

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
65th Legislative Day
Friday, June 23, 1995

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

Prayer by Pastor Jon R. Dillinger, Kittery Church of Christ.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 595)

JOINT RESOLUTION RECOGNIZING THE 200TH ANNIVERSARY OF THE TOWN OF LITCHFIELD

WHEREAS, the Town of Litchfield, originally known as Smithfield Plantation for the first settler, Eliphalet Smith, who came to the area in 1776, was incorporated in 1795; and

WHEREAS, the Town of Litchfield is located in a unique geographic area, nestled between Augusta, Gardiner and Lewiston-Auburn; and

WHEREAS, many of the first settlers to Litchfield were primarily farmers who built their homes among the abundance of attractive ponds, glens and cascades in the area; and

WHEREAS, the area still has many farms, but is home to a growing number of people who enjoy the rural life yet work in the surrounding larger towns; and

WHEREAS, like the earliest settlers who were proud of their community, the citizens of Litchfield continue to take pride in their rich heritage and the strong bond of community remains; now, therefore, be it

RESOLVED: That We, the Members of the 117th Legislature, now assembled in the First Regular Session, take this opportunity to congratulate the good citizens of Litchfield as they celebrate the town's bicentennial and offer our best wishes for continued success in the years ahead; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to citizens and officials of the Town of Litchfield.

Came from the Senate read and adopted.

Was read and adopted in concurrence.

Non-Concurrent Matter

Bill "An Act to Preserve Fishing Stocks" (H.P. 1045) (L.D. 1464) on which the Bill was substituted for the Reports from the Committee on Marine Resources and passed to be engrossed as amended by House Amendment "A" (H-576) in the House on June 22, 1995.

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

Representative VOLENIK of Sedgwick tabled pending further consideration and later today assigned.

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

Bill "An Act to Preserve Fishing Stocks" (H.P. 1045) (L.D. 1464) which was tabled by

Representative VOLENIK of Sedgwick pending further consideration.

Subsequently, the House voted to Adhere.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Amend Certain Effective Date and Referenda Provisions Regarding the Authorization for a Community School District in the Towns of Mechanic Falls, Minot and Poland" (H.P. 1138) (L.D. 1581) (Presented by Representative UNDERWOOD of Oxford) (Cosponsored by Representatives: AULT of Wayne, CARLETON of Wells, GWADOSKY of Fairfield, JACQUES of Waterville, JOY of Crystal, LANE of Enfield, LEMAIRE of Lewiston, LIBBY of Buxton, LUMBRA of Bangor, LUTHER of Mexico, MITCHELL of Vassalboro, WINN of Glenburn, Senators: BUTLAND of Cumberland, HANLEY of Oxford, SMALL of Sagadahoc) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on Education and Cultural Affairs suggested.

On motion of Representative HICHBORN of Lagrange, tabled pending reference and later today assigned.

ORDERS

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 30)

ORDERED, that Representative Norman R. Paul of Sanford be excused June 15, 16 and 19 for health reasons.

Was read and passed.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Conform Maine Law Related to Domestic Relations with Federal Law" (H.P. 568) (L.D. 769) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-590)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-590) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-590) and sent up for concurrence.

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Clarify the Jurisdiction of the Passamaquoddy Tribal Court" (H.P. 944) (L.D. 1333) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-589)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-589) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-589) and sent up for concurrence.

Ought to Pass Pursuant to Joint Order (H.P. 1136)

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize a Tax Anticipation Note for Fiscal Year 1995-96" (EMERGENCY) (H.P. 1139) (L.D. 1582) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1136)

Report was read and accepted. The Bill read once.

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

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

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-581) on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,000,000 for Facilities Serving People with Mental Illness" (H.P. 313) (L.D. 417)

Signed:

Senator: BEGLEY of Lincoln
Representatives: AIKMAN of Poland
TOWNSEND of Portland
DiPIETRO of South Portland
POULIOT of Lewiston
KERR of Old Orchard Beach
MORRISON of Bangor
SIMONEAU of Thomaston
OTT of York
DONNELLY of Presque Isle

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

Signed:

Senators: BERUBE of Androscoggin
HANLEY of Oxford
Representative: JOSEPH of Waterville

Was read.

Representative TOWNSEND of Portland moved that the House accept the Majority "Ought to Pass" as amended Report.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: This is the first of the bond issues submitted by the Governor. It is a vitally important one because it is a crucial piece of getting ourselves into compliance with the AMHI consent decree. For those of you not familiar with the AMHI consent decree, we have been under it for four to five years now. We were found in contempt of court last fall. It is critically important that we begin taking the steps to fund community services for people with mental illness. This one would be specifically used for developing housing around the state. Beyond that, I do urge your acceptance of the "Ought to Pass" Report.

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

Representative WINGLASS: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support what Representative Townsend has just brought to you in the way of a recommendation. I think this is a critically important piece of the strategy and game plan that will, in fact, move us forward in dealing with the very difficult mental illness problems that

the state confronts now. I urge you to support the recommendation of Representative Townsend.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-581) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-581) and sent up for concurrence.

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

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-584) on Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation" (H.P. 806) (L.D. 1123)

Signed:

Senators: AMERO of Cumberland
CARPENTER of York
Representatives: ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union
GERRY of Auburn
LEMKE of Westbrook

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-585) on same Bill.

Signed:

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

Was read.

Representative DAGGETT of Augusta moved that the House accept the Minority "Ought to Pass" Report.

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

CONSENT CALENDAR

First Day

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

(H.P. 1024) (L.D. 1439) Bill "An Act to Amend the Laws on Marital Property, to Provide for Alternative Dispute Resolution in Domestic Relation Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-591)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objections, the Bill was passed to be engrossed as amended and sent up for concurrence.

**BILLS IN THE SECOND READING
As Amended**

Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services (H.P. 786) (L.D. 1103) (C. "A" H-355)

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.

ENACTORS

Emergency Measure

Resolve, Establishing the Task Force on Alcoholic Beverage Sales (H.P. 1075) (L.D. 1514) (Governor's Bill) (C. "A" H-477)

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

On motion of Representative HICHBORN of Lagrange, tabled pending final passage later today assigned.

An Act to Repeal the Laws Regarding Consumer Information Pamphlets (H.P. 307) (L.D. 411) (C. "A" H-88)

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

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

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:

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.

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-276) - Minority (3) "Ought to Pass" as amended by Committee Amendment "B" (S-277) - Committee on Labor on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Prohibit Future Unfunded Liabilities and to Maintain the Current Amortization Schedule (S.P. 70) (L.D. 158)

- 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-276).

TABLED - June 20, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as by Committee Amendment "A" (S-276) Report.

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

Representative Joy: Thank you Mr. Speaker. For years the state has been robbing Peter to pay Paul. They have been withholding funds and not putting them in the retirement system. A few years ago we had a Constitutional Amendment to prohibit taking money out of the retirement system once they were put in there. Unfortunately someone figured out a way to beat that system, and that is, just don't put the money in there the first time. Once that money

wasn't put in there then it becomes on a deferred basis and payments are going to be made later on.

This proposed Constitutional Amendment would require that the state maintain its current pay back schedule that was established in the past session of the Legislature. I believe it will be now for a 31 year payoff period. We have a tremendous unfunded liability in the retirement system and we cannot allow it to grow any larger. This proposed Constitutional Amendment will make the system whole and will prevent future unfunded liabilities.

There is a second type of liability that we have to consider ourselves with and it is called the experience-based liability. That happens when returns on investment are not quite what they seem to be or more people retire earlier than anticipated by the system. The amendment folds those into a ten year pay back system, so that they do not get added to the current liability and keep adding up and growing and growing and growing.

I urge your support on this bill. I think this is certainly a worthwhile step and will protect the integrity of the retirement system. Thank you Mr. Speaker.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: I am one of three members of the Labor Committee on the Minority "Ought to Pass." I would urge you to vote against the pending motion and then go on to accept the Minority "Ought to Pass" motion. This is a Constitutional Amendment and that is something I am very reluctant to do as I am sure many of you are.

I am also very aware of the massive amount of unfunded liability that past Legislatures have allowed to grow by failing to confront or understand the real cost of adding retirement benefits for employees without adequate funding for them. The problem I have with the Majority Report is that this Constitutional Amendment essentially would remove from any kind of consideration approximately 160 million dollars in the biennium if we are looking at the current figures. That is appropriate in 99.9 percent of the time. This is 2.4 billion dollar bill and that is a lot of money. It is money that your children and my children and perhaps even their children will be paying for.

As we were considering this amendment I set down and said there might be a time when the financial conditions of the State of Maine are so bad that it would be more responsible to forgo a payment or delay it for some reason. With a Constitutional Amendment that is being proposed, by the majority, precludes that from ever happening. That may be proper and right, but I sat down and said what would the effects of the revenues of the state of Maine be if a number of things happened, terrible things.

Let's say the Kittery Shipyard is set up for closing. Let's say Bath Iron Works is not successful in converting to civilian uses and is either closed or its operations are severely reduced. Let's say Maine Yankee does not reopen. If you put that scenario together, I suggest to you that the revenues of the State of Maine in the short term would be so severely impacted that it might not be in the best interest of the state to meet its obligations to the unfunded liability. Now remember that does not affect current benefits. It might be smart to borrow money out into the future.

I propose in the Minority Report a situation where the Governor could declare an emergency and if seven-eighths of each body of the Legislature agrees we could waive that requirement. This effectively gives five members in the Senate and 19 members in the House a veto over the Governor's determination that it is an emergency. I suggest that is a more responsible way to meet our obligation to the unfunded liability and to still allow some sort of pressure-release valve if they were ever needed in the future.

Men and women of the House, I urge your consideration of my thinking and I hope you will vote against the pending motion and then go on to accept the Minority "Ought to Pass." Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: It gives me pleasure to stand here in agreement with the Representative from Crystal, Representative Joy.

The reason that I am on the Majority Report and think that it is not an imprudent thing to amend the Constitution, to continue our payment on the unfunded liability at the current schedule, is that other Legislatures in the recent past have acted in a way that might be similar to what the good Representative from Norway, Representative Winsor is suggesting. That is, that there be enough of a financial crisis that the response is we cannot pay on our unfunded liability.

In fact, men and women of the House, I think we did a great disservice by extending the number of years over which we pay the unfunded liability. We will never have agreement as to what is an appropriate financial setting to adjust or lengthen the payments to the unfunded liability and my response to that is simply that we do it and have a schedule setup. We behave responsibly. We take care of it. We don't increase the ultimate payment because we are increasing the number of years over which we pay. We make that decision. We do it now and we accept the Majority "Ought to Pass" as amended Report. Thank you.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I would also encourage you to support the Representative from Crystal, Representative Joy. I guess in tough economic times there are temptations not to pay current costs back to the system. This bill corrects that. Paying these normal costs and prohibiting the new increases of the unfunded liability in future years are probably going to be, I think, the best thing we can do for the citizens of the state.

Very briefly I would encourage you on behalf of 12,000 members of the current system to vote in favor of this bill. The Legislature is constantly saying that they are no longer going to balance the budget with gimmicks. We say that here all the time. Once again I think we finally need to put a lock on the cookie jar and throw away the key. Therefore, I would ask that we would for once put this gimmick away and vote for this bill and I feel that by doing this we do the taxpayers of this state a great service and in the future hopefully we will be saving them millions of dollars. Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: Two years ago we went through a situation that never should have occurred. We needed some money, we just did not pay on an account that we needed to pay on. This happened to make a big unfunded liability on the retirement system. This is going to cost your children and my children and maybe even great grandchildren to pay it off. I would ask for your support on this. I think it is time to take it out of the hands of us bureaucrats once and for all. It should not be a political football. It shouldn't be something we use to balance our budgets with. I ask for your support on this bill. It is the right thing to do. We need to stop sending mixed messages to the public and private industry. They have to fund their bills in a timely fashion. This does not call for a provision to override them. We will look elsewhere if we have to balance the budget. I would ask for your undivided support on this and thank you all very much.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Colleagues of the House: First of all I want to say that I have a great deal of respect for Representative Joy and the way that he has handled things. At least trying to get people to follow his light on the previous amendment. I disagreed with him each time. He acted certainly as he should as a Representative and with integrity and certainly felt that an individual should have his own ideas.

I do support this particular plan and I hope you all will see that we can't predict in the future. If we are going to delegate or try to get trust back to a very large group of people that we should support the Majority "Ought to Pass."

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

Representative CAMERON: Thank you Mr. Speaker. I want to remind you folks. I have heard a couple of comments about this amount of money is going to fall on the backs of our children and grandchildren. That is probably true, but I don't want you to forget that a failed retirement system could well be some of our children and grandchildren that will lose out. They could well be state employees in the future and it could very well be those same people that would lose out if this system failed. I would urge you to support this "Ought to Pass" motion.

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

Representative STEDMAN: Mr. Speaker, Men and Women of the House: I was on the Majority Report and urge your support and ask for the yeas and nays on this when we take our vote. Thank you.

Representative STEDMAN of Hartland 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 the motion to accept the Majority "Ought to Pass" as

amended Report.. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 223

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

NAY - Bigl, Buck, Joyce, Labrecque, Pendleton, Saxl, J.; Saxl, M.; Winsor.

ABSENT - Ault, DiPietro, Hartnett, Jacques, Joseph, Kerr, LaFountain, McAlevy, Mitchell EH; Nadeau, Poulin, Pouliot, Rotondi, Underwood, Winn, Yackobitz.

Yes, 127; No, 8; Absent, 16; Excused, 0.

127 having voted in the affirmative and 8 voted in the negative, with 16 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Resolution was read once. Committee Amendment "A" (S-276) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Resolution was passed to be engrossed as amended by Committee Amendment "A" (S-276) in concurrence.

SENATE DIVIDED REPORT - Report "A" (6) "Ought to Pass" as amended by Committee Amendment "A" (S-264) - Report "B" (6) "Ought to Pass" as amended by Committee Amendment "B" (S-265) - 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)

- In Senate, Bill and all accompanying papers indefinitely postponed.

TABLED - June 21, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

PENDING - Motion of same Representative to accept Report "B" "Ought to Pass" as amended by Committee Amendment "B" (S-265).

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I am all for political rights for everybody. When this bill came in front of our committee it was brought in front of us so that we could extend the same rights of regular state employees with the classified state employees. When we looked into it, we found a lot of dos ad don'ts of what a classified state employee can and cannot do.

In the bills that we have in front of us, those amendments tell you what you can and can't do. The only thing I disagree with in the committee amendment ahead of us, especially with the part that says, "For the purpose of this subsection a classified employee may participate in fund-raising activity, if the activity is solely within the membership of that employees labor union." I object to that part and that context because it does not fit in with what it says in the start of the subsection. It says, "An officer or an employee in the classified service of the state may not solicit, accept, receive political contributions or organize, sell tickets to, promote or actively participate in fund-raising activities of a candidate for partisan political office or of a political party or partisan political group." The next part that I brought up first is it says, "Yes, you can if it is in a union." I don't think that it agrees.

If we pass this bill, we either take out that whole paragraph or tell them that it is all right for them to participate in nonpolitical fund-raising activities. The other thing is, who are the classified employees and what do they raise money for? If they raise money for candidates, can we in good conscience vote for this, because if we vote for this, aren't we agreeing that whatever money they raise is going to come back to us. I think it would be a conflict of interest for those who take money from the state employees to vote on this. I ask you to vote against this bill in exchange for the next bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I hope the House would accept Part B, the "Ought to Pass" Report. I think it is fair. All the activities that they are going to be conducting is on their own time. In my opinion, I think we could have gone further with this amendment, but I was willing to compromise. This is on their own time. This is when they leave work and are with their family. It follows right along with the federal Hatch Reform Amendments.

The section that the good Representative from Auburn just mentioned in terms of paragraphs 7323, political activity authorized prohibitions. It says in paragraph A, "Subject to the provisions of subsection B, the employee may take an active part in political management or political campaigns (1) except an employee may not use his office, authority or influence for the purpose of interfering with or affecting the result of an election, (2) knowingly solicit, except or receive a political contribution for any person unless such a person is a member of the same federal labor organization as defined under section 71034." Of this title or federal employee organization which as of the date of enactment of the Hatch Act Reform Amendment of 1993, which was October 6, 1993.

I think this is fair and more than reasonable. I think it provides the political right sleeve classified employees, which by the other hand, it will approximately affect 9,000 to 10,000 employees, classified. On the other hand, there are unclassified employees that can solicit money for anything. They can contribute to campaigns. They can become treasurer for campaigns. This amendment is fair. I think it is right and I think we should adopt this bill. I ask you for your support. Mr.

Speaker, when the vote is taken, I ask for the nays and yeas.

Representative AHEARNE of Madawaska requested a roll call on the motion to accept Report "B" "Ought to Pass" as amended.

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 Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: The word compromise was mentioned and I would put out to you that over the years we have compromised and compromised. This bill was brought before the State and Local Government Committee because there seemed to be some confusion as to just what was allowed for state employees to participate in. This bill as amended by Committee Amendment "B" goes beyond what is currently allowed by the federal Hatch Act. I would like to read to you from restrictions on the political activities of public employees with the Hatch Act and beyond.

I will give you a little history. Both congress and the executive have imposed restraints upon the political activities of federal employees since the earliest days of the republic. The judiciary consistently has upheld such restraints as within the legislative power to promote the efficiency of the federal civil service. In 1939, when the Hatch Act was approached and in 1940, it was enacted because congress feared the development of a partisan political machine run with federal employees because federal bureaucracy was growing both in size and influence. In 1940, after considerable debate, congress extended the Hatch Act coverage to state and local employees who are principally employed in connection with a federally financed activity.

