and Women of the House: I urge you to support the motion to indefinitely postpone. I would like to make a few points concerning this bill. I think it is overkill to use this bill to solve a problem that was created at a paper mill in Millinocket.

If this law passes, a person could receive workers' compensation benefits even though there is no disability or incapacity to work. That person could be compensated even though the occupational disease could be attributable to other causes or aggravated by personal habits. A person could be compensated at any time with no statute of limitations because this provision of current law is repealed by this bill. This bill was an effort to overthrow a Maine law court decision of 1992, which you have already heard about.

Currently there is minimal activity under the Maine Occupational Disease Law. This amendment to that law would represent a significant change in the policy under the law and would probably increase both cost and litigation in the system. The issue of payment for medical services prior to incapacity is the most drastic change. The workers' comp system's spokespersons are asking that this bill be defeated so the major changes in the workers' comp law passed in 1992 be allowed to work.

The only proponent on this bill that spoke before our committee was a member of the legal profession who has made a living litigating workers' comp law. Again, I urge you to support the motion to indefinitely postpone. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: I urge you to vote against postponing this bill. Workers' comp was devised many, many years ago by industry and business basically to prevent lawsuits against them when someone is injured on the job. The so-called no-fault insurance system is just that. If you get hurt at work, the insurance pays for your medical bill and if you lose work, it pays for lost wages for a period of time.

In fact, I was an injured worker back 30 years ago, this week. I broke my arm at a paper mill in Jay and I was out of work for six months. I collected small workers' comp payments over that period of time. My medical bills were also paid for. This no-fault insurance, ironically you have to lose work to collect, they wouldn't let me work with a broken arm, so I had to stay out for six months.

People are injured at work in other ways. Say you are a police officer, nurse or ambulance technician and you accidentally contract HIV. You can go to work, but you have medical bills. The doctor says you need treatment. Who pays for that? Right now workers' comp doesn't pay for it even though you were injured at work and you have an illness. An illness

that eventually will kill you. What do you do? You pay for it out of your pocket, eventually or you pay for it with your insurance. Maybe you have insurance and maybe you don't. If this is supposed to be a no-fault insurance, then workers' comp insurance should pick up the medical bills.

My father-in-law worked in a paper mill in Rumford for 35 years. He died at 61 after a two-year bout with cancer. A couple years before he died he told me it was kind of funny in a way. Everybody I have worked with is dying or dead. Everyone that has worked in my department in the beater room has died in the late 50's early 60's. I asked him why. We have been handling carcinogenic dyes for 30 years, powdered dyes. Now we use liquid, which are a lot safer. My father never collected a penny's worth or workers' comp. He died many years too young. I hope that you vote against indefinite postponement of this bill.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Recently, this morning exactly, we just got done voting on, An Act to Create the Workers' Compensation Residual Market Deficit Resolution and Recovery Act. Ladies and gentlemen, since 1988 we have been trying to correct the workers' compensation residual market, the tail just never seems to end. We need time to make it work. We do not need any additional cost added to the system. I ask you, ladies and gentlemen, as a need to help our businesses in the state, do not add any more costs to the system. Let what we have done work. Support the pending motion. Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I rise to ask you not to vote for this indefinite postponement. The question is not whether or not this bill was before us and should not have been. Maybe it should have gone to Banking and Insurance, but it came to our committee and we handled it in a timely fashion. The problem being here is that there are workers out there and whether or not they work in paper mills is immaterial.

I know for a fact that an outfit that is currently Hartland Tanning, which used to be Irving Tanning in Howland, Maine, that many of those people who worked in the finishing rooms there, now have diseases that were work related and will never claim anything under workers' comp or insurance or anything else. A lot of those people who were in the processing room when the hides came in with the hair on them, it was their jobs to put these hides into tubs and haul them out. Those men all died within a two-year period of each other when the plant closed from an occupational disease.

While it may have little relevance to this bill that is before us today, these were all work related diseases and had nothing to do with paper companies alone. I want to get that fact to you. It could be a work related disease if you worked in a printing company and if you have handled dye. If you work in a school department who has asbestos on the pipes. This amendment to this bill, which replaces the bill, more or less says this amendment provides that the employee may be entitled to medical benefits, that is medical benefits, we are not talking of workers' comp payments of any kind. Someone should pay these medical benefits. Is it going to be their insurance

company? Is it going to bounced back on them? No, it will probably be the person who has to take and buy the medication. I don't know about you, but I know people who take \$600 or \$700 worth of medication a month having heart problems and what not. This is not a heart problem, it may be lung problems. It may be some kind of a skin rash that they have to buy products for. I am asking you to not to indefinitely postpone this bill. Please join me in voting no.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Mr. Speaker, Men and Women of the House: Just a couple more points. The Maine Council of Self-Insurers suggested that this problem may be solved if a pilot project that they are proposing on 24-hour coverage of insurance produces the desired results. One other point, a letter from the Bureau of Insurance, while it is difficult to estimate the impact of this bill because it adds a new category of benefits not previously provided by employers under workers' compensation coverage, this bill will increase the cost of workers' compensation insurance. Mr. Speaker, I would like to ask when the vote is taken, we do it by the yeas and nays.

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

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 to Indefinitely Postpone. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 203

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

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

ABSENT - Bouffard, Dexter, Dore, Lindahl, Nadeau, Povich, Yackobitz.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

Bill "An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists" (H.P. 839) (L.D. 1170) (C. "A" H-319)

TABLED - June 14, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

On motion of Representative SAXL of Bangor, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-319) was adopted.

The same Representative presented House Amendment "A" (H-493) to Committee Amendment "A" (H-319) which was read by the Clerk.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: It is really a very small amendment just to clarify that physicians would not receive any remuneration, neither directly or indirectly if they were granted immunity from suit. It further goes on to say that they will not be able to practice medicine within a hospital setting under those conditions either. To make it very clear that this bill is really a good Samaritan situation where the physician would be practicing in a clinic, say, of a shelter or that kind of a charitable organization. Not competing with physicians who are currently in practice or with health providers, but really in a situation where medical help is not available and where they would be practicing in a totally voluntary capacity. I urge your support for the bill.

House Amendment "A" (H-493) to Committee Amendment "A" (H-319) was adopted.

Committee Amendment "A" (H-319) as amended by House Amendment "A" (H-493) thereto was adopted.

Representative TREAT of Gardiner moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I would ask you to oppose this motion. We voted on this last week. If you would like a quick refresher, it was regarding retired physicians who want to volunteer their services after they retired in free clinic settings. We talked about medical malpractice and when it is now necessary for a retired physician to carry medical malpractice in order to give away his time. Some of this insurance can cost anywhere from \$5,000 for a primary care provider to \$30,000 for someone who has a specialty. We have retired physicians who would like to be able to do this.

I did put in requirements that the physician must remain licensed. Licensing requires a certain number of hours, I believe 150 in two years, of continuing education. So you have someone who is up-to-date in their field and up-to-date in medicine. They also have to be subjected to censure from a professional

board that regulates them. You are talking about people who are licensed physicians going in and volunteering in free clinics.

We have asked to extend to include gross negligence as something that they would be immune from. Please recognize that the State of Maine in case law recognizes no difference between negligence, which is something we have already extended several weeks ago and gross negligence, which is what I am asking to have removed from the statute regarding these retired doctors. In the Maine case of Blanchard vs. Bass, it was specifically found that there are no degrees of negligence under Maine law. By removing negligence and leaving gross negligence, we actually have cluttered up the law for the judges to interpret, because we don't even recognize gross negligence in the State of Maine. Taking the words gross negligence out, clears it up and leaves it with the full intent of the legislature that persons who are volunteering their services are not on the hook for these two acts or these two omissions.

There was a question after the last debate as to, don't you have to carry an insurance policy to cover wanton and willful acts, you cannot buy an insurance to cover wanton and willful acts. That is an intentional tort and your insurance company will not provide you protection to willfully hurt someone. They will not defend you. They will not pay your damages. If you take it to wanton and willful, the doctor is on the hook with his own personal assets. There was some discussion that there would be doctors who would not be as careful, because they know they can't be sued. I think they would be just as careful, because anybody who is volunteering to go down to the clinic and give a hand and help out starts out with good samaritan thoughts and they want to do something positive. Anyone who goes down there with the intent to do something negative is going with a willful and wanton attitude and would be subject to suit. I ask you to turn down this motion to indefinitely postpone and to go on and pass the bill. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Mr. Speaker, Men and Women of the House: I would like to commend Representative Plowman of Hampden on the admirable intent of her bill to encourage retired physicians, dentists and podiatrists to volunteer their services for nonprofit agencies. In Judiciary and here, I voted against passage of this bill to extend immunity for retired professionals in cases where those receiving services were either injured or died as a result or emission greater than negligence.

I am opposed to two standards for those receiving medical care. One, for me and I believe for most of you, with health insurance or resources to have our health needs met by physicians who are responsibly insured in case of accidents. A second standard, some believe is fair and just, that just because you are receiving your services at a reduced charge or free at a clinic, you shouldn't expect any compensation, if something bad should happen to you or your children.

I have a good friend who is a family physician and I asked him about volunteerism in the health care field. He believes as I do that everyone should be protected from accidents that might happen. He, himself, would never practice without insurance. He

believes it would be irresponsible. I was given a short course on medical malpractice insurance and was dismayed to learn that companies make it extremely difficult to get insurance for those who want to practice part-time or after retirement. We do not need to pass an unjust law just because our insurance industry needs to make adjustments. I urge you to act as responsibly as my physician friend would and please to vote yes to indefinitely postpone this bill and all accompanying papers. Thank you.

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

Representative LaFOUNTAIN: Mr. Speaker, Men and Women of the House: I urge you to support the pending motion for indefinite postponement. After the first reading of this L.D., I did a little research. My research found that this is one of those bills that has been around the block a few times. In fact, I could trace its origin back to the 112th Legislature. At that time, the legislature formed a commission known as the Trafton Commission, which was a bipartisan commission charged to examine court litigations, liability insurance and the immunity laws in the State of Maine. In its report entitled, In Showing Justice, the Trafton Commission in both the Majority and Minority Reports, urged that immunity should extend only to negligent acts or omissions in this area of law. Men and women of the House, we have done this. Last month we extended immunity in L.D. 320, An Act to Clarify Immunity from Civil Suits for Voluntary Activities.

What this bill does is go one step further. It creates two standards of care, the standard of care given by an active doctor and a standard of care given by an active retired doctor. In simplest terms, this bill grants immunity to medical professionals for reckless and gross negligent conduct. The good Representative from Hampden told you about gross negligent conduct, but I submit to you what is reckless conduct. If an active retired doctor working in a clinic decides that he is indifferent and does not need to review a patient's file to determine if whether or not penicillin is an appropriate drug, I submit to you that this is reckless conduct. Is this the type of immunity that we want to grant? I urge you to vote for indefinite postponement.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House: I would like to respond to a couple of the legal issues that were brought up here, in the case of Blanchard vs. Bass, which I happen to have in front of me, indicates that there is no difference between negligence and gross negligence. That is clearly a misreading of this case.

The case indicates that in the State of Maine under common law there are no separate causes of action for gross negligence, which means that in some states you are allowed to sue under the theory of negligence and then a separate action under the theory of gross negligence, that does not exist in the State of Maine and that is what that case indicated. The same case also brings up some other issues which bear light on this bill.

The bill allows an action to willful conduct or wanton conduct, not willful and wanton. Those are two separate things in the bill. Wanton conduct or misconduct in the State of Maine equals gross

negligence and that is defined in the same case that was quoted here. What we are doing is practicing some kind of charades here that we don't even know. The bill is not doing what it is intended to do. It is eliminating the cause of gross negligence, but it is leaving in a clause for wanton misconduct. Under Maine law, wanton misconduct equals gross negligence. It is an ill-conceived bill. It is poorly written and doesn't even do what they intended it to do. For that, I request that you support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House: I would like to try to reflect what actually happened at the hearing. We have heard the legal theory about this kind of stuff. My recollection is that we had some people there from the free clinics in the state. We currently have two. We have a free clinic in Portland and one in Biddeford and there is another one proposed in Sanford. All areas where there are a lot of people who don't feel like they have access to reasonable medical care and, in fact, all the statistics would support that. What we have is the potential in this state of having two free clinics and another one potentially up and running and perhaps more in those areas of the state where access to medical care is a problem.

That, I hope, is what this issue is all about. The people who were concerned about this are telling us that despite the legal theory, that they would like to be relieved of this burden. We heard from one doctor who said his bill is \$5,000 a year currently operating as a retired psychiatrist, I think, at a clinic and he intends to quit. If you are concerned about access to medical care and especially free medical care for those people who cannot afford it or don't have it, have only the emergency rooms, then you ought to be for this bill. I would urge you to vote in opposition to indefinite postponement. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I am all for increasing access to health care. I support universal access to health care. I recognize in a rural state, like Maine, with lower income residents, it is hard to have access to appropriate health care. There are ways to do that.

Right now, in fact, I am involved in a nationwide project on how to increase access to health care. There are a lot of ways. You can repay graduate medical education loans. You can work with your medical schools. There are numerous creative ways to increase access to medical care. Lowering our standards is not the best way to do it. As Representative LaFountain and Representative Watson have indicated, this effectively sets up a two tiered system of health care. Those who can afford legal protection and those who can't. The ones who visit these clinics are generally low-income women and children. What we are saying here is that people based solely on their economic status do not deserve legal protection against gross negligence. Well we are saying it is better than nothing.

Is it good enough for you? Would you go to a doctor who could commit gross negligent acts and have no legal recourse? I submit to you that if it is not good enough for any of us in this body, it should not

be good enough for anyone else. I do not support creating a two tiered health system. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative LUMBRA: My question is and hopefully the sponsor of the bill could answer this. Does this bill in any way mandate anyone to use these free clinics or is it simply a choice to utilize free health care if you choose to do that? I would like to know if this is a mandate and truly would set up a two tiered system? Thank you.

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

Representative PLOWMAN: Thank you Mr. Speaker. No, this is not a mandate on persons to have to attend the free clinic and ask for this care. Second, I don't think unless the clinic itself bases giving out the care on what your income is, then it would not even be "low-income." It would be somebody coming off the streets and needing something and the fact that they present themselves would probably be enough to get someone some help, whether they had \$20 in their pocket or a dime or \$1,000 in their savings account.

There is one standard of care and Representative LaFountain mentioned that if a doctor did not check the folder regarding a sticker for penicillin that they put on the front, then he has violated the standard of care and he certainly has stepped over the line. I would like to read to you another Maine case of Winslow vs. Tibbets. It goes back quite a ways and it hasn't changed in 60 years. It has withstood every single new case. It states ordinary and gross negligence deliver a different degree of negligence while both differ in kind from willful and intentional conduct, which is ought to be known or have a tendency to injure. This doctrine of gross negligence, and I read to you the sentence, ordinary and gross negligence differ in degree of attention. This doctrine of gross negligence is not recognized as part of the law of this state.