Section 1501 and 1502 of Title 5, prohibits state and local employees whose principal employment is in connection with an activity that is financed by federal loans and grants from using their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, directly or indirectly coercing or attempting to coerce, command or advise any state or local employee to contribute anything of value for political purposes or taking part in political management or in political campaigns.

This amendment would allow state employees to do political fund-raising. There is a really big question here. I am reading again from the text, "Public employees should be protected in their jobs from political coercion." Any of you who question whether or not these political activities go on, only have to read the latest issue of the Maine Stater. There is a letter to the editor, two letters, one by Wayne Hollingworth, MSEA President calling about the real meaning of downsizing state government, i.e. reducing jobs.

There is a letter to the editor signed by some brave state employees who say we don't all agree with that. Then printed on page 3 is a roll call of the votes on the minority budget. A vote for the minority budget, yes, and a vote against the minority

budget in parenthesis means a good vote. I have a real philosophical problem with people who are employed by the State of Maine belonging to a union who has the political power to raise money to affect campaigns which directly affect their job. This, ladies and gentlemen, is a conflict of interest. We have compromised over the years. This is not. We don't need to step further into that direction. I urge you to vote against Report "B." Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I believe I would be remiss if I didn't stand and talk on this particular bill, only because it is modeled after the federal Hatch Act. The language in this bill parallels the modest improvement in political rights granted to federal employees in 1994, by the federal Hatch Act reforms.

It would allow a classified state employee to solicit funds for political purposes only within their own employee organization or union. This amended version of the bill retains and expands upon all necessary safeguards and prohibitions relating to intimidation, coercion, improper use of surplus supervisory authority situations involving conflict of interest and the prohibition against any political activities utilizing work time or state resources.

On the other hand, if you don't accept this and you accept the other side of the report, it would make discrimination against classified state employees worse. I have no problem with people who do something on their own time, within their own auspices, whether it is for or against me, in particular, with people who write articles to the newspaper, with people who do graphs. For whatever reason, I think that is their own thing to do. Don't we all write letters to the editor. Don't we all make statements. I don't think anyone should be divorced from the right to take part in the political process. After all, one man, one vote. I would ask you to please support the "B" Report and do the right thing. Thank you.

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

Representative LANE: Mr. Speaker, Men and Women of the House: I urge you to vote against Report "B." A lot of hard work went into clarifying exactly what was allowed and what was not allowed for state employees, so they would no longer have a question and no longer muddle around in confusion as to what was allowed. We have done that. We simply have not allowed them to raise money for political campaigns. That is what Report "A" would allow. I urge you to vote against Report "B," so that we can go on to accept Report "A," which would clarify exactly what is allowed for state employees. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I wasn't going to speak a second time. I always like to follow the former Representative from Winthrop, Representative Norton's rule of only speaking once about a bill, but I feel compelled to speak a second time.

This is on their own time. This report is more than reasonable. We are trying to clarify what employees have a right to do and what they don't have to do. There are other unclassified employees who have no restriction. Other state employees who receive the same benefits as these classified

employees and probably even more so. It is rather unfair in my opinion, almost borderline undemocratic, that one can't write in letters to a paper and belong to the union. What's so wrong with it? I think this is a more than reasonable report and I hope you accept it. Thanks.

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

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

The SPEAKER: The Representative may pose her question.

Representative CHASE: Thank you. For anyone on either report, if we do not pass Report "B," and therefore, pass Report "A," is it true that state employees will not be able to drive voters to the polls and is it not true that state employees will not be able to serve as checkers and watchers for elections?

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

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good Representative's question, the amendment that would be before us, were we to defeat the motion in front of us, does take language directly from the 1993 amendment to the Hatch Act. The copy of the 1993 amendment to the Hatch Act was basically copied verbatim into that amendment and that does detail that certain partisan activities, including poll watching would not be allowed.

Current statute regarding political activity by state employees in the State of Maine is very short. It really doesn't detail what they can and cannot do. The statute talks about influence by superiors over employees in the workplace. It talks about not restricting or inhibiting anyone's right to vote. It talks about being a candidate. What both reports have done is to detail a little more distinctly what classified state employees can and cannot do.

By means of comparison, the reports, especially Report "A," both list permitted activities, as well as prohibited activities, so that gives some leeway. I will respond also to one issue that was raised. There seems to be some confusion that state employees would not be able to write letters to the editor. That is not the case at all. Any citizen may submit a letter to the editor and there is nothing in current law nor in either of the reports that would inhibit that. That is a first amendment issue. That is not at all affected in either of the reports. Also, neither report prevents state employees from exercising their right to express themselves to the political process. In fact, both reports allow state employees to work on political campaigns, as long as they are nonpartisan activities. The difference is, the report in front of you would allow a state employee to actively fund raise, raise money, to be distributed to candidates, partisan candidates.

The goal of the Hatch Act, as was said earlier by the good Representative from Enfield, was to protect state employees and protect the citizens of the State of Maine in the sense that there would be a buffer, so that no political process would influence one or the other. It was put in in 1939 and amended in 1993, in order to maintain that protection for all involved so that there would not be any coercion or

uncomfortable situations. I would urge you to strongly read the language in both amendments and you will realize that both do a lot of clarifications, but when you are talking about instances where state employees will be able to raise money directly to impact partisan elections, I think we have to take a serious look as to whether or not that is a prudent step. I would urge you to oppose the pending motion. Thank you.

Representative LUMBRA of Bangor 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 Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I think the debate has managed to stir things up and I think there is some confusion about the federal Hatch Act and what has been called the mini-Hatch Act, which is what affects our state employees here in Maine. Make no mistake about it. These two acts have never been parallel. They are not the same.

I am going to speak today about what goes on in the State of Maine with state employees. There are two classes of employees and they are affected very differently. You have the nonclassified that have full political rights and can do anything on their own time, obviously any of them are not allowed to be using state property and all those kinds of things, but that is not an issue. Nonclassified have full political rights. These are appointed positions, the entire state planning office, secretaries and clerks. There is a large number of nonclassified employees that have full political rights.

There is another set of employees that have classified service and they are denied full political rights. The only thing which this bill does, the report that is in front of you, is to allow them to now solicit funds within their own employee organization. The small expansion, to solicit funds within their own organization. There is already a large number of public employees that have that right. They have the right to do that. Municipal employees, teachers and the nonclassified service all have that right. It is a tiny little expansion within their own union and their own people. That is all it is.

None of this other stuff, I don't know what that is. I don't know why people are talking about the federal Hatch Act and all these other things. I will tell you that the other report that is not in front of us is a punitive and retaliatory measure that says, "Hey, how dare you come and ask for an additional right, because now we are going to pull some of what you have right now." So, look at the report that is in front of you. A small piece that simply expands for a number of employees that have been discriminated against.

The evidence in front of us indicated that there are not problems today. They have no reason to believe there will be a problem with this legislation and in fact, are supportive of it. They indicated that they will publicize these changes. What both reports attempt to do, in the other language, is to more clearly spell out some of the things that can and cannot take place. That is no change. There is a tiny little piece that allows for a certain group of employees who do not have full political rights, as the rest of the employees do, we don't think there

is any problem with that, a little paragraph that says now you can solicit money from those members of your bargaining unit. That is all.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

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

The SPEAKER: The Representative may pose his question.

Representative BERRY: Thank you. I would like to have some clarification on the classified employees. Are we talking about plow truck drivers? Is that a classified state employee? What are some of the classified titles?

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I don't have a full list in front of me, but those people that are classified are plow truck drivers and are state employees in the regular service. There are some appointed positions, commissioners, clerical staff, and support staff to the commissioners and some support staff and clerical staff in sensitive positions.

The entire state planning office, clerical as well as planners and the others that are there are in the nonclassified service. What I am saying to you is they are, in fact, secretarial people and clerical people, it depends on the position, who may be nonclassified, who have all these rights already. Now you have a clerical worker who is a classified employee that doesn't have these rights. This does not give them full political rights. It simply means they can solicit within their own unit.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I asked the question to clear up, for me, I guess, are we worried about truck drivers, similar to contractors in the private sector, having political rights? Are we worried about state employees that work in the liquor store that might be similar to a storekeeper in a private sector? Is that what we are worried about? People similar to ourselves, just because they work for the state, we are going to limit their ability to organize and work together as we do in our own groups? That is my point. Thank you.

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

ROLL CALL NO. 224

YEA - Adams, Ahearne, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Guerrette, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, Lemaire, Lemke, Lemont, Luther, Madore, Martin, Mayo, McElroy, Meres, Mitchell JE; Morrison, O'Gara, O'Neal, Paul, Poulin, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

NAY - Aikman, Ault, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Clukey, Damren, Dexter, Donnelly, Dunn, Farnum, Gerry, Gieringer, Goolley, Greenlaw, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, 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, Winn, Winsor.

ABSENT - Jacques, LaFountain, McAlevy, Mitchell EH; Nadeau, Pouliot, Rotondi, Yackobitz.

Yes, 78; No, 65; Absent, 8; Excused, 0.

78 having voted in the affirmative and 65 voted in the negative, with 8 being absent, Report "B" "Ought to Pass" as amended was accepted in non-concurrence.

The Bill was read once. Committee Amendment "B" (S-265) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "B" (S-265) in non-concurrence and sent up for concurrence.

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

ENACTORS Emergency Mandate

An Act to Amend the Governmental Structure and Budget Approval Process for Cumberland County (H.P. 314) (L.D. 418) (C. "A" H-530)

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

On motion of Representative LABRECQUE of Gorham, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 418 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-530) was adopted.

The same Representative presented House Amendment "A" (H-586) to Committee Amendment "A" (H-530) which was read by the Clerk and adopted.

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

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House: If you have had an opportunity to read this amendment, all it does is clarify some corrections on an error that was found in the Revisor's Office.

House Amendment "A" (H-586) to Committee Amendment "A" (H-530) was adopted.

Committee Amendment "A" (H-530) as amended by House Amendment "A" (H-586) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-530) as amended by House Amendment "A" (H-586) thereto in non-concurrence and sent up for concurrence.

An Act to Amend the Excise Tax Charged on Commercial Vehicles (H.P. 472) (L.D. 653) (C. "A" H-539)

An Act to Enable Small Farm Owners to Process and Sell Foods They Produce (H.P. 794) (L.D. 1111) (C. "A" H-537)

An Act to Amend the Operating-under-the-influence Laws (H.P. 836) (L.D. 1167) (C. "A" H-543)

An Act to Amend the Underground Oil Storage Facilities and Groundwater Protection Laws (H.P. 978) (L.D. 1387) (C. "A" H-533)

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

An Act to Create an Adopt-A-River Program (H.P. 1047) (L.D. 1466) (C. "A" H-538)

An Act to Strengthen the Motor Vehicle Laws Pertaining to Registration of Motor Vehicles (H.P. 1093) (L.D. 1538) (C. "A" H-541)

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

An Act to Expedite the Appeal Process in the Case of a Writ of Possession (H.P. 1099) (L.D. 1546)

An Act to Exempt Food Banks from Sales Tax (H.P. 1116) (L.D. 1561) (C. "A" H-526)

An Act to Implement the Recommendations of the Governor's Task Force on Motor Carrier Safety Laws (H.P. 1118) (L.D. 1562) (Governor's Bill) (C. "A" H-542)

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 Make Changes in the Law Establishing the Maine School of Science and Mathematics (H.P. 1035) (L.D. 1454) (C. "A" H-383)

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

On motion of Representative KEANE of Old Town, was set aside.

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

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

The SPEAKER: The Representative may pose his question.

Representative KEANE: Thank you Mr. Speaker. I notice that the amendment puts a fiscal note of \$617,000 on the magnet school and I am not sure what that fiscal note is for. I would appreciate somebody on the committee informing me as to why that \$617,000 fiscal note is on the bill.

The SPEAKER: The Representative from Old Town, Representative Keane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Men and Women of the House: This is just language that would clean up for the bond bank. This does not take affect now. This is only if the bond has to be used. The language is not the amount that is listed there. We had asked that to be corrected and the amount is not the proper amount that is listed. I don't have the figures in front of me, but, again, this is just to clean up the language from the original bill. It will not have anything to do with this budget.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: If you could be more clear and specific on that explanation, I would appreciate it. What it does is it seems to me, it authorized a 3 million dollar bond issue, if the trustees of the magnet school, so deem fit to reconstruct or do any type of maintenance on the school. If that is true, the fiscal note says if they use that money, that they will have a \$617,000 additional fiscal note. I guess my specific question is, how was that \$617,000 fiscal note arrived at?

The SPEAKER: The Representative from Old Town, Representative Keane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Men and Women of the House: I will ask to table this at this time and I will get the information for the good Representative.

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

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

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

House Divided Report - Committee on State and Local Government - (7) Members "Ought to Pass" as amended by Committee Amendment "A" (H-584) - (5) Members "Ought to Pass" as amended by Committee Amendment "B" (H-585) on Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation" (H.P. 806) (L.D. 1123) which was tabled by Representative DAGGETT of Augusta pending her motion to accept the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-585).

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

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: In response to L.D. 1123, which was signed by an incredibly large number of legislators, cosponsored and sponsored, the committee on State and Local Government spent some time taking a look at the rulemaking process and what might be done to improve that. I think considering the large number of cosponsors and a variety of testimony that came in front of the committee, there really was a feeling that there was an opportunity to make some improvements on the Administrative Procedure Act, which is actually the name of the act that spells out rulemaking procedures.

I want to tell you that the first thing that seemed very obvious to me was that a lot of people, this includes the regulated communities, those that the rules affect and legislators really did not understand the APA process, the rulemaking process. That was the number one issue that seemed to pop up. People did not understand the current process. In order to use the process to do the things you want to do with it, you first need to understand the process as it is today. There was a lot of discomfort with that process and lack of knowledge.

The committee talked about a handful of things that could be done. There was a number of administrative things that could be done to help

clarify the process, help educate people on the process, help legislators understand how to use the APA and differentiate between what is rulemaking and what is statutory. There is a lot of confusion about where the problem really was. Was it a statutory problem or was it a rulemaking problem? I think there is a lot of buck passing. I think legislators are happy to say it is rulemaking. Bureaucrats are happy to say it is statutory. The kind of government that we have is one of overlapping jurisdictions and that is one of the problems with our type of government, is these overlapping jurisdictions that allow for passing of the buck.

I think that in rulemaking the legislative versus the bureaucratic response to problems has not been one of cooperation and helping to identify where the problem really is. There have been issues raised, that were suggested, that they were rulemaking problems when, in fact, they were not. I think one of the problems in front of the committee was that the problem was never well documented. There was a lot of heresay. There was a lot of, I believe, and this is what I have heard, but not a lot of documentation and not good documentation.

I don't believe the committee ever really took a look at the process to find out where there is a breakdown in the process. I felt bad about that. I think there perhaps are additional things or better things that could be done besides either of the reports that are in front of you. I think this is going to be confusing to people. I am sorry that this committee could not come up with one basic plan, because I think it is very difficult for legislators in your position, when you see a divided report that is pretty equal in division to understand where the problems are and to sort through that.

I am going to try to describe to you, now, Report "B," which is the report that I am on. What the intent of that is and how it makes an effort to fix the current process. There were several issues raised as problems with rulemaking. One of them was there wasn't really an opportunity for the legislature to be involved when the rule is in a proposed stage, when it is still being formulated, prior to its being adopted. There is a process for the legislature to review a rule that has been adopted, but there was no opportunity to get involved in the proposal stage. Report "B," I'm not taking this in order and I passed out a pink sheet earlier that helps to describe this, the third one down says it is a process for legislative review for all proposed rules. That is contained in Report "B."

There is nothing of that type in Report "A." There is the same process that the legislature currently has for reviewing a rule that has been put in place, has been listed and may not be used to review a proposed rule. This is an opportunity for the legislature to get involved, if they know or feel there is a problem with a proposed rule. Earlier in the process the legislature can become involved in an official way.

I am going to back the process up even further than that. Now we are looking for a process for the regulated community to be involved in a proposed rule. Today's Administrative Procedure Act does not give the regulated community, those are the folks that are regulated by the rules, an opportunity to be involved when the rule is actually being written. There was a report that came out earlier this year on alternative dispute resolution and it had in that

language that would call for a mediated rulemaking, so those who are being regulated have a mechanism to participate in actually writing the rules. It is a process that was used with the Sensible Transportation Act. It is not a process today that can't be used. It is just there is no formal mechanism for it.

Report "B," it spells out a process, which allows those people who are being regulated to participate in developing the rules. Theoretically, for those controversial rules, the regulated community can be involved, so the rule that is actually proposed is a better rule and there is consensus between those who are regulated and those who are regulating. I am going even closer to the front of the rulemaking process. In today's rulemaking process there is a requirement that the agency that is developing the rule send a copy over to the legislature of what they intend to do rulemaking on.

It is called the Regulatory Agenda. Today, they are required to send a copy of that. What Report "B" says is not only must you send us a copy of what you intend to do rules on during the coming year, you must schedule a meeting with the committee of jurisdiction and go over with them what your regulatory agenda is. The committees of jurisdiction have an opportunity to know ahead of time before the rule is proposed, what the agency intends to do during the next year. The committee would have an opportunity to talk with the agency about those rules and get a sense of whether they are going to be controversial or whether they might be controversial. It gives the legislature more of an opportunity to understand what is going on. Report "B" reduced paperwork.

My guess is what happened when the legislature decided to have notice of rules was an additional form was created. Report "B" simplifies and reduces the number of forms and allows one form that has the information on it that tells us the kinds of rule and whether it might be an overburdensome rule. That, which is called the cover sheet, is statutory. If legislators need more information about what a proposed rule will be doing, it will be on that sheet and the agency only has to fill out one sheet and the legislature gets the information that actually goes to the regulated communities. It serves a couple of purposes. It eliminates some paperwork and we then know what the summary information is that goes to regulated community so we can see if they are getting the notification they need.

Report "B" changes several of the items on that cover sheet. In an attempt to notify legislators about the kinds of things they want to know. In a pretty straight forward check-off manner it would have whether or not the rule exceeds the federal standard, whether or not it is a fee increase, whether or not there is a financial impact on the municipality or on the regulated community. The cover sheet would tell you that the proposed rule was actually a part of the regulatory agenda, so that you know if that has been gone over. There are a variety of red flags that can be raised right on that cover sheet.

For those of you who are on committees that do not get involved in a lot of rulemaking, when the agency is getting a rule, they send us a sheet of paper over and it goes to members of the committee of jurisdiction telling about that proposed rule. Those are the things that you would know about and would be

able to get more involved in the process if you felt there was a rule that seemed to be a controversial rule.

The second one down, Report "B," applies to all rules. If it were passed, all rules from here on out, believing that there can be a problem with any rule, not just a major rule, not just a technical rule or not just a procedural rule, but any rule has the potential to be a problem. Report "B" makes an attempt to snag all of those rules and to alert legislators if there is a problem with any of the future rules. While I think there are other improvements that could be made and other things that could be done and perhaps there is more work that could be done, I think that Report "B" introduces some education into the process. It raises more awareness of legislators without being overbearing and getting us involved in anything that is too bureaucratic or too micromanaging.

I have not gone into a great deal of explanation about why we have rules and how rulemaking fits into the governmental process. With the assumption that rulemaking, the micromanaging piece, is in the bureaucracy and under the executive's domain and that our domain is the larger overarching policy setting piece, I believe that Report "B" offers you a number of opportunities to be further involved in the process and to be a little more aware of what is going on with rulemaking. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: As a member of the majority on this issue in the State and Local Government Committee, I would like to explain in three or four sentences why I believe you should vote against the pending motion. As the good Representative from Augusta pointed out, an incredibly large number of you did sign onto L.D. 1123 and I believe the reason you signed on as I did is because you wanted to deal directly, simply and in a way that is effective with a major problem in state government. The amendment you have before you does not do that. It is basically a bureaucratic mishmash to deal with a bureaucratic problem. If that is what you want to support, I encourage you to vote for it. If you want to get onto Report "A," which deals directly with this problem, please vote against the pending motion.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: As many of you know, this is a title that I submitted both last session in the 116th and in the 117th. I appreciated the support as I circulated the bill. The bill, L.D. 1123, essentially explains my intent with the title, An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of the Authorizing Legislation. That simply is my intent. To make sure that rules before they become the effect of law, promulgated and written by bureaucrats, come back before an elected body of officials who understand what the citizens of the state want. Essentially all I wanted to do was make sure that it came back before the legislature to make sure it didn't exceed the intent.

I feel that I must respond now that we are talking about Report "B" to the pink sheet that has been circulated. As the good Representative from Augusta, Representative Daggett mentioned, I will go through them very briefly and quickly concerning the five

points. Number one, Report "A" does not reduce paperwork. I believe sincerely if you read Report "A" that it does. I won't go into it because we are not talking about Report "A" at this point. A significant number of the rules will have a process which is less than the existing rulemaking process. I will tell you why when we get to Report "A."

Number two, applies to all rules. Point three, process of legislative review for all proposed rules, it says, no, under Report "A." If you look at Page two of Report "A," section one, it says all rules. Number four, process for regulating communities participating in development of the rules, it says no. It does. We have public hearings on every law. We have work sessions on every law. With the presentation of the rule back before the standing committee in the legislature, it will also allow them another point to participate. Again, with number five, agency meeting with committee of jurisdiction or review of regulatory agenda, they do that not only twice as we have it now in public hearing and work session, but they will also have a third opportunity to do that when it is presented back before the standing committee and the full legislature.

The intent of this legislation as you read the title of the bill was simply to make sure that the bureaucrats understood first, the intent of the legislation and that they simply did not exceed that intent when they promulgated the rules. If we can dispose of Amendment "B" and get on to Amendment "A," we will cite you some very prominent examples of where they have exactly done that. Please defeat the motion so we can get onto Amendment "A."

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

Representative SAXL: Mr. Speaker, Men and Women of the House: Rulemaking is a complicated business. At least some of the rules I have looked at are. I find them very difficult to understand. I tell you that with utter frankness. There are a large number of them that are promulgated out of Natural Resources, Utilities and a number of the other committees. The report which is before you now does not require these reports to come back to the legislature to be reviewed by the committee. Instead it says that if there is a problem that is noted by either the regulated community or by the legislative community or by an ordinary citizen it can be flagged and then brought to committee.

It seems to me that that is a more appropriate way of handling it, rather than having rules which are considered significant being brought back. Often these are very technical matters. Matters which we in our broad public policymaking may not have the educational experience or the technical experience to be able to accurately criticize. It has been an administrative procedure for a long time and not one that falls into the legislative branch. I think that with exceptions and ones we get angry at, the rulemaking process has worked fairly well. It is very easy to blame the bureaucrat or the technocrat for some of the messes that we have, but there is no reason why we as a body or we as individuals with committees of jurisdiction can't review those rules currently.

I urge you to accept this report, which makes some changes and goes a long way toward helping the process, but which doesn't undo the Administrative Procedure Act. Thank you.

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 vote this morning that you vote to turn down the Minority Report and give up a chance to go to Report "A." When I am not in the legislature, when we do go home, we have to deal with corrections that we do down here. I spend most of my time dealing with DEP when I get back to Millinocket. Particularly when we pass a law and the interpretation that goes back to the bureaucrats is nothing like what we passed in legislation. I spend most of my summer months, when I should be relaxing and making a living for my family, trying to correct the problems that they give us once we go home.

It seems like when we leave here, they are waiting on a bridge waving to you saying, "Adios Amigos, now you are gone and we can do what we want to." I just hope when you pass something today that we do it right. I think a lot of you people signed on the Majority Report wanting to do something right. The Majority Report will at least send a message to these people and take some time in what they are doing and do it right. I deal a lot of times with Chapter 137 on air emissions, coming from the area I come from. I will tell you, it is no easy task doing the paperwork that is put in front of them. They don't pay a person enough money to deal with it. It is really frustrating. We all want clean air. We all want clean water, but why put people through a run that they have to be put through.

We are working on a simple project in northern Maine trying to get dams relicensed, for example, they have been there for 90 years. Eight million dollars later, those dams aren't relicensed. Eight million dollars that you could put back in the economy helping people in northern Maine make good money. I hope when you vote today, you vote to turn down the Minority Report and go with the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind you what our good Representative from Bangor, Representative Saxl just told you that Report "B" will look at a rule after it has become a problem. I, myself, in my home and my business like to look at issues and try to resolve them before they become a problem. Please vote not to pass on Report "B" and go on to Report "A." Thank you.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: I just have to respond to the last comment. Report "B" allows this process prior to the rule becoming a law. Let me just share with you how one gets to review a rule. I would suggest to you that what we have been doing is that we really don't know about this process very much and it is used very rarely. The legislature or the legislative committee may review any rule on its own initiative. In addition, a formal process is established for the public to petition the legislature for rule review. An application for review of an agency rule can be filed with the Executive Director of the Legislative Council by a group of 100 or more registered voters who have substantial interest in the rules or any person who is directly, substantially or adversely affected by

the application rule. If this report is passed, that can be done while the rulemaking process is ongoing and also after the rule has taken place.

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. Simply put, what is before you does not really come close to the intent that the original legislation that 130 odd cosponsors signed. We definitely need to vote this out so that we can look at the legislation that was of such interest to so many legislators. I urge you to vote against the Minority "Ought to Pass." Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: Before we vote, just one brief reminder. The Constitution gave the law making duty and responsibility to the legislature, not to the bureaucrats and executives and since rules do have the force of law they should come back to us before they are implemented. Thank you.

The Chair ordered a division on the motion to accept the Minority "Ought to Pass" as amended Report.

A vote of the House was taken. 25 voted in favor of the same and 72 against, the Minority "Ought to Pass" as amended Report was not accepted.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: Before we go on to accept this report, I think it is only appropriate that you have a good understanding of what this bill does. I am sure there will be others that will stand up and speak to it, but I would like to take a moment to speak to exactly what this bill does and to justify the pink sheet in which I have alleged that it does or doesn't do certain things.

As far as reducing paperwork, if an additional legislative process is necessary, I can't imagine how the current report in front of you reduces paperwork. I can only imagine that it adds to it, because now, in addition to having a public hearing, passage of a law, public notice for the rules, passage of the rule and we now have another legislative opportunity with advertising and public hearings and notice and the bill calls for passing that rule into law. I can't imagine that all of that takes place without additional paperwork, but perhaps there is some new mechanism for passing legislation that I don't know about.

When I put down it applies to all future rules, this report that is in front of you now, Report "A," would have the legislature review what is a questionable number of rules. We don't know how many it would be, but it would only be rules that fall into the major substantive category, which in some cases might be a judgment call. The major substantive category of rules are the only ones that the legislature would be reviewing. I find that somewhat ironic since the good Representative Stone just indicated that all rules had the force of law, so they should therefore come back in front of us. This report in front of you only asks for a very small number, proportionately, of rules to come in front of the legislature.

However, Report "B" had a trigger mechanism for every rule to be noticed to the legislature on the pivotal issues of exceeding federal standards.

Report "A" does not have any process for the regulated community to be involved in the development of the rule, in making the rule, in formulating the rule, there is none. That is not to say that today the regulated community couldn't be involved, because they can today. Report "A" does not set forth an institutionalized process for them to be involved. Report "A" does not require the agency to come in front of the legislative committee at a meeting. There is no language in there that requires that meeting. There is language that does require it in Report "B."

While the committee was meeting and taking a look at the kinds of things that could be done, there was a survey that was done of committee members asking them if they were in agreement to doing a number of different things. There was virtually unanimous agreement in a survey of a variety of improvements to the process. None of those improvements are included in the report in front of you. None of them are included, yet virtually all the committee members felt that they were good ideas. The bill that was in front of you is quite different from the bill that was submitted, the amendment in front of you. I hope you will think very carefully before you accept this.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I will attempt to be equally brief. Ladies and gentlemen, if you believe that we should be the ones to take responsibility for what we have to go before the public with, then vote for this pending motion. I consider this a declaration of independence of the legislature from the rulemaking power of the unelected bureaucracy. I think the issue is very simple. I think it is one of the most important votes you will make this session. I think you know what the right thing is to do and I encourage you to do it.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: I would like to agree with the good Representative from Augusta, Representative Daggett. This bill is not in the form which I intended. As we all know, the process of negotiations, cooperation and collaboration is one that is vital to the success of the Maine Legislature. Unfortunately my intent was to ensure that every rule come back before the standing committee to ensure that the intent of the law was not exceeded. The response to that was, we will have "the sky is falling." We will have a full-time legislature. That was not the intent and I believe sincerely that that wouldn't have been the result.

Over a period of four maybe five weeks, we have been working this bill. We have been negotiating. We have been collaborating. From my perspective and the perspective of the lead in the other body, we have compromised significantly. We have taken a lot of teeth out of this bill. One thing we have to do is we have to send a message to the bureaucrats that we are in control. Do you realize that in the 116th Legislature there were over 1,000 rules which became the force of law, when, in fact, we, as a body, only passed 750 laws. The rulemakers seem to be winning here. In a lot of cases, these rules did exceed the intent of the law.

I will just read a real brief one. For example, the long-term contractors required by the PUC for the

NUG contracts. In section 35-A, MRSA 3307, section 1, it says, "A long-term contract shall be encouraged." In the rulemaking process, PUC, Chapter 36, document 80-268 went well beyond encouraging and stated and I will quote, "No utility may unnecessarily refuse to enter into a long-term contract for purchase of energy or capacity." Thus the Maine utilities were forced into a disastrous long-term contract for 15 years that created high rates. This cost CMP ratepayers 375 million dollars a year. We know what we have done to eliminate those contracts in the 117th Legislature.

Let me just try to briefly describe what this bill does. There has been some confusion. Yesterday we received Amendments "A" and "B," if you have interest there are corrected copies. Up in the right hand corner of the amendments, they are corrected. This copy of the Amendment "A" as I read it, if you want to follow along, has that corrected copy up in the right hand column. What this does is it allows a law, which requires a rule to fit into a category and it must be categorized as it leaves the standing committee of jurisdiction into one or two categories.

One, routine technical rules, which I mentioned before would reduce paperwork. Right now all rulemaking goes through the same process. This would allow the routine technical to go through a less stringent process, but major substantive rules, which is the second category will be subjected to a much more stringent process. It requires that a major substantive rule require the exercise of significant agency discretion and interpretation, because of the subject matter and anticipated impact are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the constitution or other serious burdens on the public or units of local government.

What that does is it allows that after the rule is promulgated it comes back before the standing committee to make sure that the committee understands that the rulemakers have created a rule that doesn't exceed the intent of the law. It is simple. They categorize it. There is an initial interest, both from the departments, stake holders, legislature that this rule does this to the public, therefore, it goes into the routine technical rule category or it goes into the major substantive. If it is major substantive, just before it becomes a rule, it come back before the standing committee and the full legislature to ensure that it does exceed the intent. It is real simple.

We don't want to be a full-time legislature. We just want to make sure that the rulemakers don't exceed the intent. There are two basic philosophies here. One, do we want bureaucrats and government employees making rules that become the force of law or do we want the people's representatives doing it? I highly recommend and encourage the passage of Amendment "A," which is L.D. 1123 and appreciate your support. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I know we have had a long debate on this, but I am still confused about how this works. I wondered if I might pose a couple of questions through the Chair?

The SPEAKER: The Representative may pose her questions.

Representative TREAT: I have two basic questions about this. One, to what extent is the whole legislature involved in the oversight or is it pretty much going to up to be the committee of jurisdiction and secondly, what happens when we are not in session, particularly during the short session where there is almost no time for the legislature to review? Is this going to mean that many rules will be delayed in terms of them being ultimately adopted?

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: Again, the intent was not to make a full-time legislature. There is a time frame where we are not in session. My hope is that the departments and the legislature's standing committees collaborate and cooperate. Right now they have an opportunity to create a rule and pass it at any period within the year. I am hoping that at least those that can be scheduled can come back before the legislature and the standing committee in a snapshot format. Just to make sure that each rule as it has been promulgated is explained to that committee and to ensure it doesn't exceed the intent. For those that come before us, either federally mandated or emergency, there is a mechanism in the legislation which will allow that to happen. It is clearly not the intent of this legislation to make a full-time legislature, therefore, there are provisions as it has been drafted, to allow those rules to become adopted.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize before I even start, because this is something I rarely do. I would like to read you something out of the law book, as an example of what happens now and why we are concerned and why we would like to go ahead and support this report, it is entitled Unavoidable malfunctions.

"The commissioner may exempt from civil penalty an air emission or wastewater discharge in excess of licensed limitations if the emission or discharge occurs during a start-up or shutdown or results exclusively from an unavoidable malfunction. From an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission." This doesn't say that they are free to come and go and do whatever they want to, when they want to. It says that there are unforeseeable circumstances that we may not be prepared for.

I will give you an example of one that occurred and what the result was. There was a company here in Maine whose air emission equipment was rendered inoperable through a lightning strike. That seems to me to be an unavoidable consequence. The DEP ruled or denied their request for exclusion because they said the DEP ruled that the people who ran this facility should have been able to anticipate this. That to me does not make any sense. Yes, I can anticipate we are going to have thunderstorms and we are going to have lightning and that there are facilities, homes and trees that are ultimately going

to be hit. To me, it is absolutely impossible to predict where that is going to be and do what we need to do to avoid that. This is the kind of situation that we are hoping to avoid by passing this rule.

We are expecting people to live within the confines of the rules and the rules are great. I don't think there is anybody in this House that would disagree that this isn't a better state than it was 25 years ago and there are places to go. I ask you to support the pending motion, because we want the people to live within the confines of the intent of the laws that we pass here. The laws that we pass are very appropriate. We are the elected people and we are the ones that have the responsibility and we are the ones that ultimately are held responsible, as well we should be, at the ballot box. I ask you to support the pending motion, so that we can merely direct the folks that work for us, I don't mean the Legislature, I mean for us the citizens of Maine, to do the things that we in the Legislature direct them to do and no more than that. Thank you very much.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I am still confused about how this works and I guess I will just share a couple of concerns. I am sympathetic with the reasons for this piece of legislation. I understand where people are coming from and their concerns about agency rulemaking, which may not reflect what we thought we were doing when we were enacting legislation. My concerns are two for one. It is going to dictate to an agency what their work schedule is. They are going to cram all their rulemaking activity into the same time period during which the Legislature is meeting. I think that is going to be very disruptive in terms of their trying to do things efficiently. I see it being very disruptive to this Legislature who, as we all know, is already well past the deadline now for doing the work that we have.

Now every single committee is going to have to review literally hundreds of rules. For example, in the case of DHS rules, it is voluminous types of rules which would have to be reviewed by those committees. I just don't understand how the committees are going to have the capacity, even in terms of a time schedule, to do that. My second concern is I do find it unclear in the bill and again, I apologize, there is just such a volume of paper on my desk, I have had a hard time understanding every word of everything, but I am unclear about to what extent the decisions that are being made are being made by the committees of jurisdiction and to what extent the legislature as a whole is involved.

My concerns stem from the fact that, I believe, as we have been seeing over the last couple of months committee reports, like 12 to 1 or 11 to 2 are being routinely overturned by the body as a whole. To the extent that these decisions are being left in the hands of a standing committee to make up their mind about whether this rule is good or not. I have a few concerns about that. In that if the rest of us have no idea that they are doing that, we might have a completely different point of view. Again, maybe this is all very clear in the bill and in the amendment, but my reading of it, I really didn't understand how it worked. Those are two inner-related concerns.