We have clouded up the statutes. We have given immunity to negligence and we are holding out on gross negligence which isn't even accepted in our case law as a principle. I would ask you to please defeat the motion. I ask for a roll call.

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

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: Like a lot of you, I probably don't like debating the same bills over and over. This bill has been described as ill-conceived and poorly written and I would like to add something to that. It is also a bill that we passed and we are ready to send on to the other body.

I hope you will indulge me a little and I beg your pardon for having to argue this bill again. The good Representatives Watson and LaFountain and others, I believe, have asked if we want to create two standards of medical care. I don't believe this bill

does that. I do believe that in many ways we now have two standards of health care. We have health care for those who can afford it and may have a family pediatrician or a family doctor. For those who can't, we often have no health care or the two standards we have are those who can call the family doctor in an emergency and get an appointment and have something looked at like a sore throat, sprain or something like that. We then have those people who must go to the emergency room and perhaps wait several hours before seeing a qualified physician. I won't pretend that this bill solves all those problems.

As Representative Mitchell said, there are a lot of creative solutions allowing medical students to work off their tuition loans through service. Those are solutions I applaud. I think this is part of the mix. This is one more thing that we can do to try to solve some of the crisis in health care for those who can't afford it or for those who may be in rural areas. When we debated this bill last time, I tried to take your mind to what the problem is and how we are trying to solve it and move away from the sort of legalese argument. This is one of those bills that if you are not familiar with that, certain professional groups just swarm all over, because they think there won't be enough business for them out there.

Right now what we are trying to do is allow qualified physicians to form good Samaritan work volunteering in clinics. If you think that is a good idea to allow this to happen, then it still is a good idea. If you think it is better to leap ahead and say some terrible medical accident is going to happen and the lawyers won't be kept busy because this person has been granted some immunity, then you vote against the bill. It is that simple. I will remind you again as I said in my first argument. Currently they are granted immunity from negligence. Apparently that was not enough, because the doctors were still faced with having to buy these expensive malpractice policies to guard themselves against gross negligence. We said there was a problem in the past and we tried to solve it and our solution didn't work so this is a little more solution to put on the problem.

If this doesn't work, as a good friend of mine who sat in authority in my House seat some 20 years ago said, "What legislatures do, legislatures can undo." I ask you to vote against the indefinite postponement motion.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This bill is not about doctors. This bill is not about lawyers. This bill is about people who cannot afford health insurance and private physicians. Please, unless you yourself would take your family to these same doctors, vote against this bill. If it is not good enough for your family, it is not good enough for people who can't afford the best.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: In response to a couple of comments made about, would I go to one of these doctors that volunteered their services for nothing?

I would go in a heartbeat. I would go tomorrow. I think it is great that somebody is willing to volunteer their expertise.

As the good Representative Thompson said earlier, in this bill they have gross negligence and wanton negligence and there isn't really a distinguishable line between the two so there is really no problem with this bill as far as the standard being raised according to what Representative Thompson said. I don't have this picture of doctors who are willing to give of their time to the community and to help the people, as knife wheeling maniacs. I think we have to get beyond that and realize these are people who are dedicated to helping other people.

I did look through the Maine law court review of some of the different cases and I didn't see any real distinguishing factors between negligence, gross negligence, wanton negligence and malice. They seemed as though the standard they were really looking at in the law courts was reasonable excessive standards of practice. I think that as long as that is maintained, it should be no problem. Basically I think, I don't want to be redundant, but this is a people bill, this is for people to have access to medical care and let's not be afraid of whether they can sue or not. Let's concern ourselves with whether they are getting medical care. Period.

Stop and think about it, ladies and gentlemen, there is a lot of doctors throughout the world in the past and now who are dedicating their services to poor people all over the world and I am sure those people are not concerned whether they can sue these doctors. A case in point would be a great and famous doctor, Doctor Albert Schweitzer. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I made the motion to indefinitely postpone this bill because I am very troubled by what is in this bill. I think it is important to clarify something. The proponents of this bill have all gotten up and talked about gross negligence, every single one of them.

Unfortunately, what the bill talks about is recklessness as well as gross negligence. Recklessness certainly is something we can define and it certainly is something that we should be concerned about. Right now, these very same doctors are already completely immune from any negligent action they cause or cause by failing to act in a certain way relating to medical practice in these clinics, that is sufficient.

I would like to give an example of recklessness. It is a similar example to that of the Representative from Biddeford, Representative LaFountain, but I think it is even a clearer one. If a patient comes into the clinic and there are a whole bunch of charts for various patients, the doctors know somewhere in the back of their mind that there is one patient that he thinks is allergic to penicillin or some other drug, but he doesn't bother to go check that chart. He instead doses the patient with that penicillin and the patient dies, that is reckless behavior. It is not done with an intent to harm that person, but it is just something in the back of their mind, yah, there might be something on someone's chart, but gee, I am not going to go look at that. That is reckless behavior. It is not something that people should be completely immune from, that is what this bill does.

The second point is that this bill is just not needed. We had two hearings on this bill and the Representative from Acton, Representative Nass talked about testimony and he may have been merging the two hearings, because one was on the bill that we have already passed that extends the current standard and the other is this bill. I believe there may have been one, maybe two people on this bill. There certainly wasn't large numbers of people on the bill. I think that is because it really isn't needed. The insurance issue is there. There is no question about it, but as the Representative from Farmingdale said, doctors, themselves, feel that they should not be practicing without any insurance.

The fact is that most of the retired doctors that are likely to be volunteering in these clinics will probably have been practicing, then retire and practice for free for a couple of years. Those doctors are going to be required to maintain a level of medical malpractice insurance for all the actions that they previously may have taken in the previous couple of years. They are going to have to do that. If they keep that insurance for their past actions, which is only the sensible thing to do. I can't imagine that doctors would want to be exposed for that, then we were told by the lobbyists for the Maine Medical Association for a very small amount they could get an additional rider on that which would cover the free clinic.

This bill is not needed. In this case there really is a case where the medicine and the cure is worse than the illness. I know the intent is good, but the result may be very harmful. It is not needed. Please support the indefinite postponement motion.

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

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clear up one misconception that I have heard during this debate, that negligence is the same as malice. I would like to give you an example of the radical difference between these two concepts. In the seminal case in punitive damages, Tuttle vs. Raymond, Mr. Raymond was driving through Lewiston at maybe 100 miles an hour, drove into poor Ms. Tuttle in her car, sheered the car in half. Ms. Tuttle sued for punitive damages, but wasn't able to get them because Mr. Raymond didn't act with malice.

If the standard was negligence, she would have collected a great deal of money from the punitive damages. It was malice. He had to have thought beforehand that he was going to catch Ms. Tuttle in that crosswalk, nail her hard and then admit to someone later, I really meant to do it, so sue me. There is a distinct difference between negligence and malice. I just wanted to clear that up. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House: Again, speaking from my notes on the hearing, I would like to share a couple of things with you. One, the representative from the Maine Medical Association supported this bill. Two, the representative from the Maine Bar Association opposed this bill.

One thing that strikes me from all this debate this afternoon on this issue is you are getting a good flavor for what happens on a day-to-day basis in front of the Judiciary Committee. We cannot, it

seems to me, without tying ourselves up in legal knots, deal with a simple issue of access to free clinics for medical care, which we need. If you listen to the lawyers, you end up in this big bottomless pit trying to figure out whether it is negligence, gross negligence, reckless or willful. It costs us money and it is a debate that is endless and meaningless. Thank you.

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

Representative PLOWMAN: Thank you Mr. Speaker. I would like to point out a couple of things. First of all, I have been here three years and believe it or not, I still believe that people are basically good, including doctors. I have never heard a profession so bashed, I take that back, one other, as doctors.

Second, we have already set up a tiered system. I would like to tell you about a couple of the tiers. One, you practice in a clinic that is related to a municipality, then you are immune from negligence. We made that policy decision several weeks ago.

Two, if you are incarcerated in the State of Maine, you have no choice as to who your doctor is. You see the doctor they send you and under the Maine Tort Claims Act, no matter what they do to you, you may only sue for \$300,000.

Another, if you are a patient at BMHI or AMHI, you have to have the doctor they get for you and under the Maine Tort Claims Act, you can only sue for \$300,000. Please don't tell me that we are just now starting to decide that everybody should be able to recover the same thing. We have already differentiated.

Now we are talking about access to people who need preventive care and help with something that they already have. We are talking about going into a homeless shelter and giving people physicals, recommending vitamins and diagnosing ear infections. They are diagnosing STDs, not performing surgery. They are going in probably one Tuesday a month to help. As I pointed out, the immunity from negligence was extended several weeks ago. If you wanted to reject tiered care, then you should have rejected that and the amendment for prisoners and the amendment to the Tort Claims Act for people who are mentally incapacitated and who someone else chooses their doctor for them, with no choice. They are just as limited. No matter what happens, under the Tort Claims Act it is \$300,000.

We are looking for access. We are not looking to make it so people can get away with things. Like I said, I still believe in the fact that people are basically good and that people who want to do things that they aren't even required to do anymore, they want to give up Tuesday afternoon with their grand kids, for a whole week during a time of crisis. They can go in and help. That is where we are coming from on this bill. I urge you to not indefinitely postpone this, but to go on and pass the bill. Thank you.

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

Representative MARSHALL: Mr. Speaker, Colleagues of the House: I think a good question has been asked. Would we, ourselves, go to one of these doctors? I would go in a heartbeat. I would prefer

to have a doctor that I could afford than an insurance policy I can't afford. We are kind of looking a gift horse in the mouth here. I guess. We have a doctor who is willing to give up his time and serve the public in places we want to and instead of doing that we want to come up with let's pay some student doctor's medical bills and get him to practice in a rural area or some other thing that is going to cost. Here is one that doesn't cost us a cent.

I think personally I have some responsibility on my own to who is going to provide my health care and to find out whether that doctor is reliable, to see if they have acted negligently in the past. Any complaints on him? Are we going to give up all of our responsibilities and everything to the state to decide?

My wife and I had our last child at home with a midwife, who didn't get there in time. The baby came out all right. We didn't have too many problems. Her assistant got there. It was the first birth that that assistant had done and everything went just dandy. I wasn't looking to sue them. It appears that the problem here is that maybe we are eliminating somebody to sue. The talk has been on how are we going to recoup damages? It sounds like how are we going to fill our pockets? That is what it sounds like. It is beginning to annoy me a little. Here we have somebody wanting to give society something, to give back something in their retirement age.

These doctors probably know more tricks and have more things in their mental toolbox than some of these younger doctors with the insurance policies ever dreamed of. Here is some wisdom that we can tap in on and we want to slap it.

Representative AHEARNE of Madawaska requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

Representative THOMPSON: Mr. Speaker, Ladies and Gentlemen of the House: Maybe the question you should answer instead of whether you would go to one of these doctors is, if it unfortunately should happen that your child that was injured for life by a doctor that was not carrying insurance, would you be satisfied there was no remedy? You can stand up and use the standard that it is a lawyer's bill type of an argument. It is a cop out to use that. It is nothing but a cop out. If you can't argue it on the facts, you shouldn't stand up. It is ok to let an inmate sue for \$300,000, but some poor person who goes to a clinic can't sue for a penny. Now that is good public policy.

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

Representative BAILEY: Thank you Mr. Speaker. Can I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BAILEY: Thank you Mr. Speaker. As Chairman of the Board of Directors for seven rural health clinics, nonprofit, does this bill take care of the suits against the clinic itself in the event the doctor is operating in one of these clinics?

The SPEAKER: The Representative from Township 27, Representative Bailey has posed a question through

the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Ladies and Gentlemen of the House: Although I don't know this exactly, my impression is that the rural health clinics, at least one of which is in my district, comply with the insurance requirement, at some expense to them, incidentally. I do not know if this bill will exempt them from any insurance requirements. It is my impression that they currently comply with the insurance requirements. Again, the details of that at this point escape me.

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

Representative BIRNEY: Mr. Speaker, Distinguished Members of the House: Representative Bailey just mentioned a point that I wanted to make. Being on a hospital board for 15 years, any lawsuits that I have ever encountered, the doctors are sued, the hospital is sued and the clinic is sued. I think there is remedy here. It is through the clinic. I don't think they are without remedy. Usually it is the deepest pockets that end up paying.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: It just so happened that on page 4 today, we have item 5-11, which was a sentiment for a doctor Z.E. Matthews of Waterville, having practiced and taken care of our children for 40 some odd years. The man was a tremendous asset to the Waterville/Winslow area. Are you telling me that after all these years of service that Doctor Matthews, if he wishes to volunteer his services to help what we are trying to muster up, which is coverage for our people, regardless of where it comes from, whether you are talking community rating, small minor policy, we should collectively be working toward covering all of our people. If this doctor wishes to practice in some isolated area on a volunteer basis, we are telling him that he cannot do it without having to carry the maximum number of coverage so that we can play the deep pocket insurance issue with him.

I will tell you ladies and gentlemen, we are using two different values here. Are we going to try to cover our people with all the possible assets that we have in the state or are we going to play these games and say, we don't have full coverage so that we can sue this guy for \$300,000. Ladies and gentlemen, I think we have got to give this some serious thought. I tell you I have given some thought and I will not be supporting the postponement of this bill. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: I hate to get involved in this debate, but I cannot bear but comment on some of the comments. I happen to be a member of the Board of Trustees of a hospital and also President of the Rural Health System that has two physicians.

First of all, right now we continue to pay tail insurance for any doctor that is retired or any doctor that has left us. That tail insurance will continue, literally, until that person can no longer practice anywhere. If fact, what will happen if that physician who has left us wants to practice after

retirement, they can, in fact, buy a very inexpensive policy that covers them, that is point one.

Two, if a physician is working for us and we have hired one of those physicians who is out-of-state and comes in for \$100, we buy that cheap policy. The hospital, as the Representative has earlier pointed out, either the health center or the hospital are going to be sued. The deep pockets will be there. No longer with the doctor's insurance policy because the doctor isn't going to have a deep-pocket policy. He is going to have a cheap policy. The burden is going to fall on the health center or the hospital that happens to have employed them. That is the bottom line. In effect, what you are simply doing is shifting the cost from one policy to another policy and from one policy to, perhaps, yourself if you happen to be a trustee of a nonprofit institution.