The more you involve the legislature as a whole, the more you are going to force us into meeting on more of a full-time schedule. I feel like this year has been basically full-time. I have been here almost five days a week since the beginning of the session because of the workload of the committee that I serve on. I just don't see how we can escape that. On the other hand, if we take it away from the legislature as a whole, I see us giving a great deal of authority to these joint standing committees which we apparently have been disagreeing with quite a bit. Even when they come out with very strong Majority Reports on various issues.

I would just express those concerns. Understanding that I think the intent of this, I understand where it's coming from, but I do think there will be unintended consequences from this legislation that we should be very concerned about. I think that even people supporting it would be concerned about those consequences.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: If I might, I would like to try to address that concern. As many of you know who have been here in the past session, the 116th, we had two bills addressing this issue. One offered by Representative Martin, which was a constitutional amendment and another by a significant number of other Representatives. The problem that we had was one of constitutionality. The concern as we drafted this was that the legislature designate a committee instead of the full legislature. In terms of the constitutionality it was very important in the language to allow that it come back before the full legislature.

Also, I share the concern of the good Representative Treat that it must not become a full-time legislature. It is a function of communication and collaboration. If we can communicate to those promulgating the rules that we want them to adhere to the intent of the law going out, before it goes to rulemaking, then they will come back with a rule, which has not exceeded the intent. The function of categorizing them as it goes through the existing process of public hearings and work sessions is a simple one.

One more question, what category does it go in? Bang, it goes into that category. If it is major and substantive, it then comes back before the legislature. The function of coming back before the full legislature was one of constitutionality. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: A good example of the rules going beyond the intent of the legislature is Car Test. Look back at what happened and then we ended up taking the heat for it. This is a good example. They should have come to us and we should have been able to control it. This way the elected portion of government should be the part that is responsible to the people. If they don't like what we have done, the rules, then they can get rid of us. That is the way that it should be. The other way, they can't get rid of the people that make the rules because they are not elected and they stay here ad infinitum. What I would ask you to do is accept the Majority

"Ought to Pass" as amended by Committee Amendment "A." Thank you.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would like to speak for a moment to the issue of a full-time legislature and the kind of time involved here. I would just like to tell you that the mechanism that is in front of you was based on the West Virginia law. West Virginia deals with about 100 rules a year. They have legislative review. They have a staff of five people. Three or four of which are attorneys. Maine does about 400 or 500 rules a year. Five times that amount. There is a serious concern about the staff time. There is a serious concern about the amount of legislative time needed for review of rules. I happen to have a handfull of rules in front of me.

I am just going to ask you to think for a moment this year when you had a large bill say 25 pages in front of you. The kind of time and effort necessary to go through that whole bill and make sure you understood what it did and why it did it. How many times have you agreed to amendments that had not been carefully read all the way through? You took someone else's word for it. You didn't spend a lot of time on it.

I have just one rule right here. It is a 19-page rule on cogeneration and small power production filled with definitions, descriptions, criteria for quantifying small power production facilities, criteria for quantifying cogeneration facilities, efficiency standards for bottoming cycle facilities, availability of electric utilities system cost data, avoided energy costs, capacity energy costs, load forecasts, energy resource plans, projected costs, avoided costs, sensitivity analysis, arrangements between electric utilities and qualifying facilities. This is an incredibly complex rule. I would hope that any legislative committee that was reviewing this rule would make sure that they had gone through the entire thing and understood what they were passing into law. That is what the report in front of you asks, that when these come in front of you, you will pass them into law.

Any changes would have to be done statutorily. We are talking about 400 to 500 a year. I understand that the measure in front of you only brings the major substantive rules, kind of a tossup as to how that is decided, but I would guess a 20-page rule would be major substantive. I may be wrong. I have a handful of other rules here. This is just a random sample of rules. Before we would pass those into law, we have got to go through them and make sure that we understand everything that is there. It is a major, major new source of responsibility. Report "A" requires you to do all of the major substantive rules. The report that is not in front of you allows you to flag the rules that are likely to be a problem. Pulling out the ones that are likely to be a problem.

I do not believe that anyone who has made a guess about the number of rules that are likely to be a problem has guessed there are more than 2 to 3 percent of the rules. Both reports recognize that there is a problem. Both reports attempt to do something about the problem. I have a very serious concern about passing a rule into law that we do not know and have not taken the time to thoroughly go through that. In fact, I believe, that one of the

unanswered questions that I raised when we were looking at this proposal which has to do with the legal impact of whether or not the legislature passes a rule into law. No one ever answered that question. They simply deleted the part that referred to judicial review. That is an unanswered question and I don't know how that is affected.

There was reference made by Representative Cameron regarding a rule that came from the PUC. Today if there is a rule that this Legislature does not like, there is a process for legislative review and a process for putting in legislation to change that. That exists today. Interestingly enough the question was raised while we were looking at this and talking about rulemaking and someone said I wonder how many people put in bills today to correct a rulemaking issue? A person in the back of the room popped up and said, "We have 11 bills in to fix problems with rules that were bad." While the person was standing, I asked, "Did you call into play the current process for the Legislature to review a rule?" No, he didn't even know about it. I was talking on the side with Representative Saxl and said, "That is the point, people don't even know how to use today's process." Instead of going through the most intensive and expensive mechanism, which is trying to pass a law, they could have asked for the legislature, the committee of jurisdiction to review that rule under the today's process.

When I turned to Representative Saxl I said, "Can you believe it?" She said, "They know how to put in a bill, but they don't know how to call into play the legislative process." It simply is not known. It is very well spelled out and, in fact, it was called into play this year with the Human Resources Committee. It is a process whereby one individual who is adversely affected by a rule can ask for review of that rule by the legislature. One person need only request it and the committee decides if they are going to review it. In this case the committee, Human Resources, did review a rule. It is a very simple process. It doesn't require passing a number of rules into law. It doesn't require that heavy handed approach. We don't need to do that.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to support the Majority "Ought to Pass" Report on this bill. Let me very briefly explain why. It seems to me that this is a simple solution to a problem that Representative Daggett has admitted is real. It is not complex. We are not asking the Legislature to remake rules. We are asking the Legislature to simply see that the rules conform to the intent of the legislation and does not exceed it. We don't want them to remake the law. We don't want them to remake the rule. We just want to see if this conforms to the intent of the law we passed or does it exceed the intent of the law we passed. We want the rules made by our rulemakers to be the iron tent, not be something else. It is a simple solution. It is not a problem.

I would finish by asking one other question. It seems interesting to me that a state the size of West Virginia can get by on one-fifth the rules of the State of Maine. Maybe this is a small step toward rectifying that problem. I urge you to support the pending motion. Thank you.

The Chair ordered a division on the motion to accept the Majority "Ought to Pass" as amended Report.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: I just want to wind up by saying that this proposed amendment may sound simple and may explain simply, but, in fact, it is not. The first place we will have difficulty is when we are deciding whether it is going to be substantive or not, that will take us long to argue. Think about how long we have been discussing this already.

The second place that we are going to find difficult is that it is going to require hours and hours of OPLA time. Then we are going to have to understand, in fact, what it is that that rule says, because after all you wouldn't want to vote on a rule that you didn't understand. You are going to have to do that with every major substantive rule that comes before you. Then it will come to the floor and the floor will have to understand what it says and well, you know what kind of floor debate and how long the floor debates are. You know how many people are absent from this because it is tedious and dull. Wait until you get to the substantive nature of the rule.

I urge you not to vote for this because I believe that the other amendment would take care of a rule that is a problem and you won't have to look at exact quantities of material that you may not be interested in. Mr. Speaker, I ask for a roll call.

Representative SAXL of Bangor 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.

Representative DAGGETT of Augusta moved that the Bill and all accompanying papers be recommitted to the Committee on State and Local Government.

Representative WHITCOMB of Waldo requested a roll call on the motion to recommit the Bill to the Committee on State and Local Government.

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

ROLL CALL NO. 225

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Chartrand, Chase, Chizmar, Cloutier, Daggett, Davidson, Desmond, Dore, Etnier, Gamache, Gates, Green, Heesch, Johnson, Jones, K.; Kilkelly, Kontos, Lemaire, Mitchell JE; O'Gara, O'Neal, Povich, Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tyler, Volenik, Watson, Winn.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clark, Clukey, Cross, Damren, Dexter, DiPietro, Donnelly, Driscoll, Dunn, Farnum, Fisher, Gerry, Gieringer, Gooley, Gould, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jones, S.; Joseph, Joy, Joyce, Keane, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Martin, Marvin, Mayo, McElroy, Meres, Murphy, Nass, Nickerson, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Poirier, Poulin, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tripp, True, Truman, Tufts, Tuttle, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Birney, Fitzpatrick, Greenlaw, Jacques, Joyner, Kerr, LaFountain, McAlevey, Mitchell EH; Morrison, Nadeau, Plowman, Pouliot, Yackobitz, The Speaker.

Yes, 44; No, 92; Absent, 15; Excused, 0.

44 having voted in the affirmative and 92 voted in the negative, with being absent, the motion to recommit did not prevail.

The SPEAKER: A roll call having been previously ordered. The pending question before the House is to accept the Majority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

A roll call having previously been ordered on the motion to accept the Majority "Ought to Pass" as amended Report was now taken.

ROLL CALL NO. 226

YEA - Aikman, Ault, Bailey, Barth, Bigl, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clark, Clukey, Cross, Damren, Davidson, Dexter, DiPietro, Donnelly, Driscoll, Dunn, Farnum, Fisher, Gates, Gerry, Gieringer, Gooley, Gould, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jones, S.; Joseph, Joy, Joyce, Keane, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McElroy, Meres, Morrison, Murphy, Nass, Nickerson, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Thompson, Tripp, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Brennan, Chartrand, Chase, Chizmar, Cloutier, Daggett, Desmond, Dore, Etnier, Gamache, Green, Heeschen, Johnson, Jones, K.; Kilkelly, Kontos, Lemaire, Luther, Martin, Mitchell JE; O'Gara, O'Neal, Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Vollenik, Watson, Winn.

ABSENT - Birney, Fitzpatrick, Greenlaw, Jacques, Joyner, LaFountain, McAlevey, Mitchell EH; Nadeau, Pouliot, Yackobitz, The Speaker.

Yes, 100; No, 39; Absent, 12; Excused, 0.

100 having voted in the affirmative and 39 voted in the negative, with 12 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-584) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-584) and sent up for concurrence.

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

On motion of Representative HICHBORN of Lagrange the House recessed until 2:00 p.m.

(After Recess)

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

ENACTORS

Emergency Mandate

Resolve, Establishing a Moratorium on Implementation of the Law Requiring Public Employers to Pay the Costs of Early Retirement Incentives (S.P. 563) (L.D. 1531) (C. "A" S-297)

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. 101 voted in favor of the same and 0 against, and accordingly the Mandate was finally passed, signed by the Speaker and sent to the Senate.

An Act to Revise the Somerset County Budget Committee (H.P. 822) (L.D. 1153) (S. "A" S-300)

An Act to Widen the Maine Turnpike (S.P. 489) (L.D. 1323) (C. "A" S-282)

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations (S.P. 365) (L.D. 991) (S. "A" S-301 to C. "A" S-116)

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.

COMMUNICATIONS

The following Communication: (H.C. 228)

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

June 23, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature

State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":
L.D. 1394

An Act to Extend the Life of Existing School Buildings

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mary E. Small S/Rep. John L. Martin
Senate Chair House Chair
Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act Regarding Timothy Harkins and Maine State Retirement System Benefits" (H.P. 1140) (L.D. 1583) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representatives: MAYO of Bath, WATERHOUSE of Bridgton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on Labor suggested and ordered printed.

On motion of Representative HATCH of Skowhegan, tabled pending reference and specially assigned for Monday, June 26, 1995.

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 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) TABLED - June 21, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Engrossed.

Representative GOULD of Greenville moved that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: The other day we discussed this bill at great lengths and I think a great many messages had been sent to many different people. The point that I wish to make is that when we send messages, those messages go to people that sometimes we don't intend them to get to.

What do I mean by that? One of the major problems we have, if we do not have our 15-percent plan is the fact that it will cost industry in this state a great deal of money. Why will it do that? It means that we have the opportunity to lose up to 35 to 70 million dollars per year in highway funds. It also means that businesses may be required to have two-to-one offsets. That means for every one ton that you wish to put in the air of pollutants, you have to take two tons out. What this means, very simply, is that business would not be able to expand or new business would not be able to come in.

Now there are some people who say the government is not going to do this. They may be absolutely correct. I have no idea what the federal government is going to do and what the federal government isn't going to do. I know, by law, the federal government has to sanction us. I know that there are people out there that would sue in court to get the federal government to sanction. Forget all of that.

There is a large forest products paper company in this state that does business in every section of the United States. This particular business, why don't I name it, because they are not ready to announce this yet, but they did give me permission to talk about it in general terms. This business wants to spend a great deal of money, a lot of capital, in this state. It is a great deal of money. I am not at liberty to tell you how much. I talked to one of the people from the south, Arkansas, the day before yesterday about the effect this would have on their decision to invest their capital in Maine. He said, "Without a shadow of a doubt, they would have to reconsider."

Capital likes stability. It is just as simple as that. None of us in this room is going to invest our capital and our funds in an area or in stocks or whatever it may be if there is instability in that stock or in that area. They would reconsider. Some people say they would do it later on if they didn't do it now. The paper industry or the forest products industry is typical. Right now they have money to invest. They are making their plans to invest it. If they do not invest it in this state, they are going to invest it somewhere else and that money is gone forever, because the paper industry when they invest, they invest for the long-term. If they do not invest now or get the project ready now, they are going to go somewhere else.

The thing that you need to remember, that all of us need to remember, is that capital is just like water, it is frozen. If you put a dam in its way, you divert it and it goes somewhere else. Can I tell you that this industry, by the way, they are not the only one, I talked to several others that are willing to spend. By the way, it isn't just the paper companies. It is all businesses that need air licenses. Will these companies not invest in this area? I don't know. I can't tell you this, but I can tell you that I doubt very seriously that they would invest. I will leave you with this thought.

This is a personal thought and one that did affect me. Just before the recession hit, a couple three years ago, I landed a pretty good piece of wood to cut. In fact, I am still cutting on it. I wanted to buy a new skidder. Everybody kept saying on the news that we may be going into a recession. The more I heard that, the more I began to believe it. After a while I said, I guess I won't take the chance and invest, because of the uncertainty of whether we are going into recession or not. This is a little guy thinking of spending \$30,000 on a piece of equipment, but I didn't do it and I still haven't done it. This is a message that I think we should understand where it is going and how it is getting there. Thank you.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the motion to indefinitely postpone this bill and all its accompanying papers. I will try to explain why. I don't like reformulated gas any more than anybody else in this room. I know that in order for us to be opted out of the Ozone Transport Region, we have to have a plan in place in order to be able to do that.

The legislature voted overwhelmingly to do away with Car Test and that left one other choice, which was reformulated fuel to comply with the 15-percent plan. I know that the chief executive of this state

has written a letter requesting us to be opted out of the Ozone Transport Region. That letter has been sent. We will not be considered until we have submitted a plan to show that we have a plan to comply with the 15-percent reduction.

I have also had an opportunity over the last few years to work with Georgia Pacific. That is a major employer in Washington County and provides a lot of jobs, not only to Washington County, but all over the state. Over the years, they have been struggling and losing millions and millions every year. They put a new mill manager in there two years ago that has turned that operation around so that it is a profitable operation, barely. He is, right now, struggling to convince the corporate headquarters to invest in this area to update this mill in Woodland, so that it is a viable operation for the long-term. We are looking at, down the road, in putting in a new paper machine in that mill. That would increase the number of jobs in that area by 300 or 400. Washington County has a unemployment rate that fluctuates between 15 and 18 percent all of the time. We need the development in Washington County.

I feel that if we don't indefinitely postpone this bill and we take that tool away from the Governor of this state to be able to use that in his plan to achieve the 15 percent, in order to be able to opt out, we are going to be stuck with the sanctions from the EPA. I am convinced that we are going to have those sanctions. I feel that the paper industry is the main economy of the state and if we don't do something to go after those expansion funds, we are going to be really hurting the entire state.

I urge you to support the motion to indefinitely postpone and allow the Governor to proceed with the plan, so we can opt out of the Ozone Transport Region. Thank you.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Tufts.

Representative TUFTS: Mr. Speaker, Ladies and Gentlemen of the House: If Maine goes, so goes the nation, the saying used to be. You demonstrated your courage in the Maine spirit in your previous vote here a couple of days ago. This is the one I faxed to all the papers that service Maine, inside and outside the state. Our actions even made the USA Today, for whatever that is worth. People around the country are probably saying that those Mainers have the courage to stand up to the feds and all their regulations. I hope this feeling is catching. That common sense rules can start to trickle down to us from Washington.

Sometimes when someone starts to threaten me that if you don't do this and you don't do that, I get a little defensive. My general reply is get lost. A few months ago, we were all fired up to get rid of the air emission test, because we didn't like the way they were being done. Today, we have had time to reconsider our actions and prepare them for the sale of RFG. Perhaps we were a little too hasty in our previous actions. We should have cleaned up their act and perhaps it would have been done more efficiently. As I stated a few days ago, we should have let Maine businesses do it, so it was done right. Air emission testing wasn't putting anyone's health at risk the way RFG is. So, in retrospect, it was the lesser of two evils.

Is there a better way to reformulate gas so it doesn't stink? Yes. Does anyone in authority want

to explore that? Apparently not. Could we sue the EPA for mandating that we put poisonous substances in good Maine air? Yes. Are some states doing this? Yes. Do we have the courage to do it? Apparently not. Is it possible to compromise on this issue to protect our citizens health? Yes. Has anyone been thinking about it? Yes. Have they done anything about it? No. Voting to indefinitely postpone an issue is the easy way out and fails to meet the issue head on. It is an all win situation for the thousands of Maine people who are being subjected to this totally unnecessary health hazard.

It is certainly distressing to see the halls outside filled with people promoting the continual use of bad gas. One has to question their motives. Some are saying when they expand their businesses, they will have to pay all the extra costs and meet stricter air emission standards. Do we have businesses in Maine who want to expand? Wonderful, I can hardly wait for the announcement, as we can certainly use the extra jobs and the tax revenues that will be generated from those. I know the Representatives from those areas have been urged to work against this bill and I respect their wishes. Others are worried we won't get the money promised them, as they will have sanctions placed against them. I hardly doubt that with the present attitude in Washington, but as I say, we can cross that bridge when we come to it.

There are others, as we well know, that are concerned about only one thing, M-O-N-E-Y. The reality of this bill is that it addresses a major health issue in this state. It exists now and in all likelihood will for many years into the future if we don't do something soon and even then, it may be too late for some. Another reality is politics has raised its ugly head and that makes it a sad day for Maine people. People first, should be our motto. Some questioned our vote the other day. Why, we were simply voting what is best for Maine people's health. Is there something wrong with that? Is it too hard to comprehend? Let's do it again today and see if they understand it a second time.

The Department of Health and Human Services Agency for toxic substances has prepared a toxicological profile on MTPE and the effect it has had on test animals. They tested its effect on the nervous system, reproductive system, cancer causing properties, respiratory systems and many others. That was on that blue handout that you have on your desk. They stated that there is no test data available on its effects in humans. At the present time, neither OSHA nor the EPA have established exposure criteria for MTPE.

Is the EPA mandating that we use RFG in Maine? How does it feel to be a guinea pig? You know how it usually gets into your water supply? Do you know how to get it out? You aerate it. Can you imagine how much fun it is going to be to aerate an aquifer? Think how much fun it is going to be to aerate our lakes in the seven counties where all of these outboard motors start up shortly. Anyone here whose water comes from those lakes, good luck. According to the Exxon safety data sheet if a person ingests MTPE, do not induce vomiting and call a physician immediately. Does anyone still think we should keep RFG?

All my bill does is it asks them to test it on someone other than us and see what the effects are and will be in the future. Remember how wonderful

asbestos was and later they found it gets in your lungs and causes severe respiratory problems and eventually death. Remember the old adage, an ounce of prevention is worth a pound of cure. I hope your vote today will reflect that truth.

I hope you had an opportunity to look at the handouts before you filed them. I sent one out earlier with MTPE on the top with a gas pump. I call your attention to the American Medical Association and as they recognize the risk posed by MTPE, at their annual meeting in June of 1994, the AMA passed a resolution calling for a moratorium on the use of oxygenated fuel. What we know now is that MTPE in gasoline is a serious public health problem. MTPE causes cancer, neurological, respiratory and allergic symptoms. By continuing the use of MTPE, we seem to be trading one evil for another.

There was also another sheet handed out called RFG fact sheet. MTPE is one of the most studied gasoline additives. It has been deemed safe on the basis of more than 50 animal and human health checks. Fifty, boy that is a lot. MTPE gets in the ground water and it says as gasoline contamination is cleared up, so is the MTPE, but it doesn't tell you what expense you have to go through. I request a roll call when the roll is taken.

Representative TUFTS of Stockton Springs 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 Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: It is very unfortunate that this issue has come before us at this time. I know I said the same thing the other night, but I feel the same way about all of these issues. The debates are going on much too long and we have already done this once. I am going to support the indefinite postponement of this bill.

I don't like reformulated gas. I don't believe that southern Maine has a problem. I don't believe that RFG is going to fix the problem, if there is one. I believe that the problems are coming from the western states or midwestern states or the states west of us. But, nonetheless, ladies and gentlemen, we have dumped the other options. We are left with this one. We are short of jobs in this state. I know that you have heard before that this is a smoke screen, a scare tactic. I believe the scare tactics of what you have seen in these handouts this afternoon are that we are all going to die of reformulated gas. We all know that is not true. I don't dispute that there is an odor. Nobody has proved to me that there is a health threat.

There are two things that I am really, really concerned about. It is easy to stand here and thumb our nose at the federal government and it even feels good. I think most of us agree that the federal government is too powerful and we should take back some of that control. Maine alone can't do it. I would absolutely support it if we had 30 or 40 states

doing this together. Maine alone can't do it. If they impose the sanction, which I believe they will for their own credibility and if they don't, wonderful, we can fix it.

The 70 million you hear about in highway funds, I'm not sure if you realize, because I didn't realize until the last couple of days, is per year it is 140 million dollars out of our highway fund. Our infrastructure is deteriorating ladies and gentlemen. We all know we have a serious problem with the infrastructure in this state and that is directly related to job creation. We also have the potential of the two-to-one match. I can't remember the correct term, but, anyway, the two-to-one match for any expansion of business or any business or any business that is going to come into this state. What that simply means is for every ton of emissions, whether you are an expanding business or a new business, every ton of emissions you have to find two tons to go away. It is a great idea. The low hanging fruit on emissions control have all been picked.

The rest of the games that we have yet to make and have to make are extremely expensive. That doesn't say we shouldn't do them, but the fact of the matter is, if this kind of control isn't posed at the federal level, the two-to-one match, then it is going to be a real detriment to jobs, not only creation, but job retention. We lost in my view, I won't speak for anybody else, but we lost a business up in the Houlton, Maine area a year ago because of this very kind of situation, that went to Canada. We still have the potential air emissions because they are not far over the border, but we don't have the jobs. Did that gain us anything? I don't think it did.

If we do get rid of reformulated gas, we hear it is unfair because it is not in all the counties, probably if I lived in those counties, I might feel differently. I don't think that some of you that feel that way, would really change that much if it was in all those counties. I really think if you get rid of reformulated gas and you have to make up the difference in the other businesses around the state and we argue that the problem is coming from the west, if you fix the problem in the east, how is that going to solve the problem in the west? The prevailing winds still travel to the east. Fixing the problem in the rest of Maine, that by the way doesn't exist, is detection of the problem existing there. If it is forced to go onto the other companies, the problems still exists down there.

I ask you please to support this indefinite postponement. I know it felt good to vote against this the other night. We all like to thumb our nose at the federal government. Ladies and gentlemen, we are here to make the hard decisions and this is one of those hard decisions. We can stand up and say I made the right decision because it is what the people say they wanted. The decisions that we make that sometimes go against what the people want are the hardest decisions that we make. We have to take into consideration all of the ramifications, not just whether they pat us on the back when we go home and say good job. We will show them. It feels good, but it doesn't solve the problem. I ask you to vote against the pending motion and without the sanctions, let's keep fighting the federal government to solve this issue and prove we are right. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I would also add my feelings. We have been giving lip service to the creation of jobs. We have been trying to build up our businesses in the State of Maine so our people can have more and more work and better jobs. This would be the worse possible thing we could do, to get rid of RFG. I don't like it. I don't like it at all, but it is the only thing that we have left. If we had not gotten rid of Car Test, then we would be in that situation. Right now this is what we have left and I would ask you to vote to indefinitely postpone this bill and all its papers. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I can understand the concern of business and industry in the state with the sanctions being imposed. That is only the case if we really have no other options. I think you have to admit that there are other options. They may be similar in some ways to the test we rejected and that may be a hard pill to swallow, but for me, that would be a lot easier to swallow than MTPE. We could have a much easier testing, one that is decentralized and has well-trained personnel and perhaps has subsidies for repairs and replacement of vehicles that are over polluting and has lower annual fees.

How would we pay for that? I know there will be 10 to 16 million dollars that we would save if we don't have to settle a suit with Car Test. Where will we come up with that money if we do have to settle that? We are not really addressing that issue, which will have a tremendous impact on our budget and we would have that money in our favor if we looked at that step over again. There are times in life when you can admit you made a mistake and reassess the decision rather than being boxed into a corner like we placed ourselves with this reformulated gas. I would encourage you to look at this issue and if the businesses and industries in this state are that concerned about meeting the 15 percent, I would encourage them to work with us to truly develop some other options instead of pushing this one option that seems to have been settled on, but clearly is unpalatable to the great majority of people in the state.

There still are questions about the health issues and I think we have to look at those seriously as in some of the handouts you have seen from the American Medical Association in the 1994 meeting had concerns over this. Yes, gas is a dangerous substance as it is, but, too me, that is all the more reason not to begin tampering with it and mixing other poisons in with it and hoping that the results aren't worse than the singular products on their own. For all these reasons, I would urge you to vote against the current motion and continue to support the bill. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: I rise to join my other colleagues in supporting the indefinite postponement of this bill. At this late date there are no viable alternatives to reformulated gas. The alternatives would include either breaking faith with the people of Maine by reinstating Car Test or by breaking the southern Maine economy by defying the EPA and bringing ruinous economic sanctions down upon us. We would love to

shake our fist at the EPA and we would love this problem to go away, along with the 15-percent plan. Wishing will not make it so.

There are only two alternatives to reformulated gas. One, an inspection and maintenance program and two, an outright defiance of the EPA. Car Test has been largely rejected by the people of the State of Maine, the Governor and this Legislature. Defying the EPA will bring ruinous sanctions, which will halt economic development and cost Maine jobs. To argue that the EPA will fold is simply wishful thinking. The EPA is required by law to impose sanctions. They have no discretion in this manner. If the EPA is slow to enforce sanctions, third-party groups can sue them to force compliance. We cannot avoid sanctions by wishing for timely help from Washington. We have until July 26, to get an approved 15-percent plan to EPA.

Gambling the southern Maine economy on a House Bill, which has yet to be approved by the Senate or signed by the President, is reckless and foolhardy. We cannot avoid sanctions by opting out of the Ozone Transport Region. The EPA must approve such an opt out. They will not do so if we are in open contempt of the requirements to submit a 15-percent plan. The Governor intends to pursue an opt out and predesignation in a phased manner, which will preserve Maine's leverage at the Ozone Transport Commission. Regardless of the time table for requesting opt out, an EPA decision on such a request will take at least 90 days and probably longer due to public hearings and comment requirements.

Finding ourselves in this position, we have little choice but to adopt reformulated gasoline now. I ask you to support the indefinite postponement.

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

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I rise today in support of the pending motion. I will be brief because we have a thick calendar still. When we went around and campaigned we talked jobs, helping business grow in the state and trying to promote business to come to the state. Businesses aren't going to grow having to spend more money on something that is already in place now. I think we really have to think about that. We are not promoting industry. We are not promoting jobs. We are not supporting revenue for this state, if business cannot grow. I urge your support on the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Natural Resources Committee, I would like to sort of explain to you some of the factors that we looked at in making our majority decision, the 15-percent plan. We listened to the testimony during the public hearings on all the issues that dealt with this plan. We were impressed by the number of citizens who came forward to ask us, in a very professional way, to consider the air quality, because of their problems with asthma and other medical problems that require them to take special precautions when the ozone was high. They encouraged us to remember that when we made our decision. That followed throughout the process, because there was a commitment on our part to factor that in our decision.

I am here to explore that with you a little bit, because this is not simply an economic decision. Often times as I was walking through the halls of this House, people would come up to me and say, "Remember RFG, it is an economic decision." I would refer back, it is not only an economic decision, it is a health decision. Low and behold, here I am talking to you about it again, because I have struggled with the exact same things as you are struggling with. I have a daughter who is asthmatic. My parents both died with emphysema. I understand the health issues and as an RN, I understand the problems that you are having to do with toxins.

I guess the question that I had to ask myself and I will ask you to ask yourself is whether or not we are really committed to lowering the ozone in the State of Maine. The 15-percent plan deals specifically with Maine. We are not dealing with out of state. We are required to lower the ozone and improve the air quality in the State of Maine, based on Maine production. I have to admit that RFG does do its share. RFG is a large percentage of the 15 percent that we are required to do. It does meet that test.

Honestly, I have to admit, that the G in RFG is gasoline and gasoline does have a lot of problems. All the problems that I have heard expressed about water quality and toxins exist with gasoline. We are dealing with a problem that is there. Gasoline itself is something we have to be very careful with and I appreciate that. I want you to consider the fact that we are responsible for lowering the VOC and to protect the air quality in the State of Maine and RFG does meet that test. I think that on behalf of my family and the people that came to us and asked us to consider the impact of air quality on their health and their family, I want to encourage you to support the pending motion. Thank you very much.

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

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House: Reformulated gas is not about clean air. Reformulated gas is not about the economy. Reformulated gas is about health issues. MTPE is causing some very serious health problems for many of our Maine people. It has only been here a few months. I have passed out several pieces of informational sheets stating that MTPE is a poison. MTPE causes an increase in concentrations of formaldehyde in the air. Formaldehyde can cause leukemia and lymphoma. It can also cause cancer in the kidney and liver.

I want to tell you people about three of my constituents who happen to be friends. Gary has operated a small engine repair shop for the last 13 years and he has just recently become very ill due to the direct contact with RFG. We had some blood work done for Gary and there were some 20 something people in the state that have had their blood taken because of symptoms that we feel are caused directly by RFG. Gary was one of them. We were fortunate enough to get his report back before the debate. He had a formaldehyde count, which now remember folks a formaldehyde count is about 16, his was 40. That is two and a half times more than what it should be. The cyanide count, which is supposed to be 16, was 240.

I ask you, I am not a physician and I am not a scientist, but why are we asking our Maine people to clean our air with a product that I do not feel has been proven. Why are we asking them to risk their lives? Ladies and gentlemen, I beg you to consider the health of your family, friends and neighbors and vote against this motion. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I realize I have been sitting here for about 40 minutes listening to people debate this topic. All of a sudden it dawned on me with the exception of one person, everyone who has spoken in favor of defeating this bill doesn't have to use that gas. I challenge you to make it statewide and then you will have a true appreciation of what the people are going through who are using it now. Believe me, your telephone will ring off the hook. If you have a lot of courage and you are really sincere about cleaning up the air in Maine and the universe, this air doesn't stop and start in Maine, you will do precisely that. Short of that, I ask you to defeat this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I had two questions I wanted to ask with the hopes that we would have a quick vote on this, but since that is not going to happen, I am going to ask my question? Mr. Speaker, May I pose two questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative CLUKEY: Thank you. We heard in the debate the other day quite a few times that we needed this 15-percent plan so we can opt out of the Ozone Transport Region. I have heard in the hallways the last day or so the same thing. It was reinforced again by the good Representative from Township 27, Representative Bailey.

We all had a memo put on our desk today by the Attorney General's Office to the Commissioner of DEP. It is regarding the relationship between the state's 15-percent plan and opting out of the Ozone Transport Region. In it the Attorney General says, "Based upon my review of the current federal law, I conclude that seeking now to opt out of the Ozone Transport Region would have no effect on the requirement that Maine submit a complete 15-percent plan prior to July 27th." In the next paragraph he says, "The requirement that Maine submit a 15-percent plan is legally unrelated to whether Maine is in the Ozone Transport Region." This seems to indicate to me that there is no correlation between the two. That is my first question, could somebody explain that?

The next one is we heard Representative Cameron talk about the situation in Houlton. Back when we had the Car Test programs that were supposed to free up credits so that we could build industry in the State of Maine, but in spite of that, even though the credits were freed up by the Car Test program, Louisiana Pacific in the Houlton area was given so much of a hassle over getting these credits that they eventually went someplace else. How do those of us in northern Maine know that the same thing is not going to happen to us in this program? Thank you.

The SPEAKER: The Representative from Houlton, Representative Clukey has posed a question through

the Chair to anyone who may care to respond. The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: As far as the 15-percent plan goes, in order for us to opt out some of the areas that we have in this state out of the Ozone Transport area, we have to have a 15-percent plan or else the EPA isn't going to consider it. By July 26, we must have this 15-percent plan in place. When we get that in place, this will put us in a much more secure position of getting the EPA to allow us to opt out.

The second question that I believe he raised, had to do with credits and Louisiana Pacific up in the county. This was really a very fouled up situation, because it talks about credits that were not available. There were no credits and it was just as simple as that. There are not credits today. It is just as simple as that. It won't be until we get our 15-percent plan and get all of our other things together that we will have any credits. We have not even decided how those credits are going to be used. Unfortunately that whole fiasco never should have taken place. We shouldn't have lost the expansion in Louisiana Pacific. We want to make extremely certain that we don't make any more mistakes and lose anymore expansions.

A couple of other things that I would like to address while I am on my feet. Don't you love it how we always get up and answer questions and then when we get here we always say that there are a couple of other things I would like to address. There are a couple of other things and I will take this opportunity to address them. The Representative from Scarborough talked about the gentleman with a high count of formaldehyde. There are a few things that I think we need to understand and point out about this.

First of all, if you really truthfully want to be scientific, you would have had to have tested his blood before reformulated gas came in, if it is supposed to be reformulated gas that caused it. Secondly, formaldehyde is very common in our system and in our atmosphere. You know that if you are a smoker, you are exposed to high levels of formaldehyde. If you are around secondhand smoke, you are exposed to high levels of formaldehyde. Did you know that there are high levels of formaldehyde in indoor air, especially if you use pressed board? Did you know that? Did you know that if you are a mechanic working around diesels, that diesels put out a heck of a lot more formaldehyde than reformulated gasoline? Diesels are much higher in formaldehyde. I happen to be a mechanic and I happen to be a skidder operator who breaths that. Maybe I ought to get my blood checked and I might be surprised as to what is there.