I can assure you that in my point of view, I don't particularly care whether this passes or not, as long as I happen to be on the board of either the hospital or the health center. These kinds of physicians will not be hired. I am not going to expose the people within my area to this kind of possibility that if, in fact, we would end up with the cost through our own insurance plan, because that is exactly what would happen. All you are doing is shifting. I suppose it is a little different if the doctor comes in and doesn't work for a hospital and doesn't admit to a hospital and doesn't work for a health center. At that point, if there is no insurance coverage, there is nothing someone can recover in a wrongful medical malpractice, unless the doctor happens to have millions of dollars stored away somewhere and I doubt that.

The person who will be the most injured will be those who have suffered the medical damage as a result of what took place. It goes on every day. Someone is going to pay the price. The only question is, who is it going to be? Frankly, if those who want to pass the bill want to hire this kind of physician and the bill passes, I would say, go to it. Just remember that you have exposed your constituents to real long-term potential financial loss.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I know this has gone on way too long. The reason it has gone on so long is because all we were trying to do is allow a volunteer doctor to help out in a clinic to someone who might need an examination and the debate spirals out of control to issues of insurance, deep pockets and lawyers. I will tell you, I wish the good Representative from Naples was still in the room. I am offended to have our arguments characterized as a cop out. Excuse me, he is still in the room. That is an easy dismissal of a decision that I and other members of the minority arrived at after long and careful thought, after deliberations and public hearing, after talking about it with colleagues and talking about it with our families. We decided we wanted to take this little step to possibly do some good in the world.

You may disagree with my reasons, but I hope you don't think they are a cop out. I could stand up here and say, don't vote for this bill, because if you do lawyers won't make a lot of money suing people, but that would be a real cop out. I am not going to say that. I do hope you vote for this. We are trying to do a little good.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I think we have listened to debate here and I am going to ask if you if it is at all possible if we can possibly decide that we vote on this issue one way or another. I think it is time that we do something. I want to say to each and every one of you, we are supposed to be out of here tonight and it looks like if we decided to come back for another 10 days and we continue to speak at this length on these subjects, I'm sure that everyone's opinion is a worthy one, but I think we keep repeating what we are hearing. Mr. Speaker, I would like to move on. If I may?

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. 204

YEA - Adams, Ahearne, Berry, Brennan, Chartrand, Chase, Chizmar, Cloutier, Daggett, Davidson, Dore, Etnier, Fisher, Fitzpatrick, Gates, Gerry, Gould, Green, Hatch, Heesch, Jacques, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, LaFountain, Lemke, Luther, Martin, Mitchell EH; Mitchell JE; O'Neal, Paul, Poulin, Povich, Richardson, Rosebush, Rotondi, Rowe, Samson, Saxl, M.; Shiah, Stevens, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Benedikt, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clark, Clukey, Cross, Damren, Desmond, DiPietro, Donnelly, Driscoll, Dunn, Farnum, Gamache, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Labrecque, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevy, McElroy, Meres, Morrison, Murphy, Nass, Nickerson, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Savage, Saxl, J.; Simoneau, Sirois, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Bouffard, Dexter, Lindahl, Nadeau, Spear, Yackobitz.

Yes, 55; No, 90; Absent, 6; Excused, 0.

55 having voted in the affirmative and 90 voted in the negative, with 6 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-319) as amended by House Amendment "A" (H-493) thereto and sent up for concurrence.

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

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

SENATE PAPERS

The following Joint Order: (S.P. 593)

ORDERED, the House concurring, that in accordance with emergency authority granted under the Revised Statutes, Title 3, section 2, the First Regular Session of the 117th Legislature shall be extended in accordance with the provisions of said section.

Came from the Senate read and passed.

Was read.

Representative STROUT of Corinth presented House Amendment "A" (H-577) which was read by the Clerk.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: The reason I offer this amendment. Well some of you may feel that why would I go after an order that was submitted by the other body and try to amend it. My reason for doing this is that I feel we should set a time that we should get out of this place sometime in 1995. If you say up to five days, my experience of being here for years is, we will use up the five days and we will have another five days. The other issue that I see is, I am going to tell you right here tonight that if you move the order without my amendment you are going to do the next two days just like you did the last two days and I am not going to stand here and do it.

It is time we set a limit. Three legislative days is not that bad. This allows leadership to decide whether we are going to be here tomorrow, Monday, next Tuesday or Wednesday. There is no reason why we can't comply with those regulations. We don't need to be standing here tonight looking at up to five days. My feeling on this is that we could work tonight and tomorrow so we have two days left. It would seem to me that the committees that need to be here over the weekend would be able to take care of the necessary problems that they have with the various committees and they could get us back either Monday or Tuesday of next week. You might say, well if we come back for two days next week and we aren't able to finish. There is no problem with us extending again if we have to. If you are concerned about a veto day, this does not affect a veto day.

Ladies and gentlemen of the House, I stand here tonight to tell you we have been here since January and there is no reason for being here any more than three more days.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I kind of agree with my colleague that just spoke. I think he is right. The only thing that I am going to ask, so that we won't have everybody wondering what is going on, I think we should ask the Speaker why he feels he should have five days? Do we have that much work? Do we need that many people here? I would like to have his answer, if I could Mr. Speaker. I would like to ask you that question. Do we need to be here for five extra days or can we do our job in three? I will wait for your answer, sir.

The SPEAKER: In response to the question posed by the Representative from South Portland, Representative DiPietro and not attempting to debate from the rostrum. The Chair is not desirous of advocating a position one way or the other on this matter. This a matter for the body to make a determination.

I have indicated before that and I have discussed this with Representative Strout as well, in response to the timing. I had received a communication from the Senate as to what we thought was a workable number of days. As I indicated earlier, there are 53 bills still in committee and on 37 of those voting has been taken place and are currently in drafting. Nine of those are divided reports. There are 16 bills that are currently unresolved in a variety of committees, although half of those are in Appropriations at this point.

Traditionally it takes, depending on the amendments, anywhere from two to four days to get the amendments upstairs for consideration for floor action. We have, I believe, 14 divided reports currently on our calendar. I think we are in possession of approximately eight bills to be amended on the matters of unfinished business. The consideration of the budget, if there is agreement to be reached, will take approximately two and a half days to get drafted and printed. In reference to the issue of timing, the Chair is not in position to make a determination how long these items will, in fact, be debated. I indicated earlier that during the 116th Legislature we had 238 divided reports for two years. As of yesterday morning, we had 263 divided reports just this year, which is obviously an astronomical increase in the number of divided reports over the two combined years.

The Chair is not in a position to determine what the length of time individuals will wish to debate the items currently before us or to come. I can assure you that it is not in the interest of the Chair to be here any longer than we have to be. I have been asked about what happens in the instance that the House and Senate are unable to agree on extension. Obviously, at that point we would adjourn sine die. Most likely the Governor of the state would bring us back in. It would be my guess. It would have some financial considerations if it got to that point. I am not suggesting that it will.

I was asked earlier about the consideration of vetoes. You may or may not know, if the Governor chooses to authorize his authority to veto legislation after we adjourn sine die the legislature will not consider that legislation until we come back into session next year. Traditionally, for whatever reason and you may be able to guess them, the legislature has chosen to use one of its extension days to force action on any vetoes that we might expect from the chief executive. As you know after we adjourn, the chief executive has 10 days to take action on legislation. If, in fact, there was legislation that was of interest to members of this body and wanted to deal with sooner than later, we have traditionally set aside at least one extension date to be able to come back and deal with the issue of vetoes, as well as any confirmations that might be in existence at that time. I believe there is at least potential for a Public Utilities appointment to be considered as well. There is a timing issue there as well.

In response to the comments made by Representative Strout and the response to the comments made by Representative DiPietro, we certainly could adjourn in three days. My guess that it would be a mammoth task to complete the work before us. We certainly could adjourn a second time. The statutes are unusual in that while the first extension says that the legislature can adjourn to no more than five legislative days, the second adjournment says that we can further extend the date for adjournment by five additional days, not up to or more than. Using that wisdom, some would suggest that they may mean we are here for eight days, instead of three or four days. The Chair leaves this interesting matter in the hands of the members of the House of Representatives and will certainly abide by your wishes.

The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Thank you Mr. Speaker. I would ask if the Speaker would inquire further about whether or not the veto day had to be one of the extension days? My reading of the statute is that the veto day is not to be considered as one of the extension days, but is separate and apart.

The SPEAKER: The Chair would respond to the question posed by the Representative from Wells, Representative Carleton that it is probably, at best, not clear, however, depending on the interpretation from the Attorney General's Office and I am not suggesting that anybody go get an opinion from the Attorney General's Office on this particular item, someone could read that a separate extension day could be used for vetoes. The Chair would tend to agree with the Representative from Wells, Representative Carleton that it could be read, in fact, that way.

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

Representative KEANE: Mr. Speaker, May I pose a question to the Speaker?

The SPEAKER: The Representative may pose his question.

Representative KEANE: I understand that the extension is for legislative days. I was wondering what the process is for determining what a legislative day is?

The SPEAKER: The Chair would respond to the question posed by the Representative from Old Town, Representative Keane, a legislative day would be a day in which the legislature actually came in to meet. For example, if we chose to meet tomorrow and Friday, if we adopted three days, we would have one day left for next week for consideration of the items before us. Traditionally those days are used sparingly to allow for caucus time or other time in which we do not actually meet as a legislature, but once the legislature makes a determination as to how long they wish to extend, if they wish to extend, we would make a determination with the presiding officers to get together and try to map out a calendar, so people could plan at that point.

The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: Although I greatly respect the experience of the good Representative from Corinth in these matters, I would urge you to vote against the amendment because I would like to see us finish in one extension. In order to have the most chance of doing that, I think if we have five days, we have a

lot more chance of not being in the position of requesting a second extension. We have a lot of work to do and I would like to see us do it well. I think realistically we have a better chance of finishing in five days than three. Representative Strout did say that if we needed a second extension, we could ask for that. I would prefer to see us get as much work done in the first extension as possible and use the full five days we are allowed for that purpose.

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

Representative VIGUE: Mr. Speaker, what would happen if we just voted, green would be three days and red would be five days and take it and let it land where it may. It would save a lot of problems and I think everybody would be able to go and have dinner.

The SPEAKER: The Chair would respond to the Representative from Winslow, Representative Vigue that the Chair is sympathetic with the concerns raised by the good Representative from Winslow. We do have a motion before the House and we would have to proceed with that motion before we could take an intervening motion to order supper or anything like that, at this point.

The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Thank you Mr. Speaker, Men and Women of the House: I don't really care to debate whether we go three days or five days. I am not going to be voting for the three days because I don't have the experience in his tenure here that Representative Strout does, but I have heard that speech before. I don't think it is physically possible for this House, based on what I have listened to the last couple of days, to finish just the work that is assigned us in three days. Never mind school funding, welfare reform, minuscule little problem called the budget and I am just afraid that we look foolish enough as it is now, that if we vote to extend three days and we don't finish in three days, I predict that we will not finish in three days, we will have to vote for five more days.

I think the people of Maine are going to be a little confused by that. I don't think they are going to be happy with that. I believe it can be done in five days, if you really want to. I don't believe there is any way with any help, even the divine intervention from above, that we can logistically and mechanically move what we have to do through the process in three days. Some of the caucus has asked me why don't we just leave and let you do the work? Unfortunately, you all have to be here for us to work these papers back and forth through the bodies. If it was simply a matter of letting people sit down and work out compromises to bring forth for the rest of the body, it would be one matter. The fact of the matter is, you have got to move this paper back and forth.

Based on the debate of unanimous committee reports, 12 to 1 committee reports, 11 to 2 committee reports and what I see to be a great reluctance on anybody's part to forgo espousing their knowledge and advice to each other and I am as guilty of that as anybody else. I just don't think we can do it in three days. I think we will look foolish, again. I will be voting against three days and hopefully we can pass five days and then maybe we can get our work done and go home and the people won't feel that we are quite as foolish as we could if we vote for three

and don't do it. I predict we will not do it in three. If we do, I will apologize to you. Mr. Speaker could I have a roll call on adoption of the amendment.

Representative JACQUES of Waterville requested a roll call on adoption of House Amendment "A" (H-577).

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 adopt House Amendment "A" (H-577) to the order. All those in favor will vote yes; those opposed will vote no.

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

ROLL CALL NO. 205

YEA - Bailey, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Clark, Clukey, Cross, Damren, Donnelly, Greenlaw, Guerrette, Heino, Jones, S.; Joy, Joyce, Kneeland, LaFountain, Lane, Lemke, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Marvin, McAlevey, McElroy, Nass, Nickerson, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, W.; Rice, Robichaud, Savage, Simoneau, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Aikman, Ault, Barth, Benedikt, Berry, Brennan, Carleton, Chartrand, Chase, Chick, Chizmar, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyner, Keane, Kerr, Kilkelly, Kontos, Labrecque, Layton, Lemaire, Lindahl, Luther, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, O'Neal, Ott, Paul, Poulin, Pouliot, Povich, Reed, G.; Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn.

ABSENT - Bouffard, Dexter, Nadeau, Spear, Yackobitz, The Speaker.

Yes, 57; No, 88; Absent, 6; Excused, 0.

57 having voted in the affirmative and 88 voted in the negative, with 6 being absent, House Amendment "A" (H-577) was not adopted.

The Chair ordered a division on passage of the Joint Order (S.P. 593).

Representative JACQUES of Waterville requested a roll call on passage of the Joint Order (S.P. 593).

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 passage of the Joint Order (S.P. 593). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 206

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

NAY - Greenlaw, Guerrette, Joy, Lane, Libby JD; Lumbra, Marvin, McAlevey, Poirier, Winsor.

ABSENT - Bouffard, Dexter, Nadeau, Spear, Yackobitz.

Yes, 136; No, 10; Absent, 5; Excused, 0.

136 having voted in the affirmative and 10 voted in the negative, with 5 being absent, a two-thirds vote necessary, the Joint Order (S.P. 593) was passed in concurrence.

On motion of Representative JACQUES of Waterville, the House recessed until 7:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

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

Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819) (C. "A" H-492)

TABLED - June 19, 1995 (Till Later Today) by Representative KILKELLY of Wiscasset.

PENDING - Passage to be Engrossed.

On motion of Representative GOULD of Greenville, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-492) was adopted.

The same Representative presented House Amendment "A" (H-574) to Committee Amendment "A" (H-492) which was read by the Clerk and adopted.

Committee Amendment "A" (H-492) as amended by House Amendment "A" (H-574) thereto was adopted.

On motion of Representative POULIN of Oakland, tabled pending passage to be engrossed as amended by Committee Amendment "A" (H-492) as amended by House Amendment "A" (H-574) thereto and later today assigned.

Bill "An Act to Create the Hebron Village Water District" (EMERGENCY) (S.P. 530) (L.D. 1447) (C. "A" S-267)

TABLED - June 19, 1995 (Till Later Today) by Representative UNDERWOOD of Oxford.

PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed as amended in concurrence.