Finally, do you know that regular gasoline is high in formaldehyde? Regular gasoline is high in formaldehyde. Do you want to ban regular gasoline because it is high in formaldehyde? Do you know that formaldehyde can't be breathed through reformulated gas? It is only through combustion and even then when it is through combustion, it is about a 1-percent increase. Did you know that regular gasoline has 30 percent more toxins in it? Toxins like benzene, which is known to cause cancer, it has 30 percent less of that. Finally, do you know that any kind of gasoline that we use is not good for your health?

You received a hand out, the blue sheet saying no studies have been done. If you get Inhalant Toxicology, volume 6, number 6, 1994, you will find and please forgive because I can't pronounce these too well, sensory, symptomatic, inflammatory, ocular responses to and the metabolism of muscle territory fossil ether in a controlled human exposure. They did inhalant studies on volunteers. They checked them out to see what effect it had. These were volunteers so there have been studies done. Thank you.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Poulin.

Representative POULIN: Mr. Speaker, Ladies and Gentlemen of the House: I am a member of the Natural Resources Committee who has a district that uses reformulated gas. I don't particularly like that fact, but I do think at this juncture, it is really the only way we can live with the Clean Air Act. I feel the Governor, DEP and Natural Resources Committee have provided the best solution possible for dealing with the federal law that is not going away. It may change. It may not, but the point is where we stand right now leaves us the most leeway to make changes, if the feds do amend the law. If we pass this bill, we will be playing Russian roulette with the EPA. If Maine loses, you can guarantee we are going to hurt our economic growth.

If this piece of legislation passes, there is funding for an intermodal system in Shawmut, Maine that is in jeopardy. A lot of small and large businesses have already invested and are counting on this intermodal system. For the sake of the Maine economy, we shouldn't be playing with this issue. New Hampshire and Massachusetts both have RFG and comply with the Clean Air Act and I am sure they will welcome new business that could come to Maine. Please support this indefinite postponement. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: It makes me wonder that we are hearing the same arguments here about the federal sanctions that made us pass Car Test in the first place. We should have just kept the Car Test, because the same federal sanctions are being used again, which is why we voted for Car Test in the first place. I think there is no question that this is strictly an economic issue and we will all know how bad it is health wise in two or three years. I certainly am not willing to make everybody in the state use this. I think it is a bad idea to make anybody in the state use this. If just regular gasoline is so bad, then what we should be doing is making everybody who pumps gas use the vapor barrier to protect their own health. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I can't resist saying that back on the 20th of June we made ourselves scientists so I guess it was expected that we would have some of the scientific debate that we have today. I couldn't even understand some of the terms that the good Representative from Greenville was quoting. I think that is the issue that we get at. Maybe we are or maybe we aren't scientists able to deal with this, but there are a lot of other issues involved in then simply those of pure or applied science.

There are questions of economics. Do we trade off economic growth at the same time at the expense of potential physical illness? There are also our basic constitutional issues that are involved here. Is the application of the constitution now so distorted that a true federalism is invalidated? Our government should be a partnership between the states and the federal government, not extortionism.

For me it just kind of boils down to one basic issue. I think the good Representative from Stockton Springs as surfaced at the beginning of this debate however many minutes or hours earlier it began, I think in the final analysis, this vote seriously is a test of Maine's character. There comes a time to make a stand, folks. It is the motto on our flag. The flag behind the good Speaker mean anything anymore? Dirigo, we lead. Can the State of Maine be on the move if she sacrifices her soul under political and economic pressure from Washington?

I put those questions out. I think I know the answer and I think the vote should be determined by what your answer is to those questions. Again, I am not going to tell you how to vote. You will all make that decision. You all have that ability and I think you know how to vote on this.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Benedikt.

Representative BENEDIKT: Mr. Speaker, Ladies and Gentlemen of the House: I do want to put in my two cents. I don't think we should opt out of the Ozone Transport Region and I don't think we ought to lower our health standards. I am not convinced that RFG is the answer to our emission requirements and I think we need more time to evaluate the product otherwise we may not be doing anything to protect people. We have had a study group make recommendations and what did they recommend? They recommended a modified car-testing program. I support their efforts and I recommend an about face and reinstalling that program and saving 20 million dollars in penalties to boot. Please oppose the indefinite postponement.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I think it is fair to say that both sides are playing fast and loose with the facts around here. That perhaps is an indication of the nature of our body and that isn't necessarily a statement of condoning of either side. I think one of the questions presented by the good Representative from Houlton sort of outlines the impossible task given the committee that has wrestled with this subject for months.

In fact, the Attorney General does say that there is no correlation between the opt out effort and whether or not the 15-percent plan is submitted or approved by the EPA. Yet, that is one of the threats that practically trips you up as you wander down the hall, particularly since the vote of the other day. It is also interesting that some of the people who have been encouraged to speak and have spoken and represent mill towns throughout the state are in areas of the state that are not impacted, should 15 percent sanctions be imposed. There is absolutely nothing in federal law that permits the EPA to do that. Perhaps they should try or would try. There is a lot of speculation. It seems to me that as this debate continues, we hear a lot of people being threatened a lot of different ways.

Obviously there isn't a member of this body that doesn't want to provide the greatest economic opportunity for the constituents that we represent and everyone else for that matter. This subject is one that is not of fact. This one, although the good Representative from Norridgewock certainly discussed and is concerned as we all are about the health impact, there is absolutely no information that you would be able to prove after or can now because of use of this product, has an impact. It is only theory.

The last few days, particularly since the vote was taken in this body, the regional administrator of the EPA has sort of weighed in on the subject by threatening highway funds. I am not sure of the correlation between the ability of the EPA to cut off highway funds. Perhaps the law provides some of that provision. The understanding is that not all highway funds can be impacted. The administrator of the EPA, certainly this office has proven on subject matters close to this legislator, to be far less than a biased source. In fact, it could only fairly be characterized as an extreme advocate of sometimes some very radical environmental positions.

One has to question whether participation in this debate is based on some deep personal conviction or based on interpretation of the law or could, in fact, even be defended. Yes, the threat of sanctions is real, perhaps in part of Maine. It seems to me that we are being asked to reward brinkmanship. This state had a requirement to submit a plan two years ago. Now, here we are being told in less than a month that the plan is not complete and now complete only with RFG, that the smoke stacks will be stuffed all over the state and we will be forced out of business and therefore, we have no choice but to participate in somebody's scheme for RFG.

It is unfortunate that we have been put in this position and this is one legislator that does not intend to participate. I certainly understand, based on all the people who will no longer speak to me in the hall, the kind of intense pressure that many of you feel to vote one way on this subject. We all make our choices. Thank you.

At this point, the Speaker appointed Representative MITCHELL of Vassalboro 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 Livermore Falls, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House: I am a member of the Natural Resources Committee and I am on the Majority Report. I would say that in my town we have reformulated gas. I have it in my pickup out in the driveway. I have heard some complaints. I have heard more complaints that we didn't stick with Car Test. I don't see support for that plan in this House. People are talking here that aren't effected by RFG, well who isn't going to be effected by 70 million dollars of highway money a year.

The important issue to me is the ozone. The ozone that is created in the west and the ozone that is created here in Maine. We had a doctor from Harvard Medical School come and talk to us about the effects of ozone. We mentioned the other day, Monday, we had some ozone in this state, but it didn't exceed the standards. Dr. Spengler testified that there was increased emergency room admissions, due to asthma at the .08 state standard, not the federal standard of .12. I have asthma myself. I have an inhaler and I used it this morning. I used it Monday a couple of times. That is the issue to me, to reduce the ozone.

The ozone that we produce from here doesn't just go to the ocean. We look at a map and we see Maine, there is New Brunswick. When it is .08 here, they start issuing warnings in New Brunswick. That is why I am supporting RFG. I hope there is something better. I would rather stick with a form of Car Test, but I don't see that coming out of this body at all.

MTPE is not a new substance. It has been in the gas since the 70's. I think they used to use it as an octane booster and I have seen guys put octane boosters into their snowmobiles years ago. I think for the economic benefit of our state, I think we have to stick with it. I think we have heard everything else. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belgrade, Representative Damren.

Representative DAMREN: Madam Speaker, Ladies and Gentlemen of the House: Perhaps I read the little note I got from the Attorney General a little differently than you did. The question that was raised in the context of determining whether, by seeking to opt the state out of the OTR, Maine could avoid the use of the reformulated gasoline with one of the components of the Governor's plan. It is very clear here that the two are not related. It does not release us from the fact that we have to file a plan and that we will be sanctioned after July. Things weren't very clear when it was spoken about and I thought that might clear it up.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Stockton Springs, Representative Tufts.

Representative TUFTS: Madam Speaker, Ladies and Gentlemen of the House: We have two choices in this health issue here today. Either we do it or the people do it. Either we are going to be leaders or followers. We were elected to be leaders. As you know, many of the southern counties right now are circulating petitions to put this to referendum. I don't think we need all this added expense in the state right now. Please let your conscience be your guide. Thank you.

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

Representative GERRY: Madam Speaker, Men and Women of the House: It is hard for me to get up and speak today. My heart is heavy. How can the people of the State of Maine trust us on a vote that we took a couple days ago and now if we change our minds? In just a couple of days, the facts have not changed. Nothing has changed from two days ago and today, except for maybe the pressure that we have put on to reconsider our decision. I don't want to tell the federal government to go to heck.

I want to stand firm on the decision to get rid of reformulated gas, Car Test and maybe get the federal government to take notice of us. If we hold firm,

other states will join with us. Some states might need somebody to show the lead. Maine was quoted a long time ago as saying, "As Maine goes, so goes the nation." Other states are looking toward us and what we do today. If we hold firm to what we decide on, which is to get rid of reformulated gas and force the question of looking into the other alternatives.

Like I said, all this work is assumptions. They don't know if the reformulated gas is going to help the environment. There have not been enough tests on it. I don't want to lose business for Maine, but given the option of losing business in Maine over the health of people of Maine, I would rather take the health of the people of Maine and the nation, than the prospects of jobs. What the heck is the sense of creating more jobs, if more people are going to get sick. I know if we don't do something to correct the health of the state our health insurance is going to go up and there is going to be more need for hospitalization. What we need to do is not so much fighting, but try to find the solutions.

All the research we have is just theory. I know it needs to have time to work, but I don't believe it is time now. I think more research should be done before we are made to implement something. I think we should unite together and try to seek another solution for this. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Madam Speaker, Ladies and Gentlemen of the House: I am a member of the Natural Resources Committee too. We looked at this issue in depth for several months. I could talk until midnight on this issue, but I won't. I just want to back up. The federal government, congress, in 1990 passed amendments to the Clean Air Act. Part of the amendment included sanctions for states that did not want. We are in with 12 states with what is called an Ozone Transport Region.

We have problems with ozone that is a direct threat to the public health of those parts of the region that are in that Ozone Transport Region, which includes the counties that are in nonattainment. The federal government and EPA said let's be serious about this. States that do not want to take their public's health seriously will be sanctioned and we will send a strong message that we are about the public health and we know that the causes of ozone and organic compounds are a proven health threat and a proven health problem in this Ozone Transport Region. Some say that maybe we made a mistake by dumping Car Test. That is a decision that maybe we can revisit someday, but right now we have less than a month to submit our plan to the EPA to, in fact, avoid these sanctions.

A key part of the Governor's plan is reformulated gasoline. Many have talked about the anecdotes and other calls, questions and comments they are getting about MTPE, the key oxygenate used in the fuel. You have been deluged by this. I think there are several studies that have showed that there are not the major health problems that many have suggested. I know it is a difficult issue. Those of us on the committee have had a long time to look at this and we voted 11 to 2. I just would urge you to vote for this indefinite postponement of this bill and all its accompanying papers. This is, I believe, a responsible way to meet the 15-percent plan.

Again, I look at it as a public health issue that we are addressing. The proven effects of ground

level ozone on the citizens of our state. I would urge you, again, to vote for the indefinite postponement of this bill. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: Part of Maine has been asked to sacrifice their cars and everything else. The other part of Maine is not being asked to sacrifice a thing. I call this a discrimination bill.

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

ROLL CALL NO. 227

YEA - Adams, Ahearne, Bailey, Barth, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Clark, Daggett, Damren, Davidson, DiPietro, Dore, Driscoll, Etnier, Fisher, Gates, Gieringer, Gooley, Gould, Green, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Jones, S.; Joseph, Keane, Kneeland, Kontos, Layton, Lemaire, Lindahl, Look, Martin, Marvin, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nickerson, O'Gara, O'Neal, Paul, Perkins, Poulin, Pouliot, Povich, Reed, W.; Richardson, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, The Speaker.

NAY - Aikman, Ault, Benedikt, Buck, Carleton, Chartrand, Chick, Chizmar, Cluke, Cross, Donnelly, Dunn, Farnum, Gerry, Guerrette, Hartnett, Heino, Joy, Joyce, Joyner, Kerr, Kilkelly, Labrecque, Lane, Lemke, Lemont, Libby JD; Libby JL; Lovett, Lumbra, Luther, Madore, Marshall, Mayo, McAlevy, Murphy, Nass, Ott, Peavey, Pendleton, Pinkham, Poirier, Reed, G.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, True, Truman, Tufts, Tuttle, Underwood, Waterhouse, Whitcomb, Winsor.

ABSENT - Birney, Chase, Cloutier, Desmond, Dexter, Fitzpatrick, Gamache, Greenlaw, Jacques, LaFountain, Nadeau, Plowman, Ricker, Strout, Winn, Yackobitz.

Yes, 77; No, 58; Absent, 16; Excused, 0.

77 having voted in the affirmative and 58 voted in the negative, with 16 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was accepted and sent up for concurrence.

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

Bill "An Act Regarding Cable Television" (H.P. 831) (L.D. 1162)

- In House, Majority "Ought to Pass" as amended Report of the Committee on Utilities and Energy read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-289) on June 15, 1995.

- In Senate, Minority "Ought Not to Pass" Report of the Committee on Utilities and Energy read and accepted in non-concurrence.

TABLED - June 16, 1995 (Till Later Today) by Representative HEESCHEN of Wilton.

PENDING - Motion of Representative TAYLOR of Cumberland to recede and concur.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House: I urge you to vote against the motion before us. You heard about this bill several weeks ago now. What has been amended is language that allows your municipality to enter into agreements with their local access cable providers. You will be aware as you read the newspaper once we get home and caught up that there are a variety of issues relating to the cable industry that are being decided in Washington. What this says is to ensure that in state statutes we at least have made a provision for our municipalities to continue to enter into these agreements. I urge you to vote against the motion before us.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Madam Speaker, Men and Women of the House: I moved to recede and concur several days ago. My reasons were the same then as when I opposed the bill. As amended and passed by the House, the bill accomplishes absolutely nothing. The one paragraph that remains in this bill authorizes a community to negotiate terms of service and fees with perspective cable providers. Your communities already have this power and use it. I am basically opposed to passing just another piece of paper. I ask you to support the motion to recede and concur. Thank you.

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

Representative ADAMS: Madam Speaker, Men and Women of the House: I urge you to follow the suggestion of our good Chair of the Utilities Committee, Representative Kontos and follow her light. The bill we are speaking of was one of my own and pertains to a field changing so quickly that you, indeed, will have to spend a couple of days reading about it to catch up when we do go home.

Just the day before yesterday, to show you how quickly this field changes, the United States Senate voted to deregulate under certain circumstances, certain parts of the telephone, television and cable industries. If it survives different changes in the Senate and different changes in the House, this is going to be as massive a change, in how you and I do things and get things over the telephone, television and send word to others over the same medium, as deregulation of the airline was in making differences about how you and I get from place to place.

Cable television is not always going to come into your house on a cable anymore. Within a few years it is going to arrive on lines, wires, waves and all other manner of arrivals. All the bill does that is before us today is to reaffirm and state in even more definite terms the fact that your local community will retain its right to negotiate with whatever company comes along and provides you with what we now call cable television and whatever way they intend to send it to you, that your community will have the right to negotiate with them for fees and service, which they do right now.

They call that a franchise fee and it is very useful. Most communities use it to either expand their cable to rural parts of town or to lessen the property tax as they do in my town or for any other number of good purposes. They are still going to want those fees and I suspect your neighbors are still going to want their cable television and I

suspect they would want your town to have your ability to get it for you under the best circumstances. You can still continue to get on your local access channels, your town council, your planning board, your school board and your little league meetings just like you do now. That is all it does and I would indeed urge that you vote as you did before and follow the light of Representative Kontos. Thank you.

The Chair ordered a division on the motion to recede and concur.

A vote of the House was taken. 47 voted in favor of the same and 47 against, the motion to recede and concur was not accepted.

Subsequently, the House voted to Adhere.

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) (H. "A" H-574 to C. "A" H-492)
TABLED - June 21, 1995 (Till Later Today) by Representative POULIN of Oakland.
PENDING - Passage to be Engrossed.

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

Representative KILKELLY: Madam Speaker, Men and Women of the House: My concern about this bill has to do with the issue of mandates and the issue of responsibilities of towns. I have two major concerns that I have heard about from some people in my area.

The first is that in some cases communities have elected to have the state operate their shoreland zoning program and if the state makes a change in that, it is their understanding that the town will still have to do notification, even though they are not participating in that program. The other part is for towns that are doing their own shoreland zoning program. If the state makes a change, the town would be required to notify all of the people who may be effected. While I don't disagree that it is important for landowners to have the information to let them know what they can and can't do with their property, what I disagree with is the manner in which this is done.