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

TABLED - June 15, 1995 (Till Later Today) by Representative JACQUES of Waterville.

Pending - Passage to be Enacted.

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

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

TABLED - June 15, 1995 (Till Later Today) by Representative JACQUES of Waterville.

Pending - Passage to be Enacted.

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

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

An Act to Increase Access to the Legislature and Government Services for Persons Who Are Deaf or Hard of Hearing and to Make Progress towards Compliance with the Americans with Disabilities Act (H.P. 465) (L.D. 631) (C. "A" H-432) 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.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was Tabled and Today Assigned:

Bill "An Act to Change the Licensing Year for Certain Marine Resource Licenses" (H.P. 1032) (L.D. 1451) (C. "A" H-528)

TABLED - June 20, 1995 by Representative CLOUTIER of South Portland.

PENDING - Passage to be Engrossed.

Representative ETNIER of Harpswell presented House Amendment "A" (H-573) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: Just a brief note of explanation. The committee on Marine Resources, we

have agreed that we would like to add this amendment on here. Basically what is, is a license for the eel fisheries. In consultation with the department, we strongly agreed that we should have a license for this particular fishery in place for next season. If we hadn't done this, there would have been no specific license for that fishery and as you might have heard, was a very popular fishery this year and we believe we should start gathering some good information on. That is the purpose of this amendment. Thank you.

House Amendment "A" (H-573) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-528) and House Amendment "A" (H-573) and sent up for concurrence.

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

UNFINISHED BUSINESS

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

Bill "An Act to Prohibit Retrofits of Nuclear Power Plants without Permission of the Public Utilities Commission" (H.P. 676) (L.D. 927) (C. "A" H-435)

TABLED - June 15, 1995 (Till Later Today) by Representative WATERHOUSE of Bridgton.

PENDING - Passage to be Engrossed.

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

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

Bill "An Act Concerning a Moment of Silence in Maine Public Schools" (H.P. 656) (L.D. 879)

- In House, Minority "Ought to Pass" Report of the Committee on Education and Cultural Affairs read and accepted and the Bill passed to be engrossed on June 16, 1995.

- In Senate, Majority "Ought Not to Pass" Report of the Committee on Education and Cultural Affairs read and accepted in non-concurrence.

TABLED - June 19, 1995 (Till Later Today) by Representative POULIOT of Lewiston.

PENDING - Motion of same Representative to Adhere.

Subsequently, the House voted to Adhere.

SENATE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (S-282) - Committee on Transportation on Bill "An Act to Widen the Maine Turnpike" (S.P. 489) (L.D. 1323)

TABLED - June 19, 1995 (Till Later Today) by Representative GATES of Rockport.

PENDING - Acceptance of Committee Report.

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

Representative GATES: Mr. Speaker, Men and Women of the House: I laid this on the table for one reason and one reason only. It looked like it was going through under the hammer and I wanted to ask for a roll call at this stage. We have heard a lot in this body about what the voters have said and

haven't said in the last election in November, but it was clear what they said in 1990 on the turnpike referendum, they didn't want it widened. Vote as you wish, but I will be voting no. Mr. Speaker, when the vote is taken, I ask for the yeas and nays.

Representative GATES of Rockport requested a roll call on acceptance of the Committee Report.

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

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

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Very, very briefly, I hope that you will accept the committee amendment and the bill that you see before you on the board here. The committee worked very hard. We worked with an awful lot of groups of people. As I said at one of the meetings we had, there were groups who came together on this compromise that before then, sometimes didn't even want to be in the same room together. They came together on a compromise plan and I think it is a good plan and a lot of people made compromises to arrive at what you have before you here and the committee and I, as its chairman, urge you to support this.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I really hate to get up tonight because we had a good roll going here, but I have to say that people have got to stop and realize that turnpike is the only main road into the State of Maine. Most things that come into Maine have to go over that. As a person who drives that turnpike from York to South Portland, it is at a point right now, where it is safety factor. I think we all realize the truck accidents we have had on it. Just take a look at it. We do not have any truck accidents from York to Boston because it is widened. A lot of our accidents are there, not only truck, but car accidents.

It is important for the economy of the State of Maine that that turnpike be widened. Route 1 can in no way ever attempt to take care of the congestion. I think it is going to be kind of ironic or funny when they take their cars and charge a \$2 surcharge and put them onto Route 1. Right now in the summer they are backed up to Ogunquit Play House. They will be backed up six or seven miles back to the off ramp of the York toll booth. Even now when you go home sometimes you wait five minutes heading south on a Friday night to get through the toll booth, never mind on a Sunday night. It is very important that we widen that turnpike and we do it now, before some of us have a family member killed because of the fact it is not widened.

I would like to add that it is very important to know there is not one penny of tax dollars in widening that turnpike. You cannot, under the constitution of the State of Maine, take tax dollars and put on a private road. The turnpike is a private road. It is money that the people who use the road, such as myself, pay for. We pay dearly to ride that

road. I pay \$3.25 every time I come to Augusta. It is my choice. I choose to do it because I don't like the alternative. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I think of the turnpike as almost a deathtrap now. Our truck drivers travel on it and they say the same thing. For the first time in years, they are really afraid when they drive that turnpike. Only once this year, have I gone home and not seen an accident. Three and four times I have stayed an hour and a half in one spot waiting for the accident to be cleaned up. Think about it. The turnpike, you have to widen it to save lives. If you want to keep killing them, keep it narrow. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I just want to inform you that despite what we see in the lights, you are not voting whether or not to widen the Maine turnpike. If you haven't read through the amendment, the bill is to encourage a complete study of what is necessary to see whether it does, indeed, need widening. The Transportation Committee will be looking at the issue again in January to decide whether or not to grant the bond request for that purpose and it may even be postponed until the study is complete enough that we feel comfortable presenting it. The legislature will get to visit this issue again. If you do vote yes on this issue, you won't be voting to widen it at this time, but only to make sure that the studies are done in a way that we all get enough complete information to make this decision in the future. Thank you.

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

ROLL CALL NO. 207

YEA - Aikman, Ault, Bailey, Barth, Benedikt, Bigl, Birney, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jacques, Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Savage, Saxl, J.; Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Taylor, Thompson, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Winglass, Winn, Winsor, The Speaker.

NAY - Adams, Ahearne, Berry, Chase, Chizmar, Gates, Heeschen, Johnson, Jones, K.; Luther, Meres, Povich, Richardson, Samson, Shiah, Townsend, Treat, Vollenik.

ABSENT - Bouffard, Dexter, Dore, Gerry, Green, Joseph, Kilkelly, Lemaire, Nadeau, Rotondi, Strout, Tripp, Whitcomb, Yackobitz.

Yes, 119; No, 18; Absent, 14; Excused, 0.

119 having voted in the affirmative and 18 voted in the negative, with 14 being absent, the Committee Report was accepted.

The Bill was read once. Committee Amendment "A" (S-282) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, June 22, 1995.

SENATE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-217) - Minority (5) "Ought Not to Pass" - Committee on Banking and Insurance on Bill "An Act to Authorize Participation by the Public Advocate in a Regulatory Proceeding Concerning the Residual Market Mechanism for Workers' Compensation" (S.P. 532) (L.D. 1470) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-217).

TABLED - June 16, 1995 by Representative VIGUE of Winslow.

PENDING - Acceptance of either Report.

Representative MAYO of Bath moves the Bill and all accompanying papers be indefinitely postponed.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: Although this is a divided report, the Banking and Insurance Committee is in agreement to indefinitely postpone this bill. This bill allowed the public advocate to continue his role in the ongoing suits that had been remanded from the court back to the Superintendent of Insurance. What has happened in the last few days is that the governor has presented a bill that will come before you. It is L.D. 1678 and it will significantly affect fresh start workers' comp charges to employers and a settlement on the part of the insurers, that is the basis for the cases in court. What I am saying is that we don't need L.D. 1470 and we will take up with you L.D. 1678 at the appropriate time. So please support the motion to indefinitely postpone. Thank you.

Subsequently, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-519) - Committee on Agriculture, Conservation and Forestry on Bill "An Act to Protect Traditional Uses in the North Woods" (H.P. 1104) (L.D. 1551)

TABLED - June 19, 1995 (Till Later Today) by Representative KILKELLY of Wiscasset.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted. The Bill was read once. Committee Amendment "A" (H-519) was read by the Clerk.

Representative KILKELLY of Wiscasset presented House Amendment "A" (H-548) to Committee Amendment "A" (H-519) which was read by the Clerk.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This is a technical amendment

that corrects a numerical error that was in the original amendment.

House Amendment "A" (H-548) to Committee Amendment "A" (H-519) was adopted.

Committee Amendment "A" (H-519) as amended by House Amendment "A" (H-548) thereto was adopted.

The Bill was assigned for second reading Thursday, June 22, 1995.

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:

An Act to Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks (H.P. 801) (L.D. 1118) (C. "A" H-404) which was tabled by Representative CAMERON of Rumford pending passage to be enacted.

On motion of Representative CAMERON of Rumford, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1118 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-575) which was read by the Clerk.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is to my bill. It was the ski area and family bill. The purpose of the amendment is to clarify the definition of skiing. At the end of the definition as it was written, there was reference to bicycles and that didn't seem to fit, so we are taking that out.

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

Representative LUTHER: Mr. Speaker, Men and Women of the House: As I read the amendment, I think it now includes toboggans, sleds and anything that you can do at a ski area. When the vote is taken, I request the yeas and nays.

Representative LUTHER of Mexico requested a roll call on adoption of House Amendment "A" (H-575).

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

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

The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Men and Women of the House: I would strongly encourage you to vote for this amendment. It greatly, I think, improved the bill. It clarified the definition of skiing. I think it is very important. I would strongly urge you to vote for this amendment. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is the adoption of House Amendment "A" (H-575). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 208

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

NAY - Luther.

ABSENT - Bouffard, Dexter, Joseph, Martin, Nadeau, Plowman, Rotondi, Strout, Yackobitz.

Yes, 141; No, 1; Absent, 9; Excused, 0.

141 having voted in the affirmative and 1 voted in the negative, with 9 being absent, House Amendment "A" (H-575) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-404) and House Amendment "A" (H-575) in non-concurrence and sent up for concurrence.

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

ENACTORS

Emergency Measure

An Act to Enhance Export Markets for Maine Sardines and Other Canned Herring Products by Clarifying the Maine Sardine Law (S.P. 426) (L.D. 1149) (C. "A" S-253; H. "A" H-494)

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. 123 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 Relating to the Establishment of a Continuum of Quality and Affordable Long-term Care and Service Alternatives (S.P. 519) (L.D. 1401) (C. "A" S-271)

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

Emergency Measure

An Act to Amend the Laws Pertaining to the Regulation of Borrow Pits (S.P. 525) (L.D. 1423) (C. "A" S-283; S. "A" S-288)

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. 131 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 Amend the Earnings Limitations under the Disability Plan (H.P. 1078) (L.D. 1520) (C. "A" H-495)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Requiring a Study of How the State Should Regulate Naturopaths (H.P. 1087) (L.D. 1532) (C. "A" H-508)

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. 101 voted in favor of the same and 33 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act Concerning the Participation of Teachers of Adult Education in the Maine State Retirement System (S.P. 214) (L.D. 556) (C. "A" S-278)

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. 126 voted in favor of the same and 4 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

Mandate

Resolve, to Establish Tuition Policy for the Town of Dennysville and Edmunds Township (H.P. 651) (L.D. 874) (H. "A" H-506 to C. "A" H-476)

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. 129 voted in favor of the same and 3 against, and accordingly the Mandate was finally passed, signed by the Speaker and sent to the Senate.

Representative Marshall of Eliot moves that the House extend until 11:00 p.m. pursuant to House Rule 22.

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

Representative VIGUE: Thank you Mr. Speaker. I would like to modify that to 10:00 p.m., please.

The SPEAKER: The consideration of the longest time would have to be considered first in terms of the assignment of extending to a time certain. We would have to go to the longest time first before we could consider that motion, Representative Vigue.

The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Thank you Mr. Speaker. This motion was made earlier. Could we vote green for 10:00 p.m. and red for 11:00.

The SPEAKER: The Chair would answer in the negative.

The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Thank you Mr. Speaker. If the motion until 11:00 p.m. were to fail, would we then be ordered to make a motion to 10:00 p.m.

The SPEAKER: The Chair would order in affirmative.

The Chair ordered a division on the motion to extend until 11:00 p.m.

A vote of the House was taken. 70 voted in favor of the same and 66 voted against, the motion to extend to 11:00 p.m. was accepted.

An Act Relating to Telephone Solicitation (H.P. 100) (L.D. 135) (C. "D" H-462)

An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing (S.P. 129) (L.D. 321) (C. "A" S-269)

An Act to Increase Access to Chiropractor Care under Health Maintenance Organization Managed Care Plans (H.P. 287) (L.D. 391) (C. "A" H-453)

An Act to Extend the Medical Liability Demonstration Project Deadline by 3 Years (H.P. 489) (L.D. 670) (C. "A" H-502)

An Act to Amend the Substance Abuse Testing Law (H.P. 645) (L.D. 868) (H. "A" H-485 to C. "A" H-420)

An Act to Expand Elevator and Tramway Inspection Services (H.P. 862) (L.D. 1193) (C. "A" H-504)

An Act to Provide for Public Health Standards in Public Schools Similar to Standards Required in Private Industry (S.P. 433) (L.D. 1201) (C. "A" S-272)

An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering (S.P. 475) (L.D. 1271) (H. "A" H-510)

An Act to Update and Clarify Administrative Procedures (H.P. 907) (L.D. 1283) (C. "A" H-496)

An Act to Prevent Master Electrician License Fee Payment Duplication (H.P. 1044) (L.D. 1463) (C. "A" H-497)

An Act to Establish the Maine Judicial Compensation Commission (S.P. 536) (L.D. 1474) (H. "A" H-525 to C. "A" S-260)

An Act to Improve Bicycle Safety in This State (S.P. 580) (L.D. 1557) (C. "A" S-256)

Resolve, Directing the Department of Education to Develop a Statewide Plan for a Skills Development Program for Teachers (H.P. 1053) (L.D. 1482) (C. "A" H-499)

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

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

An Act to Create an Intermediate License for Minors (S.P. 166) (L.D. 427) (C. "A" S-220)

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

On motion of Representative BAILEY of Township 27 was set aside.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: This item has been debated, so I won't take a lot of time here tonight. I would like to just say that this has come out without a fiscal note on it and if anyone believes that this is not going to cost a lot of money in the law enforcement community, especially to enforce this regulation, you are mistaken.

The way this is set up is students can have a waiver from their teachers, parent or guardian to sign, their employer and if a law enforcement officer stops one of these vehicles at night and has one of these letters presented to him, believe me it is going to take some time the following day to follow-up and determine if it is a valid letter or not.