Part of my concern has to do with liability. If a town, for some reason doesn't get the information to a particular landowner and that landowner finds him or herself in trouble by violating a particular part of shoreland zoning or some other zoning law, is the town then considered partially responsible? Are we just opening up opportunities for several layers of confusing litigation for communities? Also, the cost, there have been a number of questions about a simple 32-cent stamp and simple first-class mailing and maintaining a list or are we talking about, in fact, proving that someone has received the information. The only way to prove that someone has received information is for that information to, in fact, be sent out certified. If it is sent out certified, there is about a \$2 cost per piece, that does not count the amount of labor that is involved.

I know, at times, as I have mentioned before, I am a selectman in Wiscasset, I know that there are times when we are required to send our certified mail for various projects and I know how much of a chore that is for our staff to deal with. I can imagine in even smaller communities it must be even more difficult. The issue of an unfunded mandate and my concern about

liability that brings me to my feet on this issue. I would really hope that we could find some other way to deal with this issue of notification. I don't believe this is the correct way. I would hope that this bill does not pass to be engrossed. Thank you.

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

Representative MARSHALL: Madam Speaker, Ladies and Gentlemen of the House: This is a bill that in Natural Resources we discussed for a very long time. We thought it was going to be a very simple thing. All the sponsor was looking for was if somebody's property was newly going to be discussed in a meeting for addition into a resource protection zone, which is the most restricted zone that we have, that the landowner should at least be notified.

One of the arguments is that there is presently notification requirements. You put it in the newspaper, in other words bury it in the legal part. I am sure all of you have read all the legal part ever since you have been up here in your home newspaper. It is posted on your town halls and in one or two other conspicuous places in town. Well if you happen to live outside of town and don't go down to the town hall every week, you might just miss it, especially if you are a legislator up here or you have other business to do that keeps you busy.

The bill simply says that if your property is brought up for addition into resource protection, before they deal with that in a planning board meeting or town council meeting, that they have to notify you by first-class mail. The town can keep a list or the town can decide to send it return receipt. It is up to them. Generally, at least now anyway, when zones are changed because it is a state implemented shoreland zoning ordinance that has already been implemented by most towns, if there are any changes to it, you are not talking 100 pieces of property. You are not talking everybody in town. You are talking a couple pieces of property.

Just to give you an idea, if you have a stream running through your piece of property and it goes to resource protection and it goes to 250-foot setback, you lose one acre of ground for every 175 feet that stream runs along side your property. You lose two acres if it runs through your property, because you got both sides. We are not saying that they can't put property into resource protection. We are not saying they can't consider it. We are saying if you consider their property, you have to tell them. It seems to me that that is what we are here for, is to protect our citizens. Sometimes we have to protect our citizens from themselves, we think. Here is a time that perhaps we can protect them from us.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House: I don't get too many calls from my town manager, but I did receive a call from the town manager on this bill. He is completely opposed to having this made into law. I just want you to know that I feel this is not really necessary. We notify them with first-class mail. We will continue to notify the people and I don't think we should add the cost of registered mail to notifying people. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Ladies and Gentlemen of the House: As I look at the original

bill on this, I see that it was presented by request. I would suggest to you that maybe we should not be writing legislation to correct a situation that one person has and the whole State of Maine has to abide by this legislation. As the Representative from Wiscasset, Representative Kilkelly pointed out, this is putting a mandate on the towns and I am wondering if we won't have to increase our legal line in our budget to protect ourselves when someone files in Superior Court because we have not sent the proper notices out. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Madam Speaker, Ladies and Gentlemen of the House: The whole purpose of this is simply to allow people to know when you are going to go ahead and change their land. It costs you 32-cents, at least I think that is what the first-class stamp is right now. All you have to do is mail it out and keep a list of who you mail it out to and you are all set.

I find it hard to believe that a 32 cent stamp to a number of people telling them that their property may be changed is really infringing a hardship on them. Do I know anything about town government? Yes, as many of you know, I spent 21 years as selectman and 14 of those was as chair of the board. I also want you to know that even though there is no mandate that says so or no law that says so, in my community we send it registered mail. This way we know that people get it. That isn't what this law says. This bill simply says you will notify people.

My goodness, in a democracy, isn't that what it is all about is letting people know what is going on and what is happening. Wouldn't you want to know if somebody is going to change land and how you can use it? You say it is in the paper. Well, not every one of us read every section of the newspaper everyday. Sometimes I get so tired of reading the news, I don't read the newspaper for two or three days and usually I feel a lot better for it. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House: I guess I will stand before you first and apologize to this body for being a novice legislator and putting "by request" on a bill. If I knew what I know now, I probably would have corrected that issue before that appeared.

As I investigated this issue and got more into it, I was just appalled. I listened to the public hearing down there and listened to the people from the state and the Maine Municipal Association and what have you. They just basically stood there and said, well you are actually going to make us go and identify the property and figure out who owns it. These people are making massive changes and massive dictation of requirements on these landowners that think they own a piece of property and they find they only own a portion of it, because there are restrictions placed upon it that they have never known about.

All this bill is a common courtesy and I think it really makes the government a little more educated by making them actually know the piece of property they are working with. I mean they used to take maps and big markers and mark off big chunks of land and say that is close and enact these ordinances to meet the requirements that they have established through

rulemaking. At least, let's make these people know what piece of property they are working with and please, the poor citizen on the other end, let's at least give them the courtesy to know that something is happening against their property and let them get involved in the process that we tend to make laws with down here. Thank you.

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

Representative KILKELLY: Madam Speaker, Men and Women of the House: Again, I just want to clarify. I don't deny that there is a problem when people's land is being impacted by changes, certainly they should be notified. I don't disagree that there are problems out there with the notification process. What I am concerned about is the solution that is proposed in this particular piece of legislation. While the problem is a serious one, I don't believe the solution is, in fact, going to fix it. I think it is just going to create other problems. Problems for municipalities and problems for landowners. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oakland, Representative Poulin.

Representative POULIN: Madam Speaker, Ladies and Gentlemen of the House: I am on the Minority Report on this bill and with all due respect to my seat mate and his intent, because I think it is a good intent, it is just that I feel that it is the wrong time. I feel that when we can avoid it, we shouldn't be telling our towns how to do their business. If people let them know they are doing it wrong, I just feel that it is wrong to mandate to them a cost that should be the responsibility of the state, because it also affects changes in state laws. Thank you.

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

Representative ROSEBUSH: Madam Speaker, Men and Women of the House: I had one phone call from a town manager in my district that was concerned with this bill, basically cost wise, because there are a couple of rivers that run through the area and if things happen to change there are a lot of people who own land along these and the cost, according to her, would basically be phenomenal for them to spend, because they do send out certified mail to make sure that the people get the mail. If this basically went through, she basically mentioned that it would be a mandate on them and they are somewhat of a poorer town and it would be very costly to them. I am just airing my concerns and I will be voting against the pending motion.

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

Representative MARSHALL: Madam Speaker, Ladies and Gentlemen of the House: I rise to answer the opposition to this bill, coming from your town managers. Did your town manager elect you? I will tell you where the opposition is coming from. It is coming from out behind the civic center. I won't say who it is. I don't think I need to and it might be improper. I don't know.

Let's just say that you have a section they want to deal with, 200 people in that section, it might cost them \$500 or \$600 to send out all those notices. I doubt anybody has that many they are going to add all at once into resource protection. Let's think of the property owners, taxpayers, the

people that pay our salary and the people that did elect you here, the town manager didn't do it. What is it going to be financially to them if all of a sudden they go out to pasture their animals or to build a garage or they have owned property for several years hoping to build a house to retire out there and they say, "No, you can't do that, that is closed off now." "Sorry, I guess that is just too bad!"

The SPEAKER PRO TEM: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Ladies and Gentlemen of the House: When I spoke to you before, I was not only speaking to you as a selectman from the Town of Union, but as a Town Manager from the Town of Warren. I still stand by my former remarks and I will point out to whichever Representative pointed out it was just a 32-cent stamp. I would dare suggest that if someone challenged this action in Superior Court that a 32-cent stamp on a letter would not suffice for proof that you sent that letter. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House: I would ask that at least you give consideration to the committee work on this. They did spend a long and hard time and they were the people that listened to all the parties, the people from MMA, the people from the towns and the people that were victims. They listened to all these sides and if 12 people came to the conclusion that we require this type of notification, I would ask you to support the committee work. Please let's get on with our work here.

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

Representative STONE: Madam Speaker, May I pose a question through the Chair?

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

Representative STONE: Thank you. The question is to anybody who may answer. I am reading the fiscal note on the amendment 492 that says the additional cost of this state mandate may be significant. I don't see where the significant amounts come from. I am kind of curious. Thank you.

The SPEAKER PRO TEM: The Representative from Bangor, Representative Stone has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Belgrade, Representative Damren.

Representative DAMREN: Madam Speaker, Ladies and Gentlemen of the House: I think what they consider might be a fiscal note is the mailing of the notices. I am sorry I missed part of the debate, but I was talking to a constituent. I would like to explain a little bit how I feel about this bill. I have been a town official for six years, as a selectmen. I think we should be thinking about how the individual landowner and person that owns the land feels when they arrive home and find that perhaps their land has been put into a certain protection zone and decreases the value of their land to them, but their taxes aren't reduced. I think that we owe it to the citizens to inform them when this type of procedure happens. I know it is not very favorable with municipal officials, but I think

we should be thinking about the people who own the land and live in the town.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House: I would like to make one correction. The town manager that were referred to, to the best of my knowledge, he is a citizen and probably comes from the constituency of whoever is that Representative. Secondly, if you want to know something about how it affects somebody, where all of this work would be done through the town office, you don't go down to the dump and find out what is going on, you go to the town office.

The Chair ordered a division on passage to be engrossed.

Representative KILKELLY of Wiscasset requested a roll call on passage to be engrossed.

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 Freeport, Representative Hartnett.

Representative HARTNETT: Madam Speaker, May I pose a question through the Chair?

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

Representative HARTNETT: Thank you. If this is a mandate, is this going to require two-thirds vote?

The SPEAKER PRO TEM: The answer to the Representative's question is, it will require two-thirds vote upon enactment only. The pending motion is passage to be engrossed.

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

Representative ROSEBUSH: Madam Speaker, Ladies and Gentlemen of the House: Just real quick, this is going to be a mandate on your towns. That is all I have to say.

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

ROLL CALL NO. 228

YEA - Ahearne, Aikman, Ault, Barth, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Campbell, Carleton, Chick, Clark, Clukey, Damren, Desmond, Dore, Driscoll, Dunn, Etnier, Farnum, Fitzpatrick, Gerry, Gieringer, Gould, Green, Guerrette, Heeschen, Hichborn, Jones, K.; Jones, S.; Joseph, Joyce, Joyner, Keane, Kerr, Labrecque, Lane, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lumbra, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell JE; Morrison, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Poirier, Pouliot, Povich, Reed, G.; Rice, Richardson, Robichaud, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stone, Taylor, Thompson, Treat, Tripp, Tuttle, Tyler, Underwood, Volenik, Watson, Wheeler, Whitcomb, Winn, Winsor.

NAY - Adams, Benedikt, Cameron, Chartrand, Cross, Davidson, Donnelly, Fisher, Gates, Gooley, Hartnett, Hatch, Johnson, Joy, Kilkelly, Kneeland, Layton,

Lovett, Madore, Murphy, Nass, Pinkham, Poulin, Reed, W.; Rosebush, Savage, Shiah, Stevens, Townsend, True, Truman, Tufts, Vigue, Waterhouse, Winglass.

ABSENT - Bailey, Birney, Chase, Chizmar, Cloutier, Daggett, Dexter, DiPietro, Gamache, Greenlaw, Heino, Jacques, Kontos, LaFountain, Lemaire, Luther, Mitchell EH; Nadeau, Plowman, Ricker, Strout, Yackobitz, The Speaker.

Yes, 93; No, 35; Absent, 23; Excused, 0.

93 having voted in the affirmative and 35 voted in the negative, with 23 being absent, the Bill was passed to be engrossed as amended and sent up for concurrence.

TABLED AND TODAY ASSIGNED

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

Bill "An Act Regarding Unredeemed Deposits on Beverage Containers" (H.P. 506) (L.D. 687)
TABLED - June 22, 1995 by Representative CARLETON of Wells.

PENDING - Motion of same Representative to reconsider whereby the Minority "Ought Not to Pass" Report of the Committee on Business and Economic Development was read and accepted.

The House voted to reconsider action whereby the Minority "Ought Not to Pass" Report was accepted.

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

Representative ROWE: Madam Speaker, Men and Women of the House: L.D. 687 is a bill that proposes to repeal the laws relating to unclaimed beverage container deposits, otherwise known as the bottle float laws. I urge you to vote against passage of L.D. 687 in any form, for the simple reason that I do not believe we have enough information to make an informed decision about whether to repeal the bottle float laws or not. The bottle float laws is part of a very complicated law, if you don't understand it, don't feel alone because on my committee we dealt with several bills that dealt with these laws and I never felt I fully had a grasp of the subject. As I stand here today, I can honestly tell you that I still don't.

As many of you know, the Maine Unclaimed Beverage Container Laws were enacted to reduce the amount of beverage containers ending up in solid-waste landfills in the state. The law basically works like this, when consumers buy beverages in Maine, they pay deposits and usually it is a nickel. The deposits are collected by the deposit initiators and even usually the distributors. A distributor must put all deposits collected in a special escrow account, they constitute a trust for consumers or for the state if the deposit is not claimed by consumers. When consumers redeem beverage containers, the distributor reimburses the consumer. Of course, redemption centers may serve as intermediaries in this transaction.

At the end of each quarter, the distributor computes the balance in the special account by subtracting the deposit amount returned to consumers from the total deposit amount collected. The money for Maine in the special account is called unclaimed deposits, this is the float. The float is the amount that is left with the distributor after the consumers have redeemed. After the quarter ends, the distributor removes the unclaimed deposit amounts

from the special account and pays 50 percent of that amount to the state treasury. The remaining 50 percent and an interest or income earned on the total unclaimed deposits are credited to the distributor. Again, on that float money, at the end of the quarter, 50 percent of it goes to the state treasurer and 50 percent and the interest is retained by the distributor. The 50 percent of unclaimed deposits that is paid to the state treasury is credited to the Solid Waste Management Fund.

The state's interest in unclaimed bottle deposits have been upheld by the Maine Law Court. The Law Court said because the law further clarifies and implements the legislature's original goal of reducing the cost to the state of litter collection and disposal by assessing a fee on the industry for the unreturned containers, it is neither irrational nor unreasonable. I agree completely with the Law Court. When you think about it, if you don't return beverage containers, where do they go? They end up in the trash. Where does the trash end up? It ends up in solid-waste landfills. It makes sense that that money would come back to the state to help defray the costs of maintaining those solid-waste landfills.

It would seem that redemption levels would never exceed 100 percent. After all, you would not expect to get back more bottles and cans than you sold. We know that some do find their way to solid-waste landfills. We all know we end up throwing a can in the trash from time to time. The problem comes when distributors and manufacturers sell beverages with the Maine deposit logo on them, out of Maine. You have a regional or national distributor or manufacturer that is selling cans and bottles that say, "Maine 5 cents." In New Hampshire, Massachusetts and other states, you run the risk of those empty containers being brought back into this state and being redeemed. Also, inaccurate reporting by distributors and manufacturers could also account for part of the overredemption.

When distributors report quarterly their overredemptions to the state treasurer and the state treasurer reimburses them at 50 percent of the overredemption amount, I want to say that again, if during a quarter there is an overredemption, meaning the distributor got more cans and bottles back than that distributor distributed, then the distributor can apply to the treasurer and the treasurer does pay the distributor 50 percent of the overredemption amount. The distributors have argued that they want 100 percent, but that is another argument. Currently it is paid at 50 percent.

During the public hearing, we had representatives testifying on behalf of the distributors in favor of this bill saying that the law should be repealed. Some of the reasons were that payment of the float money to the state is not good public policy. We also heard that the Unclaimed Deposit Law is actually a tax. They also claimed that the law has a greater negative impact on distributors doing business only in Maine, than those distributing regionally or nationwide. Again, if this is true, obviously it is an illegal redemption problem. It means that folks are coming in from New Hampshire or Massachusetts with bottles and cans and redeeming them in Maine.

If this bill is passed, L.D. 687, 50 percent of the unredeemed deposits would not be sent to the treasurer, all unredeemed deposits would stay with the distributor. It is true that we have a problem

with out-of-state beverage containers being brought into Maine for redemption. I admit that. I think the evidence that was showed to us is probably accurate and that is why we have an overredemption problem. That is why the cost of operating under a mandate deposit law is so high for distributors. I would submit that L.D. 687 is not the answer, at least not until we have a better understanding of the extent of the problem and whether better labeling and increased enforcement can help the overredemption problem.

This body has enacted a couple of bills already that I think will go a long way toward helping to alleviate the overredemption problem. We enacted L.D. 52, which would give an exclusive distributorship the right to put a deposit sticker on containers. The way that worked is if you only distribute beverages in Maine, if you put a distinct label on the beverage container and it is not being put on in New Hampshire or Massachusetts then when the container comes back in and doesn't have it, it shouldn't be redeemed. That is one way that we can get at the overredemption problem. Additionally we enacted L.D. 700, which will require that redemption centers post signs so that when people come up with bottles and cans to redeem, they are made aware that Maine law prohibits the redemptions of containers that were not purchased in this state. I am not sure that everyone understands that is a violation of state law.

The Department of Agriculture has also recently stepped its enforcement efforts to curtail out-of-state beverages from being redeemed in Maine. If we discontinue funding to the Solid Waste Management Fund, then we will have less funds in which to fund these efforts. I know we are dismantling the Maine Waste Management Agency, but this fund still exists and the work that the agency was doing is going to the State Planning Office and the Department of Environmental Protection. These efforts will continue and they should continue. I am suggesting to you that repeal of this at this time, without what I think is sufficient information, could actually cost us in terms of being able to deal with the solid waste disposal issue. This whole bottle bill area is very complicated.