We had a lot of debate on this issue before the Transportation Committee and there were a lot of pros and cons. I think that you heard the argument that it is discriminatory. Our young folks in the tourist areas are going to be working in the tourist industry. They are going to be competing against nonresidents, the same age that are going to be able to work, because of the waiver problem. You have seen a lot of information distributed on how effective this is going to be. I would like to show that this report, regarding the accident in 1993, clearly shows that the 15, 16, and 17 year old folks are not the problem. The 18 and 19 year old children are where the major problem lies. This bill does nothing to impact the students.

The report was put out on Auto Week and it clearly says that the states that have tried this intermediate license program, it has cut down some on the accidents, but it hasn't reduced the fatalities at all. The National Transportation Safety Committee has just taken a hold of this and they feel that the states aren't doing a very good job in driver education and they are trying to encourage the states to go along with their graduated driver's license. I feel that it is a bad bill. I think we should allow parents to be parents and take care of their own children. I would urge you to vote no on this. Thank you.

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

Representative LINDAHL: Mr. Speaker, Men and Women of the House: I respectfully disagree with the good Representative from Township 27. I don't believe it is going to take a lot of time for police officers or cost a lot of money. Thank you.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: In following up on that comment of the most recent Representative, there is no fiscal note to be concerned about. The additional cost associated with implementing an intermediate license for minors can be absorbed by the Bureau of

Motor Vehicles within the Department of the Secretary of State. You are utilizing existing budgeted resources. This bill establishes a new traffic infraction. The additional workload and administrative costs associated can be absorbed within the budgeted resources of the Judicial Department. In fact, the collection of additional fines may even increase the general fund revenue by some minor amounts. There is no fiscal note for you to be concerned with.

In regard to whether or not it is the 16 year olds that are causing the accidents or 17 or 18 year olds, one of the major purposes of this bill is to develop good habits at an early age. That is what this is all about, is developing habits so, if, in fact, they operate effectively for a year on that intermediate license and have a clean record, then they can graduate to a full license. The idea is for a year, they have to get it through their heads that they have got to practice safe driving.

There was no opposition. I take that back, the only minor bit of opposition and that was from the Secretary of State's Office's concerned with the need for a waiver. That has been amended out so that just a simple letter from a coach or a parent or an employer or whatever the reason might be and there will be exceptions and times when young people for some reason or another have to be on the road. They will have to have that letter with them.

I would just like to read you one brief paragraph, one brief comment, from a letter we received from a gentleman who lives right here in Augusta. He says, "The two greatest causes of fatal accidents on our highways are alcohol and fatigue. The most frequent times for those types of accidents is between midnight and 5 a.m." This is a dangerous time for anyone to be on the road, especially inexperienced drivers who may not recognize or know how to react to a drunken or sleepy driver whom they may encounter. These hours are also the most likely time for a teen-ager, himself or herself, to be sleepy or under the influence of illegally obtained alcohol.

Every time this subject comes up, it occurs to me that, as a matter of fact, is when a body that young is supposed to be sleeping anyway. They are not even supposed to be on the road at that hour of the night unless under unusual circumstances. It is a very natural inclination for them, never mind the drinking, which is bad enough, but to be sleepy. I think that is very important for you to keep in mind, ladies and gentlemen.

One final statistic about it being effective, these are just three of the states that have night restricted licenses, the type we are talking about right now from midnight to 5 in the morning, New York has reduced accidents involving 16 year old by 62 percent, in Maryland by 40 percent and in Pennsylvania by 69 percent. They work everywhere that they have been put into place.

One of the things, I hope you will take my word for, because I can't seem to find the piece of paper here. I will just have to rely on you trusting me on this one and that is, in fact, even though there may have been some objections from teen-agers prior to the law going into affect into their state, teen-agers have been polled and, in fact, find this to be something that they like and use. One thing, if nothing else, it relieves the peer pressure that they feel that they have to operate under, in this

day and time. I do hope you will accept the 11 to 2 report from the committee. Thank you very much.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. Vote no if you think parents ought to be taking care of their children, knowing where they are between 12 and 5. If you don't like that, I don't know what you want to do. Mr. Speaker, I would ask for a roll call when the vote is taken. Thank you.

Representative HEINO of Boothbay 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 Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I would like to speak just to the idea of this discriminating against youth from our state in working situations with young drivers from out-of-state. First of all, I don't think there are very many jobs in those areas that 15 and 16 year olds would be working after midnight. That would basically be places that serve alcohol and they wouldn't be working in them anyway. Should they be having jobs between 12 and 5 in the morning, there is a provision for them to drive, as the Representative from Westbrook said, with a letter certified that they do have to work after those hours. They will be able to still drive.

I am concerned about those children, that age, who may not have parents caring about where they go at night. I would rather not see them on the roads between those hours until they have shown they can drive a year without a violation and they will be free after that time to drive all 24 hours per day. I would encourage you to vote for enactment.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: To me, this is another example of the government taking over parental responsibility. I have two daughters at home and I would love to be able to tell them that they can't go out after midnight because it is a state law. I don't believe it is the job of state government to do that. I believe it is the job of parents. 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. 209

YEA - Adams, Benedikt, Berry, Brennan, Bunker, Carleton, Chartrand, Chase, Chick, Cloutier, Clukey, Daggett, Desmond, DiPietro, Driscoll, Dunn, Etnier, Farnum, Fisher, Gates, Gerry, Gooley, Gould, Green, Greenlaw, Hatch, Jacques, Jones, K.; Keane, Kontos, Lemaire, Lindahl, Martin, Marvin, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, Paul, Povich, Reed, G.; Richardson, Ricker, Rowe, Samson, Shiah, Sirois, Stone, Thompson, Treat, Tripp, Truman,

Tuttle, Tyler, Vigue, Volenik, Watson, Whitcomb, Winglass, Winn, The Speaker.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Campbell, Chizmar, Clark, Cross, Damren, Davidson, Donnelly, Dore, Fitzpatrick, Gamache, Gieringer, Guerrette, Hartnett, Heesch, Heino, Hichborn, Johnson, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbr, Luther, Madore, Marshall, Mayo, McAlevey, McElroy, Meres, Nass, Nickerson, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Reed, W.; Rice, Robichaud, Rosebush, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Stevens, Taylor, Townsend, True, Tufts, Underwood, Waterhouse, Wheeler, Winsor.

ABSENT - Bouffard, Dexter, Nadeau, Rotondi, Strout, Yackobitz.

Yes, 62; No, 83; Absent, 6; Excused, 0.

62 having voted in the affirmative and 83 voted in the negative, with 6 being absent, the Bill failed of passage to be enacted.

An Act to Ensure Consistency Between State and Federal Environmental Requirements (S.P. 347) (L.D. 952) (C. "A" S-275)

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

On motion of Representative HEESCHEN of Wilton was set aside.

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

Representative HEESCHEN: Thank you Mr. Speaker, Members of the House: I question whether this is a wise thing to do, whether we should be singling out the DEP for special treatment in this way. We are going to be looking at rulemaking and whether something is stricter in federal. I think we ought to be looking at it in a broader context. In the context of a review of rulemaking in general and the Administrative Procedure Act, rather than just doing it to one department.

Speaking of rulemaking and the APA, it seems to me that part of the problem is that a lot of the people don't know how or don't care to take part in the rulemaking process, in which a lot of these issues could be brought up. Rather, this bill proposes to let the rulemaking go through and then an additional 60 days at a minimum for legislator involvement. A legislature and individual legislator can be involved in rulemaking process and sometimes people have. I think that is where these issues should be brought up, rather than just using this as additional road blocks. I encourage you to vote against enactment and I request a roll call.

Representative HEESCHEN of Wilton 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 Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support this. It is a very simple bill. It allows for rules that go beyond federal regulations to be pulled and come back to the legislature and while we are deciding whether they should go into affect or not, those rules are stayed. This was an agreement and was worked out between the AG's Office and DEP, the environmentalists, the Natural Resources Committee and I just think it is a good idea to pursue it and I certainly hope that you will continue to support it. 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. 210

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Dunn, Farnum, Fisher, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Savage, Simoneau, Sirois, Spear, Stedman, Stone, Taylor, Thompson, Tripp, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Adams, Benedikt, Berry, Brennan, Chartrand, Chase, Daggett, Etnier, Fitzpatrick, Gates, Green, Hatch, Heesch, Johnson, Jones, K.; Kontos, LaFountain, Lemaire, Luther, Mitchell JE; Ott, Richardson, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Townsend, Treat, Volenik.

ABSENT - Bouffard, Dexter, Dore, Heino, Labrecque, Lemke, Nadeau, Rotondi, Strout, Yackobitz.

Yes, 111; No, 30; Absent, 10; Excused, 0.

111 having voted in the affirmative and 30 voted in the negative, with 10 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

ORDERS

On motion of Representative KERR of Old Orchard Beach, the following Joint Order (H.P. 1136)

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills authorizing the issuance of a tax anticipation note not to exceed \$182,000,000 for fiscal year 1995-96, to the House.

Was read and passed and sent up for concurrence. Ordered sent forthwith.

BILL RECALLED FROM ENGROSSING DEPARTMENT

(Pursuant to Joint Order - House Paper 1134)

Bill "An Act to Regulate Hybrid Wolves" (S.P. 360) (L.D. 986)

- In House, passed to be engrossed as amended by Committee Amendment "A" (S-287)

On motion of Representative KILKELLY of Wiscasset, the House reconsidered its action whereby L.D. 986 was passed to be engrossed.

On further motion of the same Representative the House reconsidered its action whereby Committee Amendment "A" (S-287) was adopted.

The same Representative presented House Amendment "A" (H-566) to Committee Amendment "A" (S-287) which was read by the Clerk.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This amendment makes it optional for a wolf hybrid to have a rabies vaccination. The reason for that is a request that we had from the state veterinarian that because with wolves hybrids there is no way of knowing how long it takes the rabies to incubate within the animal. Any wolf hybrid that bites a person is, in fact, euthanized immediately. It seemed ridiculous that in one section of law we were requiring them to have a rabies vaccine, while in another section of law we were saying we don't know if the rabies vaccine works or not. This merely suggests that a wolf hybrid before it's registered would have a rabies vaccine, but not require it. Thank you and don't get bitten.

House Amendment "A" (H-566) to Committee Amendment "A" (S-287) was adopted.

Representative TUTTLE of Sanford presented House Amendment "B" (H-567) to Committee Amendment "A" (S-287) which was read by the Clerk.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: This amendment is being presented from the Committee on Engrossed Bills to correct a technical error. It replaces the word dog with the word tag. I offer this as Chair of Engrossed Bills.

House Amendment "B" (H-567) to Committee Amendment "A" (S-287) was adopted.

Committee Amendment "A" (S-287) as amended by House Amendments "A" (H-566) and "B" (H-567) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-287) as amended by House Amendments "A" (H-566) and "B" (H-567) thereto in non-concurrence and sent up for concurrence.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-534) - Minority (4) "Ought to Pass" as amended by Committee Amendment "B" (H-535) - Committee on Business and

Economic Development on Bill "An Act to Amend the Laws Related to Optometry" (H.P. 590) (L.D. 800)

TABLED - June 20, 1995 (Till Later Today) by Representative ROWE of Portland.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-534) Report.

At this point the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I am speaking on L.D. 800, which is the bill to amend the laws relating to optometry. To borrow from my friend, the Representative from Falmouth, I am not an optometrist and I don't play one on TV either as he said, but before I met L.D. 800, I only knew one optometrist and I knew no ophthalmologists, but now I know lots of both of them. I am sure you do, too.

L.D. 800 is a bill that is proposed to increase the scope of practice for optometrists. As it was initially presented, it would allow optometrists to perform certain surgical procedures and also to treat glaucoma. It was amended by the committee and I would like to talk about the amendment. Before I do, to give you a little history, in 1978, the Maine Legislature authorized optometrists to use topical therapeutic medication to treat all ocular diseases, except glaucoma. A topical therapeutic medication is something that is applied outside the body, such as an ointment, as opposed to a nontopical medication, which is something that is applied inside the body, such as an oral medication.

Optometrists currently diagnosis glaucoma and they refer glaucoma patients to ophthalmologists. The original L.D. 800 proposed to authorize optometrists to prescribe and use both topical and nontopical therapeutic medication for all ocular diseases, including glaucoma. As I said, the original bill also proposed to authorize optometrists to perform laser surgery.

The Majority Report, which is the current motion that is pending, is much more restrictive. It prohibits optometrists from performing invasive or laser surgery or using lasers that alter eye tissue in any way. It authorizes optometrists to use topical and nontopical therapeutic medications to treat glaucoma and only glaucoma. This becomes effective October 1, 1996. Remember, current law prohibits the use of therapeutic medications, but it does allow the use of topical therapeutic medications to treat abnormal ocular conditions other than glaucoma. Again, under current law you can use topical medications to treat diseases other than glaucoma. What this bill would do, it would allow for glaucoma and glaucoma only to use topical and nontopical medications for treatment.

The Majority Report also sets up a five member professional panel to study and report back to the legislature, next January, regarding the qualifications for the prescription and use of diagnostic and therapeutic substances for the diagnosis, cure, treatment or prevention of

glaucoma. When I say qualifications, this panel will come back with qualifications regarding education, training and clinical qualifications. The panel is also being tapped to come back to the legislature with what restrictions and limitations should be placed on optometrists' ability to prescribe and use nontopical medications to treat other ocular diseases, that is other than glaucoma. I would like to make that point.

I believe some of the materials that were handed out indicated that the Majority Report would authorize optometrists to use oral medications to treat ocular diseases other than glaucoma and that is not true. It only authorizes oral medications for the treatment of glaucoma. Again, that is effective in October 1996. If the panel agrees that optometrists can become qualified to treat other ocular diseases, other than glaucoma, with oral medications and other nontopical medications, then the panel will also provide the qualifications that the panel feels is necessary to prepare optometrists to provide that care.

Next session, when we get the report of the panel, we will amend the statute to add the qualifications for the treatment of glaucoma. We will also decide if optometrists should be able to treat other ocular diseases with nontopical medication. This report has received some criticism and you have had a couple of handouts and I would say the criticism is unfair, based upon the information that was provided to the committee and that the committee reviewed, at least in the eyes of the majority of the committee. The criticism has been that, how can you authorize the treatment of glaucoma without specifying the qualifications for optometrists to treat glaucoma?

The fact of the matter is, it is currently being done in more than 20 states around the nation. In other words, optometrists are treating glaucoma with both topical and nontopical medications. We know it can be done. It can be done with less than a medical degree. Today you have physicians who are just family practitioners or internists, that can provide medication for the eye, oral medication for glaucoma, but optometrists cannot. As I said, in some 20 other states it is being done. I know that other members on the Majority Report have additional information to tell you, so I will stop here. I thank you and I would encourage you to vote for the pending motion, which is to accept the Majority "Ought to Pass" as amended Report. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I strongly suggest that you defeat this Majority "Ought to Pass" Report and accept the Minority Report. This change in the scope of practice is being done by legislation, rather than education.

This bill gives passive approval for optometrists to practice and treat glaucoma as of the first of October of 1996. This also includes prescribing of medication for the disease. The medications are very, very powerful and if not used with extreme care can cause heart failure and blindness. With only five credit hours, an ocular disease, which includes glaucoma, being taught in the New England College of Optometry and this compares with the three years of clinical training required by ophthalmologists, show a vast difference in education of treating glaucoma. There are 30 different types of glaucoma and correct

identification and treatment of each is paramount to the well being of the patient.

Enactment of L.D. 800 would pose unacceptable risks to public health. A quote from the U.S. Office of Technology Assessment, "At no point is an optometrist's training comparable training to that of an ophthalmologist in the evaluation and treatment of systemic diseases. Inefficiently trained eye care practitioners may lead to increased levels of misdiagnosis and substandard treatments of the eye disease. Ophthalmologists spend years in residency training, months just learning about glaucoma. Glaucoma is the second most common cause of blindness in the United States. You have to keep this in mind, we are talking about possible problems to the eye.

You have probably also received brochures which show comparisons. We will look at training, for instance, for an ophthalmologist, we have eight and an half years and for an optometrist we have three and an half years. We have patients examined during that period of time is 14,000 for ophthalmologists and zero for optometrists doing training. During the hours of training, we have 17,000 hours for an ophthalmologist and we have 3,500 for optometrists. I believe this and these comparisons are self-explanatory and I thank you.

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

Representative POVICH: Mr. Speaker, Men and Women of the House: The Business and Economic Development Committee wrestled with this bill long and hard for many days. Two "Ought to Pass" reports are being presented to us today. One report is a fast track and the other is a slow track. This scope of practice bill is a win, win situation for the optometrists. Either report will allow them to expand their scope of practice. I, however, side with caution, Amendment "B." Amendment "A" puts the cart before the horse and expands the practice before the jury, which is the glaucoma study panel, comes back in. I would prefer that we pass a bill that is absolutely positively certainly correct. I do not wish to take an unnecessary risk, because, after all, we are dealing with people's vision and their overall general health. I urge you to please defeat the current motion so we can have a look at Amendment "B."

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I apologize for signing a bill of this complexity, coming before you at this late hour and late time in the session. I think there is too big an issue to deal with at this time, but nonetheless that is what we are left to deal with. I guess if there was an award for stirring up the most controversy, by the looks of the sheets going around, I might win that this year.

I do want to speak some on the issues that have been raised. One comment was made that this attempts to make this change for optometrists through legislative vs. education. It is absolutely not true. I am really dumbfounded that so many of these fliers are coming around and the comments that are on them are inaccurate. The comment that I heard that optometrists go to school three and a half years is absolutely untrue. They go to school eight years. Four years of college and four years at optometry school. You may well hear that optometrists are not trained to detect glaucoma. I assure you, ladies and gentlemen, optometrists are the vehicle, under the

present law, at which patients get to see ophthalmologists. Optometrists are thoroughly trained in the detection of glaucoma.

A reference was made to the New England School of Optometry. This is the only school that trains optometrists in the northeast. I have here a letter from the President of the New England School of Optometry and I promise you I will not read the whole thing, but there are excerpts that I would like you to hear. One of the references is made to the 1987 change in the law where we heard the chicken little story and the sky was going to fall and we were all going to be blind.

At that time, there was a commission set up for 20 months, I believe, and the optometrists in this state were directed to report all the information about people that they treated around this particular bill and the commission did the review and lo and behold after 20 months, they signed off a report to the governor indicating that there were no problems. The commission included optometrists and it included ophthalmologists. It included then members of the Business Legislation Committee, who now by the way say, that the commission didn't mean anything and that it was ill-conceived, under-funded and they signed off just to close the commission study and it really didn't mean anything.

This was a report, by the way, ladies and gentlemen, that was going to the Governor of the State of Maine, regardless of what party he is and whether or not you like the person, he is the Governor of the State of Maine and you do not send reports to the Governor of the State of Maine with a lighthearted attitude of well, lets sign off that everything is ok and walk away. The fact of the matter is, everything was ok, ladies and gentlemen, and we heard the same things then that we are hearing now.

The letter from the President of the School of Optometry says, "We educate our students to meet the licensing requirements of all states, but more importantly to keep uppermost in mind, the health and well-being of their patients. This four-year course of study, leading to the Doctor of Optometry degree is demanding. During the first two years they receive extensive training in vision, health, science, pharmacology, anatomy, physiology, neuro-anatomy, pathology" and so on and so forth.

The point is, ladies and gentlemen that these doctors, one would think they were quacks listening to some of the comments that have been made in the halls in the last month about this bill, we are going to endanger everybody. The point is, ladies and gentlemen, these folks are highly trained, highly skilled doctors and many of us entrust our eyesight to them year after year after year. When the president of the university says that they train their students to practice in all states, what he is saying to you is there are 30 states or 29, I'm not exactly sure of the number, that allow the treatment of glaucoma by optometrists. Those same people are being trained in the same place that our optometrists are being trained.

There is nothing in Report "A" that allows optometrists that are presently practicing to go out and start treating glaucoma tomorrow, nothing. There is a very clear restriction that says they cannot start until October of 1996. Having said that there is a big caveat that goes with that. That is that the commission that we are establishing made up of

two optometrists and an ophthalmologist, a pharmacist, and a member of the public will study the requirements that are necessary and I apologize for saying some of the things that the good Representative from Portland has already said, at this late hour, but this is an important issue and you are being misled. Nobody is going to be allowed to go out and start treating glaucoma today. Nobody is going to be allowed to do anything differently than they are doing today. Absolutely nothing.

After that commission reviews the educational, the training, the experience and the medicinal, all of the issues that are necessary for that optometrist to practice the treatment of glaucoma, after they have reviewed all those and established those parameters they will bring those back to the Business and Economic Development Committee. At that time, this committee whom I hope you folks trust their judgment will review whether or not these parameters are adequate to treat this disease. Again, I say nobody is going to be allowed to do anything today or tomorrow than they are doing different today. It is just not going to happen. I ask you to listen to the rest of the debate. I apologize but you will probably hear me again tonight. This is very important to me.

Why it is so important to me, ladies and gentlemen, is that there are over 100 optometrists in the State of Maine. They are spread throughout the State of Maine. There are less than 30 ophthalmologists. This is an important issue to me, ladies and gentlemen, because it is a rural access issue. I am sure that all of you know people in your communities and in your districts that lack mobility because of age, for whatever reason. The community that I live in the closest ophthalmologist is 40 miles away. I know many elderly people who cannot drive that far. Quite frankly, they are not getting treated today.

Optometrists are diagnosing these patients and determining that they have glaucoma and then saying, "sorry sir or madame, that is all I can do." "You need to go to Portland or Lewiston." "I have no transportation." "I am sorry, that is all I can do." We have people in nursing homes, ladies and gentlemen, not all nursing homes, you are going to hear people deny what I am saying is true, we have people in nursing homes in rural communities where ophthalmologists do not visit. Optometrists do and they are not being treated for glaucoma. This is a very serious disease for the elderly. I feel very passionately about it for that reason. Quite frankly, I know I have said this a couple of times before this year, but I feel the same way.

I am offended that people think I don't care, that I will let anybody do anything and put people in danger. That is not my intention at all. My intention is to provide access to these people who do not have access at the present time. I urge you to support the motion and if you do, I will thank you very much ahead of time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Davidson.

Representative DAVIDSON: Mr. Speaker, Men and Women of the House: I rise, today, on this bill if for no other reason than I have become to feel very strongly about it. I probably spent more time working on this bill than I have any other bill that has come before us to date. You all probably come to

know in your committee that the worst thing that you can do is claim ignorance.

I remember when my good Chair, Representative Rowe from Portland approached me about this bill and asked me to serve on a subcommittee to study it. He asked if I had any strong feelings one way or the other. I explained to him that I really didn't and the only thing that I knew that I had in common with both of these professions is that I dealt with terrible eyes every morning. I guess the thing that I want to explain to you is I want to address something that Representative Povich brought up. I am supporting the Majority Report. The reason why the cart is before the horse in this case is sitting on every single one of your desks.

In my time in my committees, we deal with turf battles every day. We deal with cosmeticians versus cosmetologists, nurses versus doctors and ophthalmologists versus optometrists. I mean you name it, cats versus dogs, we deal with it. I have never seen a stonewall like I saw with this bill. I haven't decided yet if it is because money is involved or if it is because there is so much stepping on the toes that there is just absolutely no movement from one side, but you got it right here. The reason why we put the cart before the horse in this case was because we thought that the legislature who had the information in front of them should have the courage to make a decision on our own and not send it out to a study group. The reason why I say that is because we wanted ophthalmologists involved in this process of determining the certification of optometrists to treat glaucoma. If you send out a study group and you send it out with ophthalmologists or with whatever profession who absolutely have no interest and will do whatever it takes and spend whatever kind of money to defeat the bill, you aren't going to get very good information.

I am going to try to be brief, but I just want to highlight a couple of things. I was very, very concerned about this bill when it came before us, in fact, I think I was against it. I went down to the library and I wanted to look at states that have taken this upon themselves to authorize the treatments in this bill, specifically the ones that roughly have the rural areas of Maine has, roughly have the population that Maine has and so we contacted a number of the state's Board of Medicine, Board of Optometry and Department of Public Health.

I just want to read you a couple of things. Doctors of Optometry in Arkansas have been actively treating glaucoma patients since 1987. To date, we have had no complaints filed with the Board of Optometry. The Georgia General Assembly has changed this filing date, there have been no complaints. Kentucky ODs have had therapeutic drugs and treated glaucoma since 1986. We have never had a complaint or a suit regarding the use of therapeutics or glaucoma. I have been on the State Board of Pharmacy and I am not aware of a single case that has come before the State Board of Medicine of misuse of drugs by an optometrist for malpractice involving glaucoma. Not one single complaint has been filed against optometrists, that is from Idaho. Approximately 85 percent of Florida optometrists are certified to treat glaucoma and other diseases. To my knowledge, there have been no complaints filed before the board for improper treatment of pharmaceutical agents. Oklahoma, no complaints. Oregon, no complaints. Minnesota, no complaints.

Tennessee, therapeutic license and can treat glaucoma, not complaints, no malpractice. Washington, no complaints, no malpractice. Wyoming, no complaints, no malpractice.

Four other states have taken this upon themselves in this legislative session to do the exact thing that we are doing and they have passed. There are going to be 34 states doing what we are doing. I guess the thing that I am trying to tell you is we are not being trail blazers here. We are the horse that is behind the cart this time. Other states are doing this. It is increased access.

The only other thing that I want to show you is a map here. I guess that you can say that since I am from Brunswick, it probably doesn't matter because I have ophthalmologists there and other places. If you live in Millinocket, you have a nice choice here between Fort Kent and Ellsworth. If you live in Washington County, you have zero, zilch, zip ophthalmologists. If you live in Oxford County, you have zero, zilch, zip.

I am going to end there. All I have to say is that I have been spending a lot of time on this bill. I feel pretty strongly about it. More because I have gotten to know the issue this session and no other time in my life with very little reference. I think it is a really good bill. I think it is a bill that other states have found has been fantastic. It has increased access. There haven't been any horror stories. The things that are on your desk are the reason why we want to have the courage to do this thing now. People say lets take the time to study the issue and determine if they should treat glaucoma. Other states have done that. I have gone to the library and looked at the studies. The studies are there. I guess I am asking you to go on faith and do something that is going to be really good for the people of Maine. Thank you.

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

Representative BIRNEY: Mr. Speaker, Distinguished Members of this House: It has been mentioned tonight that 29 states allow the treatment of glaucoma already. I just want to brief you on the different laws and so forth that have been enacted for these states. Eight of the states that have authorized glaucoma have authorized it with physicians' consultants. Three of the states have several prohibitions in them. Fourteen of those 29 states do not mention glaucoma in their statutes. It is silent on glaucoma treatment. There are three states that basically allow people to treat glaucoma, but one of those, Iowa, the optometrists have to have the same the training that an ophthalmologist has to have, as far as the clinical. Rhode Island has just legislated that optometrists can treat glaucoma. I do not yet have the prohibitions, if any, or restrictions or collaboration consult of that state. The treatment of glaucoma in Washington by optometrists has caused constant problems with figuring out what the standards of practice should be, between the judiciary and the legislative branches of that government.

I also want to talk a little bit about the detection and diagnosis. It was mentioned that optometrists have been diagnosing the disease for several years, so why shouldn't they treat it. My friends, a medical doctor, a family practitioner can diagnose a broken leg or cancer of the cervix or prostate problems, but they usually do not treat

those types of issues. They send the patient on to a specialist.

I also want to mention about the access problem. The ophthalmologists do have satellite offices in northern Maine. It is true that some patients have to drive as far as 40 or 50 miles to see an ophthalmologist. What about other diseases of special nature, like heart disease? I know in my area, people have to travel 35 miles to see a cardiologist. The nursing homes were mentioned. If you are going to diagnose and treat glaucoma, I am sure most of you have been into an optometrist's or ophthalmologist's office. You will note the equipment. You will need that equipment to diagnose. I don't believe they are going to be hauling it around to nursing homes.

They talk about patients that cannot get to the ophthalmologist, once referred. We have a thing called Western Maine Transportation in our part of the state and I am sure all of you have those types of transportation. I know my mother uses it regularly when she doesn't want to drive into the city. That is set up for anyone's use, usually the wealthy pay or donate. It was then mentioned a lot about the lower cost if the optometrists were to treat the disease. It would be one visit rather than two visits. Well, ladies and gentlemen, glaucoma requires lots of visits and lots of monitoring so one visit or two visits, I don't understand.

I just want to read to you a little bit about the costs of treatment of eye diseases and the difference between optometrists and ophthalmologists. Medicaid patients' reimbursement in the State of Georgia for optometrists' services was \$1.52 per patient in 1987 before the passage of the therapeutic bill in 1988. In 1992, reimbursement for optometric services had risen to \$4.95, which represents a 326 percent increase.

A recent study which appeared in the Journal of Clinical Epidemiology and was actually sponsored by the optometrists showed that when following patients after cataract surgery, optometrists missed up to 40 percent of the complications which lead to 30 percent more post-operative visits and significant decreases in visual outcome. It is true this bill does not address cataract surgery, but many times I know in my area an ophthalmologist will often send a patient back to the optometrist to monitor.

A study conducted by the A.B.T. Associates in Cambridge, Massachusetts for Medicare shows that between 1988 and 1992 the volumes of visits and tests provided to optometrists in TTA states are twice as high as nonTTA states. On the other hand, among ophthalmologists the volume of visits and tests billed to Medicare is similar across the TTA and nonTTA states. I think you do have on your desks some graphs about the costs and where Maine rates in the nation as far as the costs. You will note that it is very high.

Education, now this is where I had the most trouble, education, training and degrees. The optometrists did not prove to me or other people on this Minority Report that they had the education to treat glaucoma. They certainly had the education to diagnose it. I don't mean to put down any school of optometry or any optometrists. For instance, I did look at the New England School of Optometry's catalog. It was mentioned here that they have eight years of school. Well, their undergraduate or college studies do not necessarily have to be three

years. They can get into the School of Optometry with as little as 40 credit hours of humanities, which may include fine arts, music, philosophy, history, theology and 40 hours of social sciences, which could include anthropology, geography, criminology and political science. This is taken right from the New England Optometry's School brochure. The credit hours for pharmacology are seven credit hours that they receive during their education of optometrics.

As far as eye disease, including glaucoma, they receive five credit hours. Students of ophthalmologists see approximately 15,000 patients during their training, most of whom have eye disease. Optometry students see approximately 1,200. The vast majority of whom are disease free. Unlike physicians, optometrists have no residency requirements. Their clinicals can be done in an optometrist's office. It varies what their clinical experience is, depending on what school they go to and what is available for training. An ophthalmologist, M.D., gets three years of clinical training in the evaluation and treatment of patients with medical problems. At no point in an optometrists training is comparable clinical training in the evaluation and treatment of symptomatic disease ever offered.

Another thing that I wanted to mention is the monitoring panel that was brought up that reported back to the governor. You also see on your desk some education graphs and there are some notes on the back of that. The monitoring panel that was set up was not the monitoring panel's report. They were supposed to be reporting often and they only reported once. The final report was not even signed by the chairman of the board or one other member. The association's lawyer, Maine Optometric Association's lawyer, actually delivered the report. I had some real concerns about that. I have some concerns about board issues. There is a pending complaint from 1993 that has never been addressed. I know some people say, well, let hogwash prove it. I do have the information if anybody would like to see it and copies of the letters.

The board issue is a real issue with me. The Optometry Board is an affiliate board of the Professional and Financial Regulation Board. Therefore, the Department of Professional and Financial Regulation has very little jurisdiction over that board. I was really alarmed, folks, when board members from that board were calling me and lobbying me for this bill. I had a real problem with that. Typically a chairman of a board of a regulating board comes in and says they are neither for nor against, but proceeds to tell us how they will regulate if we pass the law. One of the biggest lobbyists for this bill was the president of the association. I had several board members call me.

This is a good bill, but I encourage you to look at the Minority Report. We are not saying no. I do not understand the logic of Committee Amendment "A," the Majority Report. It authorizes treatment of glaucoma and administration of diagnostic therapeutic substances for use and cure and treatment and not only glaucoma, but other diseases. It is true there will be a panel that is going to be set up, but rightfully they will be able to treat glaucoma by October 1, 1996, regardless of what the panel decides. The panel will come back to Business Legislation Committee next year and tell us what they

have set up for criteria and credentials. It was mentioned earlier that it is the cart before the horse. I feel that it truly is.

When you look at Committee Amendment "A," you will note that the panel is set up to examine the education credentials and standards of practice and the oversight issue, which weren't answered regarding optometrists treating glaucoma. It will report back to the committee on January 15 of next year and then we will vote to decide if optometrists will treat glaucoma. I ask you to oppose the Majority Report and go on to accept the Minority Report. We are considering the vision and well-being of citizens, not personalities and popularity of optometrists and ophthalmologists. Glaucoma is a very serious disease. There are 31 different types. Some of them require immediate surgery and of course it is the second reason for blindness in this nation.

The Minority Report is not a no vote. It is a common sense approach to the issues we are addressing here today. If in doubt, vote no. We did not vote no on the Minority. We voted for more information. I suggest that this body do the same. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I listened to some of the testimony before the committee on this bill. I read a lot of the information and there was a lot of information to read. Some of the information was very interesting, very informative and very compelling. What it came down to for me when I signed on to the Majority Report was a gut level experience in regards to optometrists.

For the last 27 years, I have worn either glasses or contact lenses. I have had significant contact with optometrists as a result of that. I have confidence in my optometrist. I have confidence in his ability to diagnose and when appropriate, refer to an ophthalmologist. My son, when he was four years old, was diagnosed with a relatively severe eye problem. The optometrist diagnosed that problem and as appropriate referred him to an ophthalmologist. After the situation was corrected, my son then went back to an optometrist.

When I sat down and looked through all this information and when I looked through all the different statistics and I looked through all the different studies, what I then did is sit down and say, what does my experience tell me? What my experience told me is that I believe optometrists can diagnose and treat glaucoma in a professional and very healthy way that will protect and provide access to care for Maine citizens. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: As the gentlemen on the radio likes to say, and now for the rest of the story. We have heard quite a few statistics tonight. We have heard the students of ophthalmology see approximately 15,000 patients during their training. Many of these patients are seen for surgery. Optometrists during their residency would not see that many patients. They are not allowed to do surgery. We have been told that unlike ophthalmologists, optometrists have no residency requirements for surgery, but they do have a residency requirement.

You heard that there is portable equipment that is used to diagnose people in nursing homes. That

portable equipment is used whether you are an optometrist or an ophthalmologist. In fact, this optometrist told me that while he did his residency, which he did in the office of an ophthalmologist, that was the only equipment they had. They didn't even have the state-of-the-art equipment.

You have a letter from the Maine Osteopathic Association and I am kind of surprised at this letter because I am not that old but I remember when osteopaths were said not to be real doctors. I would like to point out that point. Two of the letters from that organization said that no further action of the legislature, is needed regardless of the results of the study which is authorized by both the Majority and Minority Report.

If you look at the Majority Report, paragraph six, which describes the duties of the panel, "Part A, determines the qualifications required, Part D, to determine the qualifications required, Part C, determine what, if any, restrictions or limitations should be placed on prescription and use of medicinal diagnostic and therapeutic substance by optometrists for the diagnosis and cure of the disease glaucoma." It also says in paragraph seven, "The report to the legislature must include specific proposed legislation for putting the specific recommended qualification of treating glaucoma into statute. The report must come back to the Committee on Business and Economic Development."

One of the people drawing up these recommendations that must come back to us and be passed by us is an ophthalmologist, one is a pharmacist, one is an independent person appointed by the governor and two are optometrists. If you think they need more education, they probably do and that is going to be one of the requirements here, because as you heard earlier, when this bill passes it doesn't mean they start treating glaucoma. It means they start getting ready and preparing and educating themselves to meet the qualifications set by the board and only when and if they meet the qualifications will they be able to do that. If you have any doubts, I will say it, because it is getting late, I urge you to support the Majority "Ought to Pass." Thank you.

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

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House: Last evening I spent about an hour with an optometrist in my home town of Pittsfield. I suspect he is rather typical of many of the optometrists throughout the state. What I mean by that is he serves many rural folks. It is a real money matter here.

I am jumping a little bit ahead here, but this same optometrist had an ophthalmologist come to his office on a weekly basis from Waterville for a couple of years or more. He has since gone for greener pastures in Chicago. He was doing the same thing that this bill would allow him to do, the only difference is he had an ophthalmologist come in and supervise. He will not be doing a bit different than he has been doing for years.

I think the good Representative Davidson had a lot of good reports. I heard it firsthand last night, they have had no problems and no malpractice and it is very apparent that this is true all over the nation. It is a real savings to particularly folks in the rural area. One visit versus two visits or less per hour. It is a big service to the rural people and I am going to be following Representative

Davidson's light. I urge you folks to do the same. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: You have heard a great deal of statistics and information regarding this debate, but there is a bit more I would like to add for your consideration.

I have in my hand a letter from the CNS Administration Services of Medicare and this comes from the Medicare carrier for the states of Massachusetts, Maine, New Hampshire and Vermont. It is dated Medicare B, June 7, 1995. It says, "Attached please find the utilization and payment statistics that you requested for visual field exams. Billed by ophthalmologists and optometrists for each state, Massachusetts, Maine, New Hampshire and Vermont. Please note these statistics are based on claims with dates of service for two different time periods. The first six months of 1994 and the second six months of 1994. The utilization and payment statistics are standardized based on the beneficiary population in the respective state and expressed as per 1,000, this allows for relative comparison by state."

Now let me read these to you. Please keep these in mind, because you have heard claims of excessive costs. First, I want to point out to you that this is the standard exam for glaucoma, the visual field exam and the code number is 92081. For Maine the charges were per 1,000, \$158, this is in the first half of 1994. This is for optometrists. Let's go to the ophthalmologists. For the same period of time here in Maine, which is the basic test, the charge was \$26. Let's go to the second half of the year. For optometry in Maine to do the most thorough test, which is performed by MDs, it was \$521. For ophthalmologists and this is for January to June \$1,718. OK, let's look at July. From July to December 1994, for optometry, the cost in Maine was \$60, that is a drop from \$158. Why? For the ophthalmologist in Maine it dropped to \$19.

Ladies and gentlemen, these prices are up under what you had said. I would like to read you a letter for consideration. Consider the following points. Unnecessary tests and prescriptions or repeat visits drive up the costs of eye care to consumers, government and insurers. In the long run, the best care is almost always less expensive and more cost effective than the cheapest care. As with any health issue it is always safer and less costly to get it right the first time. Many eye problems that may escape detection by an inexperienced practitioner could be quickly resolved or could result in the loss of sight through lack of treatment or inappropriate treatment. We have heard it stated that eye care at an optometrist's office is cheaper as well as more accessible. Well, we thought you would like to see the proof that this conclusion is not accurate.

Visual field tests are a legitimate tool used to quantify loss of peripheral vision, but need not be a part of routine eye exams, but according to Medicare statistics, Maine optometrists are billing Medicare for thousands of visual field tests, most of which are almost certainly unnecessary. Thereby, adding hundreds of thousands of dollars to the cost of eye care. The Medicare data clearly shows that Maine optometrists, for some reason, have been billing Medicare for these tests at a rate that is very

substantially greater than the national average and very substantially greater than in other states whose statistics were examined.

The charts on the reverse side of this page present this data for one type of visual field exam, that is the 92081. For the first half and the second half of 1994 for comparison purposes, Medicare statistics are included for both optometrists and ophthalmologists. Ladies and gentlemen, just give it some thought. Your eyes are the only ones you are ever going to have. Don't you want the best to be able to see. Vision is our greatest asset. It is the one thing we never want to lose. Thank you.

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

Representative FARNUM: Mr. Speaker, Members of the House: First, I want to compliment the people. There are more people sitting in here than in Congress when a bill is being debated. I listened last night and there were two people listening to debate in Congress, so my compliments to you. Secondly, I think this whole thing is plain big bucks and one group does not want to share it with another. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: We are a minority on this particular bill, but it does not mean that we don't think a great deal about the citizens of our state. It is because we are in the minority as we will prove that we think a great deal of our people. You will shortly, I hope, have the opportunity to vote on this bill. What you must decide is what is the best interest for the people of Maine, to choose a practitioner who has not the education or practice to treat the disease of glaucoma, but is closer to you and may charge a lower fee or travel a few more miles to an ophthalmologist, who is a medical doctor treating the eyes that has been educated and trained in the treatment of the eye? Remember, as was just stated, you have only one pair of eyes and they deserve the finest care that you can give them. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Benedikt.

Representative BENEDIKT: Mr. Speaker, Ladies and Gentlemen of the House: I made my own survey because I was so confused by all the literature that was being mailed to me. I talked to somebody I trusted in New Jersey. He is an optometrist. He said that he has been treating glaucoma for 15 years and as far as he knows, it is common practice in the middle Atlantic states. I did have an opportunity to need treatment from an ophthalmologist and I had to go a long way. They are pretty rare. I had to go from Brunswick to Augusta to find one. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I truly apologize for this going on at this time of night and I am rather distressed about it, quite frankly. I think this is too important an issue to be doing now, but nonetheless I would appreciate it if you would remember when you make your vote that nobody disputed the fact that there are 29 states that are treating glaucoma. We heard of different qualifications and

that is fine. After the panel gets through looking at this, we will have those qualifications in this state as well.

I think it is important that you remember that the majority of our present optometrists will not be able to treat glaucoma without going for the additional training that will be established by this commission. To assume that everybody who is now an optometrist will be able to treat, is incorrect. I know that is not so. I know particularly those that who came out of school 10 years or so ago will not have had that acceptable training. The issue of the equipment in the nursing home was already mentioned. I emphasize it is identical equipment regardless of which one goes.

I also want to emphasize, anybody that wants to go to an ophthalmologist as they presently do after they go to their optometrist, who discovered the glaucoma, as is presently the system, anybody that wants to go to an ophthalmologist, that option is still there, ladies and gentlemen. We are not stopping anybody from going. We are trying to provide access to people who can't get there. We heard about Western Maine Transportation and all those things are wonderful, but hospital beds don't roll onto the Western Maine Transportation bus very well. It is difficult to get them on there. We still have nursing home people and other folks who don't have access and this is what the issue is, access. It doesn't force anybody to do anything.

If you want to go to an ophthalmologist, continue to go to an ophthalmologist. If you want to go to an optometrist, go to an optometrist. I have heard disputes about the cost. I never mentioned about the cost. I am not going to stand here and tell you it is cheaper. I hope it will be, but the key is access. Money is not the issue, the key is access and that is the most important thing. I want to emphasize that we make no pretense, again, that every person who is presently licensed as a doctor of optometry will not be able to do this without further training. Most of them will have to have further training.

I would like to see the debate come to an end now. It has gone way past the time when we should be arguing this issue. I don't think we are changing any minds. I hope you will support it. Thank you very much for your time.

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

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 to accept the Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 211

YEA - Adams, Ahearne, Aikman, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Etnier, Farnum, Fisher, Gamache, Gerry, Gieringer, Gooley, Gould, Green,

Greenlaw, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, Morrison, Murphy, Nickerson, O'Gara, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Samson, Shiah, Sirois, Spear, Stone, Taylor, Thompson, Tripp, True, Truman, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Whitcomb, Winglass, Winn, The Speaker.

NAY - Ault, Birney, Carleton, Chartrand, Chase, Chick, Dore, Dunn, Fitzpatrick, Gates, Heesch, Joseph, Joy, Kilkelly, LaFountain, Libby JD; Libby JL; Look, Luther, McElroy, Meres, Mitchell EH; Mitchell JE; Nass, Paul, Povich, Reed, G.; Savage, Saxl, J.; Saxl, M.; Simoneau, Stedman, Stevens, Townsend, Treat, Underwood, Waterhouse, Winsor.

ABSENT - Dexter, Heino, Lumbra, Nadeau, Richardson, Rotondi, Strout, Yackobitz.

Yes, 105; No, 38; Absent, 8; Excused, 0.

105 having voted in the affirmative and 38 voted in the negative with 8 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-534) was read by the Clerk.

Representative CAMERON of Rumford presented House Amendment "A" (H-558) to Committee Amendment "A" (H-534) which was read by the Clerk and adopted.

Committee Amendment "A" (H-534) as amended by House Amendment "A" (H-558) thereto was adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-534) as amended by House Amendment "A" (H-558) thereto in non-concurrence and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-468) - Minority (4) "Ought to Pass" as amended by Committee Amendment "B" (H-469) - Committee on Banking and Insurance on Bill "An Act to Require Insurers to Reimburse Insureds with Inborn Errors of Metabolism" (EMERGENCY) (H.P. 401) (L.D. 536)

TABLED - June 15, 1995 (Till Later Today) by Representative VIGUE of Winslow.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-469) Report.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The difference here between Committee Amendment "A" and "B" is one that I felt was an area that I didn't think we should get into and that is providing food. Amendment "A" provides the formula necessary for this disease. Amendment "B" provides the formula, but does not provide the food. I would ask you to support the motion of "Ought to Pass" on the Minority Report.

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

Representative GATES: Mr. Speaker, Men and Women of the House: I rise to ask you to vote against the Minority "Ought to Pass" Report and then to support the Majority Report. What this bill does is it mandates insurance coverage for inborn errors of metabolism, most notably PKU, that stands for phenylketonuria. That means you are born unable to digest a food protein called phenylalanine. The consequences of this if you are tested for it at birth are tremendously serious. If it is not treated properly, you become severely retarded by age five or so, to the point where you are going to spend the rest of your life in a mental institution.

The State of Maine has several people, to my belief, who are institutionalized today because they were born before testing was done at birth. There is only one way to treat this, which is to put the infant and the person for life on a diet that doesn't have the food protein phenylalanine. So, that means two things, one is sort of nauseous tasting formula that has all the amino acids and proteins, except the one that the body can't digest and the other is through foods that are either low in the amino acid or have none at all.

Doctors are able to prescribe specialty foods where the phenylalanine has been taken out. It is possible to bake bread or make cookies or have pasta that doesn't have this protein in it. What this does is it allows the child to develop normally and then once an adult to live a normal life. If you go off this diet, you can become retarded, have learning disabilities if it happens after age five and as an adult you really can't function properly, if you go off the diet.

I will be voting against the Minority Report because it only does half the job. It pays for the formula, but it doesn't pay for the food. These foods are 10 to 20 times as expensive than similar items that have the phenylalanine in them. It is only insurance reimbursable if it is prescribed by a doctor. It is only as a result of the doctor's prescription. I urge you, because there are tremendous consequences of not treating this disease. There are only 20 of them in the state. It is a very small mandate, but for the one or two babies born a year that have this, it is devastating for their family. I urge you to vote against the Minority Report and go on to accept the Majority Report. Thank you.

The SPEAKER PRO TEM: 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 urge you to defeat the current motion and to except Committee Amendment "A." We are talking, as the good Representative from Camden said, currently about 22 children and 10 adults in the State of Maine and one or two being born each year. It is a mandate. We are mandating something. The cost will be 10 cents per month, per individual to ensure that we do not have people with severe mental retardation in institutions that this state will then have to pay for the rest of their natural life. I urge you to defeat this and to go on with the rest of us on the committee and support Committee Amendment "A." Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: As long as we understand where this is going. We are now mandating something that has never been done before. We are mandating food to be included under insurance. We understand this and we are opening this door, then you open it and accept what happens. I tell you, I feel that we should cover formula that is like a prescription, but as far as opening the food possibility, we are looking at something that we have never done and insurance has never paid for this benefit. As long as we understand just what is happening here. I urge you to accept the Minority "Ought to Pass" Report.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I will attempt to be brief. I urge you to support the Minority "Ought to Pass" Report. This will provide the formula which is essential for these children's diets in order for them to grow and prosper in life.

The reason that Representative Vigue has given you is the main reason that there is a Minority Report and it is also an "Ought to Pass" Report. We feel an "Ought to Pass" Report is responsible. I am very concerned as I listen to this of the door we would open, as Representative Vigue said. We are now going to say that the most costly aspect of this treatment is the formula. That is where the most cost lies in a year.

We are now going to open a door where we are going to say that when you get a specialized diet of food prescribed to you by a doctor, we are going to tell your insurance company that they have to pay for this food. This year it is these kids, which are certainly worthy and in need of help. Next year someone with diabetes or lactose intolerance, there is a variety of illnesses and a variety of things, high blood pressure that people get specialized diets. The doctor prescribes them and they must eat a certain kind of food. Are we going to come back next year and have someone say my diet costs more money? My diet is very specialized. I can't eat what other people eat and because of that I want you to pay for my food through insurance.

We will set a precedence today that we are going to require insurance companies to cover food for people. It is a very dangerous and a very unhealthy precedence to set. I would encourage you to vote for the Minority Report and provide the formula these children need. Let their parents buy their food. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: The members of the committee who are not on the Minority "Ought to Pass" Report feel like they are being very responsible this evening. They feel like they are being responsible because without this food these children will become retarded. This food isn't food you are going to get at the grocery store. These kids can't eat meat, poultry, fish, eggs, milk, dairy products, beans and legumes. It is not like we are going to subsidize people to go down to Shop 'N Save and Shaws to buy their food for their kids. Rather, this food is only made in a very specialized way and really, in fact, is medicine.

These kids when we were in this committee during the hearing, they passed out this food and this

formula and let me tell you, I, for one, would not abuse this privilege. This stuff is not palatable and I don't think anybody on the Minority Report would think that anybody would abuse this privilege. What it is is life sustaining for a select minority of people in the State of Maine. Without this special food, these kids become retarded and are unable to care for themselves and become a more costly burden for themselves and their families and the State of Maine. That is why it is important to do as Representative Gates suggested, the whole job. It is not just the formula that these kids need to live whole and full lives, it is the food as well. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: I know a family that has this problem. I am telling you the wife works and the husband works and because of the cost of this food, they are just barely making it and this will help them. If they get behind, there is a chance this kid, in fact two of them, will be retarded. I urge you to defeat the Minority "Ought to Pass" and go to the other one in spite of my good friend, Representative Vigue.

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

Representative LUMBRA: Mr. Speaker, Ladies and Gentlemen of the House: The testimony that I heard in the committee was not that if they didn't get the food that they would become retarded, but the formula. That is why we are very concerned about providing the formula.

We also were very concerned with the number of mandates that we have been passing. I just want to call your attention that right now we have mandates going out to our workers and people who are paying for insurance that are over \$20 to \$25 per month increase. We try to look at each situation and come up with a solution to help these people out and yet try to be responsible to have these people be able to be able to afford their health insurance premiums. What we are talking about is health insurance or no health insurance. We are pricing it out of the market.

We decided that the formula was a prescription and we felt it should be covered. It does prevent retardation and the Minority Report did mandate formula coverage. At that time that we were discussing it, I got a letter from a nutritionist saying there is a lot of people with allergies out there and we really should be providing coverage for nutrition. Lets say somebody has an allergy to wheat. It is very hard to find food in the grocery stores that doesn't have wheat. We have a whole store that we have opened up. We also felt there was a certain cost of feeding yourself or your child and that wasn't implemented in this. We felt there was some cost naturally, whether you had to order special foods or not. We didn't see that that was dealt with. We encourage you to vote for the Minority "Ought to Pass." We do want to help these children, but we do want to keep insurance affordable. Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I will add my voice to those who say

they will be brief and urge you to reject the Minority "Ought to Pass" Report. I will just mention two points. It has been mentioned on the floor that this is like other diseases where someone might have a lactose intolerance or wheat intolerance. The Representative from Portland, Representative Saxl reminded you that we are not just talking about an inability to digest milk or wheat products. We are talking about milk, wheat, fish, dried beans, cheese, nuts, pasta, and bakery products. We are talking about people who have virtually nothing to eat. The members who support the Minority Report will support young children by having formula reimbursable, but I ask you at what age does a child stop drinking formula.

Another point that has not been brought out is that pregnant women who have a high level of phenylalanine in their system, the amino acid that Representative Gates told you could not be metabolized by people with PKU, will have severely injured babies if their level of phenylalanine is high at the moment of conception. We need to take care of adults with PKU, youngsters with PKU and we have people over the age of two or three or four or whenever you can stop feeding them formula. I urge you please to reject the Minority "Ought to Pass" Report. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: Several things I want to point out in relation to this bill. The medical evidence is conclusive. It is not the formula alone that works. It has to be the formula and the diet. The Bureau of Insurance which has to review all mandates shows that if you go through the whole report and some of it is summarized in here shows the direct relationship between the diet and the formula. You do one part and you don't do the other, you end up with mental retardation, sudden death, attention deficit disorder, lack of concentration and other health and neurological problems.

There is a letter here from Dr. Thomas Brewster from Maine Medical Center who clearly identifies the need to have both the diet and the formula. There is a letter that was distributed to you from the American Academy of Pediatrics that shows the same thing. The importance of the diet and the formula. In the original bill that was submitted there is a cap on the food at \$3,000. This is not a situation where there will not be some control and some regulation. The other thing, as Representative Mayo pointed out, according to the Bureau of Insurance, the estimate by Blue Cross and Blue Shield is this would be 10 cents a month.

There was no fiscal note on this bill because the estimate was the amount of money it would cost the Maine state employees was so small that there was not even a fiscal note attached to it. The other thing that I just want to mention that I think is important when you look at this Bureau of Insurance Report again, it talks about the formula in the diet as being one of the most cost effective preventative mechanisms that we know in health care today. There is no more cost effective way of spending this money on the diet and the formula and preventing mental retardation.

There is a letter that I have and I know members of the committee have that was sent to the committee during the public hearings. It was from a woman who

runs a group home. There are two men that live in that group home. They are 35 years old. Unfortunately they were born before this state or other states mandated screening for PKU. As a result of that, they are severely mentally retarded now and live in a group home at a cost of somewhere around \$50,000 to \$100,000 to this state. We now know how to identify PKU. We know how to treat it and we know how to prevent some of the terrible and negative side effects of this genetic disorder.

Lastly, I just want to briefly summarize some of the testimony that was before the committee. All of you have sat at different public hearings and have heard different people come and testify to you about different things on different bills. I found the most moving testimony that I have sat through in the legislature on the PKU bill. There was a young man who came and testified, who is the first person in the history of this country to go to law school that has PKU. He lived in the State of Rhode Island in 1968 and he was one of the first children ever born that was identified with PKU. As a result of being identified in 1968, he went on the diet and maintained the formula.

He has now grown up and gone to undergraduate school and will be the first person in the history of this country to graduate from law school. There are many times that we sit here and we see the first of many different things. I was extraordinarily moved to see the first time a human being with PKU is going to be able to graduate from law school because there was appropriate protection, intervention and he is now going to be going forward and contributing tremendously to this country.

The reason I sponsored this bill is, there is a young girl who lives in my district, who was born with PKU. She comes to my house for dinner for various events. She has to bring her special formula and her special diet. Other than that, everything about her is normal and she has every expectations of growing up and being a contributing member to this society. What we are asking here tonight is very, very small compared to the future benefit and the future contribution. I urge all of you to reject the Minority Report and support the Majority Report. Thank you.

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

Representative LUMBRA: Mr. Speaker, Ladies and Gentlemen of the House: Just a quick clarification, the formula is for life, so it is not just for children. It is for a lifetime. We are mandating that.

Representative SAXL of Portland requested a roll call on the motion to accept the Minority "Ought to Pass" as amended Report.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 to accept the Minority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 212

YEA - Aikman, Birney, Buck, Campbell, Carleton, Chick, Clukey, Damren, Farnum, Gooley, Guerrette, Hartnett, Joy, Joyce, Lane, Layton, Libby JD; Lindahl, Lumbra, Madore, Marshall, Marvin, Nass, Nickerson, Paul, Peavey, Pendleton, Rice, Robichaud, Stedman, Stone, Taylor, Underwood, Vigue, Waterhouse, Winglass, Winsor.

NAY - Adams, Ahearne, Ault, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Donnelly, Dore, Driscoll, Dunn, Etnier, Fisher, Fitzpatrick, Gates, Gerry, Gieringer, Gould, Green, Greenlaw, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joyner, Keane, Kerr, Kil Kelly, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Look, Lovett, Luther, Martin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, O'Neal, Ott, Perkins, Pinkham, Plowman, Poulin, Povich, Reed, G.; Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Volenik, Watson, Wheeler, Whitcomb, Winn, The Speaker.

ABSENT - Barth, Bigl, Dexter, DiPietro, Gamache, Heino, Hichborn, Kneeland, Libby JL; McElroy, Nadeau, Poirier, Pouliot, Reed, W.; Ricker, Rotondi, Strout, Yackobitz.

Yes, 37; No, 96; Absent, 18; Excused, 0.

37 having voted in the affirmative and 96 voted in the negative, with 18 being absent, the Minority "Ought to Pass" as amended Report was not accepted.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-468) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, June 22, 1995.

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

BILLS HELD

Bill "An Act to Amend the Occupational Disease Law" (H.P. 957) (L.D. 1346)

-Bill and all accompanying papers indefinitely postponed earlier in today's session.

HELD at the Request of Representative GOULD of Greenville.

Representative GOULD of Greenville moved that the House reconsider its action whereby the Bill and all accompanying papers were indefinitely postponed.

On further motion of the same Representative, tabled pending his motion to reconsider and specially assigned for Thursday, June 22, 1995.

Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State" (H.P. 332) (L.D. 453)

-Minority "Ought Not to Pass" Report accepted earlier in today's session.

HELD at the Request of Representative DAGGETT of Augusta.

Representative DAGGETT of Augusta moved that the House reconsider its action whereby the House accepted the Minority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending her motion to reconsider and specially assigned for Thursday, June 22, 1995.

Resolve, Requiring a Study of How the State Should Regulate Naturopaths (EMERGENCY) (H.P. 1087) (L.D. 1532) (C. "A" H-508)

-Passed to be enacted earlier in today's session.

HELD at the request of Representative LUTHER of Mexico.

Representative LUTHER of Mexico moved that the House reconsider its action whereby L.D. 1532 was passed to be enacted.

On further motion of the same Representative, tabled pending her motion to reconsider and specially assigned for Thursday, June 22, 1995.

On motion of Representative CHIZMAR of Lisbon the House adjourned at 11:00 p.m. until 9:30 a.m., Thursday, June 22, 1995.