The Business and Economic Development Committee realized that and we put out a bill that would set up a task force to study these laws and to bring back recommendations to the committee in January. That was L.D. 1345, which we enacted just two days ago. I just want to mention that L.D. 1345 specifically listed the items that would be examined. One of the items was the extent of fraudulent redemption and misredemption of beverage containers. I am not suggesting that we don't have a problem, we do. You are probably going to hear from speakers after me that the state treasury does not have a great surplus right now of this float money. That is because there have been a lot of distributors applying for overredemption refunds. There is a problem and I am not suggesting there is not.

What I am suggesting is I think we are hurrying into a solution here that we may regret. My suggestion is to wait until this task force does its work and comes back to the legislature in January, where we can take a conceptual look at this whole bottle bill and maybe we will determine that we should repeal this. Maybe there is an easier way to do it. Maybe the distributor should pay fees based

on the business they do in the state to help defray the costs of the unredeemed deposits for the bottles and cans that go into the solid-waste landfills. Maybe there is a less expensive way to do this, that is not before us today. I think this was a good law. The bottle bill, we all know this is a good law, we all know it works. You don't see cans and bottles beside the road. I just feel we are rushing into this and we are being premature.

Again, it may be very well in the end that we decide to do this, but I think to do it now would be tantamount to perhaps throwing the baby out with the bath water and I am afraid that may be what we are doing here. I would strongly encourage you to vote for the "Ought Not to Pass" motion. Thank you.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House: Make no mistake that repeal of this law will have no effect on the bottle bill in the State of Maine. The bottle bill in the State of Maine is the model for the nation and is one of the greatest things that has ever happened here. I will never be a party to anything that would affect that.

This is not the bottle bill, this is the unredeemed deposits law. Ladies and gentlemen, I don't think it is an issue of money. I think it is an issue of public policy. This law was passed in 1991 with no public hearing for people to have input on it. When there had been public hearings on this bill in previous legislatures, it was defeated soundly, time and time again. The good Representative from Portland is exactly right that they take half of the money in unredeemed deposits and send it to the state to be used in the fund in the manner in which he previously said. The fact of the matter is, we are at a point now where the Solid Waste Management Fund may end up owing this money back to the distributors because of the way the money is coming in.

The Natural Resources Committee, I hope you will hear from a little later, and the Maine Waste Management Agency, which is now defunct, effectively has recommended the elimination of the unredeemed deposits law. If they have recommended it and it is for them, then why would we want to keep it. It doesn't make sense to me. The unredeemed deposits that are presently being sent to the state, in my view, are not the state's money. It is true they are not the distributor's money, but ladies and gentlemen, when the expanded bottle bill was passed in the early 90s, Maine got into the redeemable bottle business because we are in the liquor business.

If you take the time to read the green sheet that is coming around with some very important details to help you make up your mind on this decision. When we got into that business in 92 and 93, it cost the state \$700,000 to handle the bottles. Don't get me wrong, I am not saying the bottle bill is a bad thing. That was just the portion that the state takes care of and you say, well they get 5 cents. That is true, but that is just a pass through. You pay in 5 cents and you get 5 cents back. There is another 3 cents, but the 3 cents ends up with the redemption center. And the \$700,000 cost to the State of Maine, ladies and gentlemen, comes right out of the state coffers or it is added onto the cost of what we are selling.

If you look at the private sector and we all know who they are, whether they are beer or soda

distributors, we are talking literally millions of dollars in additional costs that are not covered by the 5 cents or the 3 cents and that is ok. The point I am making is this bill was passed because unredeemed deposits were perceived by some folks to be a windfall for the distributors. The state has found out there is no windfall. It cost us \$700,000 in addition to the unredeemed deposits. I would submit to you that the unredeemed deposits at the state represent a higher percentage than they do in some of the other distributors because the return rate is less for the type of beverages that we distribute than they are for some of the beer and soda distributors.

If you follow the logic through, it cost us \$700,000. I have heard the figure of 90 million dollars to distributors around the State of Maine that the cost is and I don't know if that is right and it doesn't make any difference if it is right. The fact of the matter is, that the 90 million dollars is being passed on through the consumers as we buy their beverages. We all know that. There is no windfall of unredeemed deposits. Again, that was why the law was passed in the early 90s, as I think we have heard here this year. We got money anywhere we could get it, whether it was ours or not. We used any scheme we possibly could and this is another gimmick.

I might add that as it stands right now the last I knew the state had not paid the distributors back the 50 percent that we are obligated to pay. None of them have been paid. I can talk for a long time about why that may or may not have happened, but it is not important. The fact that they have not been paid and now we owe them that money.

As the ratio of returnables increases, it is now in the 90-percent range in Maine, which is excellent. As that ratio increases the unredeemed deposits become less and when the 50 percent comes to the state, then we have to in turn send it back again. As the good Representative from Portland said, this is a very complicated system. The fact of the matter is, we are at a point now where the state is going to be losing money. When we first talked about this bill in committee, we were told that it would create a large hole. I have heard all kinds of numbers up into the 2 million dollar range in the budget. We can't possibly do this and we have no money. The next thing we heard was well, maybe it is only \$700,000. Then we heard it is probably around \$300,000.

The fact of the matter is it isn't going to create a hole now and we are not making any money on it either. If we take it out of the budget as far as from an income base, but it will create a hole because we are going to end up owing more than we are taking in and that doesn't make a lot of sense. You don't have to be a rocket scientist to figure that out, but there is no point in us being in it. Don't forget that in the short time, two years, it cost the state \$700,000 to handle the expanded bottle bill and the portion of the beverages that the state is involved in. When I mean handle, it has nothing to do with the redemption center, that is the state itself that the distribution building right here in this area and that has to do with facility maintenance, facility operation, paying the people to handle the empties and returning them to be processed.

Again, the bottle bill is one of the greatest things that ever happened in this state and I

wouldn't even consider doing anything to make that not work. This has nothing to do with the bottle bill. This, ladies and gentlemen, is a public policy issue and it is an area that the state has no business in and it is an area that can potentially cost us some money and there is no way we are ever going to make any money on it. I would urge you to vote against the pending motion so that we could go ahead and pass the "Ought to Pass" motion.

Representative CAMERON of Rumford requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Madam Speaker, Ladies and Gentlemen of the House: We have discussed this long and hard in the Natural Resources Committee. I urge you to vote against the Minority "Ought Not to Pass" Report. We discussed this morning about rules and there are two rules I would like to mention. The rule of gravity and the rule of science. Thank you.

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

Representative RICHARDSON: Madam Speaker, Members of the House: There are two additional points that I think need to be made here. This bill and this issue were brought before the Taxation Committee as well. First, the problem of overredemption, which is depleting the fund. It is not a problem of casual picnickers who are bringing over their pop cans from New Hampshire and turning them into the local variety. The problem is a major and systematic avoiding of the law with semis coming into Maine loaded with cans and bottles that are delivered to redemption centers. We discussed with the representative of the industry how they had video taped some of these trucks coming into the State of Maine bringing large numbers of cans and bottles into Maine, including cans or bottles that aren't sold in Maine and turning them in and getting the redemption back. It is a lucrative business.

I raised, repeatedly the question of why not deal with the fraud if, in effect, these cans and bottles are coming into Maine and depleting the fund and that was both the public and the distributor's money, ultimately. Why weren't we addressing systematic fraud for large numbers of cans and bottles coming into the state? I always got kind of a skin-scratching-sort-of-look-at-the-ceiling answer to that. Some references to the study that is upcoming and, of course, I look for the study to address the program. I began to understand the issue a bit more when I heard that in other states, particularly New York, they are recognizing that, in fact, the 50 percent money really doesn't belong to the distributor and it really does belong to the enforcement agencies, which is state government, that help supervise this general world, that this was a source of revenue to pay for those services, that it was a contribution to a clean economy surrounding the bottle bill.

Whether or not there was an attack ultimately conceived toward the bottle bill or not, I don't really know. I do know that the industry nationally is very interested in stopping New York, among others who are thinking about adopting a 50 percent policy on the float. Therefore, the industry was not particularly interested in taking the video tapes of

the semis that were coming into Maine and depleting our fund and turning it into an effective campaign against what it was, which was fraud or theft.

I would hope that the study between now and January would look carefully at the issue of the depletion of the funds, which, again, is not a casual and occasional depletion of the fund, it is a systematic one of major proportions. We should come up with some solutions in dealing with that, but preserve the resources not for the truckers who are evading the law, but for those who are trying, including the distributors, to maintain a good environment and an effective bottle bill. I would hope that we would postpone preliminary judgment on the float here and wait until the study reports back and take a more considered judgment.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House: Very briefly, the good Representative Richardson is exactly right about the overredemption and it has absolutely nothing to do with this bill. Please don't let that change your resolve to vote against this bill. We have a serious problem, whether we keep this or we don't it will not solve that issue. He is right, but that has nothing to do with this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belgrade, Representative Damren.

Representative DAMREN: Madam Speaker, Ladies and Gentlemen of the House: The unclaimed deposits bill that we have before us, parts of this have been to three committees, Natural Resources being one. We looked into this extensively when we were working on dissolving the Maine Waste Management Agency and checking into the types of revenue that helped fund that agency. This also, as well as providing money for Maine Waste Management, funded positions in the State Treasurer's Office and also in Administration.

It came to light during our deliberations that the estimated of income from this source was in error. When we were trying to plan a budget, what we had originally thought might be \$750,000 of income, ended up not to be any at all. In fact, the liability to the distributors for credits that were already owed them was about \$313,000 as of the end of December. They work on a calendar year and not a fiscal year where they are reporting. As near as we could work out to have this come out even at the end of 1995, the amount of money coming in in three quarters because they paid about the end of the second quarter for the first quarter, would approximately even out to what was owed back to the distributors.

We did make the recommendations to both committees, that these credits are owed by the state to the distributors and they should be allowed to balance out. We owe them and Maine should pay them. Before we increase our liability any further, we should seriously consider not passing the "Ought Not to Pass," but go on to pass the "Ought to Pass" Report. Thank you.

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

Representative ROWE: Madam Speaker, Men and Women of the House: I won't go on very long. I know we have other bills to get to, but I just take exception to one thing that the good Representative from Rumford, Representative Cameron has said, that overredemption has nothing to do with this bill. I think overredemption has a lot to do with this bill.

If we didn't have overredemption then we probably wouldn't have this bill before us. If we correct the overredemption problem, this concern, I think, would go away.

Another statement that I heard, the state has no business in this area, the Maine Law Court didn't think so. The Maine Law Court thought that the legislature's original goal of reducing the cost to the state of litter collection and disposal by assessing a fee on the industry for the unreturned containers was neither irrational or unreasonable. I would commit the state has a very real interest in the unclaimed deposit laws. It has a very real interest in the future. If we pass this bill today, we are going to have no mechanism to receive any help in dealing with the solid-waste landfill issue. It troubles me that we haven't given this issue more thoughtful deliberation.

I wasn't on Natural Resources and I don't know what they did. It is my understanding that, I see on the sheet today, that the Maine Waste Management Agency is in favor of this bill. I never heard that from the agency. Maybe they said that, but in my committee, I didn't hear that. Even if they had said that, I don't think we have enough information. I think we may regret this. This is the only reason I am asking you to hold off. If we come back in January, after we have assessed this issue and we feel then that this is a problem and the state is going to go in the hole and we are going to have to appropriate general fund revenues to pay these distributors for overredemption, then I would be the first one to say that this isn't the way to go about this. I am not there yet and I would submit to you that we don't have enough information for anybody to be there yet.

I just wanted to make those points. I appreciate you very much, your listening today. Again, I would appreciate your consideration of the pending motion. Thank you.

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

Representative ADAMS: Madam Speaker, Men and Women of the House: I believe my friend and colleague in the House, Representative Rowe has correctly put his finger on the problem and, I think, also pointed toward the answer. The effect of term limits in some respects is already felt in a body like ours, which has a naturally high turn over anyway before you start doing it by statute. I would say there are in the chamber now, perhaps only about four or five of us who worked on the original laws that brought us to the point where we can even discuss things about redemption levels and all of that. Those were totally unknown when I arrived as a freshman in 1989 knowing nothing about them myself.

The bottle law we have today was achieved by a series of very hard steps. Each one of them hard won. Running down them backward and blindfolded, thinking we are finding the answer is not, I think, the way to deal with it. I can recall very clearly when, first, the idea was brought up about this bottle float. It is good to think of it as the nickel you pay when you buy a bottle or a can of soda. It sort of floats the bottle or can through the process. As Representative Rowe has pointed out, if you fail to return that bottle or can, drop it or break it and it vanishes, the nickel still goes on. Where did it go? That was our concern.

It took us a great struggle to pass a law to say how much there was and who had it. It turned out, although we were told there was absolutely no money there, that there was indeed 3 or 4 million dollars. There were plenty of folks who didn't want us to know that. It turns out that once we discovered how much there was and wanted to know who it belonged to, indeed, there was quite a struggle to find that out.

It is not, with respect, quite accurate to say this bill has never had a public hearing. I just ran up from the law library and brought with me the records of indeed the public hearings this concept has had over the years. The most recent occurred in 1989 and 1991, again, in the Second Regular Session in 1991. That one was the bill of my own. Well heard, completely discussed and in many cases very much liked by whatever committee it went to.

Who actually owned the money was the question? The answer came, indeed, in the form of a public policy question as my friend Representative Cameron points out. The policy was expressed by the legislature's committees and said that we believe that we, the people of the State of Maine, own it. The Maine Supreme Court in 1991 agreed with that and said that you own every penny of it. All of it.

Recall, money, first of all, we were told didn't exist and wasn't there, turned out to be 3 or 4 million dollars that someone knew very well was there. Number two, money that we were told we had no business asking about or knowing who owned, turned out, indeed, that you and I and everybody at home owned it. What we decided to do with it was a series of things that you have, indeed, heard about. We won't review them again.

The policy of the State of Maine is to get as many of these bottles and cans off the road as possible. That worked awfully well. We have the best redemption rate in the United States. State policy to try to get all of them off the road, which would mean you would have a completely closed loop in a perfect world, which would be great. What we didn't anticipate was that professionals from out-of-state, as you have heard, would make it their whole job to find ways to dodge the system, which is by bringing in a lot of bottles from somewhere else. If you didn't buy the bottle in Maine, there is no nickel floating around here to pay for it.

I believe this legislature having fought so hard to come to those points, shouldn't back up upon them without taking a darn good deep breath and a hard look. That brings us to the point that, I believe, Representative Rowe pointed toward as a solution, which is, the fact that since we know how much money there is, we know how successful the bottle law has been and we know why the problem exists today and we should deal with the problem and that is overredemption. We already started to do it two ways. Number one, we passed a law earlier in the session without much fanfare requiring that bottles sold by exclusive distributors, that is those who work only in Maine, use only Maine labels. Not a bad idea. That gives us an absolutely firm grip on a firm chunk of the market.

Secondly, we have this opportunity for a study to try to figure out how to deal with the bigger problem. I have not the least doubt that our distributors, being clever folks, can help us put together with legislators, who I hope are clever folks and our staffers who we have dealt with for years, who I know are clever folks, can come up with

an answer to dealing with those people who live out-of-state, don't care whether we succeed or not and are just looking for a way to beat our system. That is the problem.

If you simply abolish the law, Representative Rowe is completely correct, you are not going to have any method of getting your hands upon the true people causing problems with the law, that is those from out-of-state who are bilking both distributors and bottle returners and all of the citizens of the State of Maine, who own every penny of that money, according to the Maine State Supreme Court decision, which I have here and which you could read, if you would like. It is well within the ability of the layman to read. It is blunt and very factual. Given the public policy issue that we fought so long to fight for and given the fact that every step of it came out in the people's favor, I think we ought to be real careful before we take another step that would back away from what the Supreme Court of the State, this legislature and what the people of the state have overwhelmingly said is right and that they like. It has had wonderful results.

In 1991, there was an excellent report done by the University of Maine, Agricultural Experimentation Station at Orono, called an Economic and Waste Management Analysis of Maine's Bottle Legislation. Maine is one of only 10 states that has bottle laws. The industry has been very effective in preventing every other state from trying to pass one. It assessing Maine's law, this is what they found. They found thousands of jobs were created by the Maine bottle law. Millions of dollars moved through the Maine economy in different ways. Remember every package of food on the shelf next to the cooler when you buy the beer or the soda is also something you may pick up and take home.

Hundreds of thousands of dollars, which has been returned to your own town, through the Maine Waste Management Agency's recycling programs, which you and I in our home towns have turned into millions of dollars through wise recycling programs. I had no idea that I would ever live to see the day when scrap newspaper would be worth \$120 a ton unsorted, but it is today, right now. We wouldn't be able to get a penny of that back into your own town, if we didn't have a recycling program there. Many of your towns would not have recycling programs, if you hadn't gotten the grants from the state. The state wouldn't have had the grant money to give you if the bottle law hadn't have had a hole knocked in it. That is my fear.

If you start to take any piece of it apart because it took us so long to get the circle together and the whole circle is either going to get smaller or fall apart. Before we do that, I think we should go with the study. It has been well and forcibly pointed out by my friend, Representative Rowe from Portland, because I do suspect he has also put his finger right upon the problem, which is that out-of-staters who would love to see the whole system collapse, don't give a hoot about the fact it is doing us beautifully and well, making us money and employing thousands who could care less about all of those things. To take what money they can and if it falls apart on us, so what, they don't live here. I do, your neighbors do and we all do and I would like to keep it and do the best thing we can with it.

For that reason, I would urge us all to follow the suggestion now on the floor that we endorse the

"Ought Not to Pass" Report, because within a little less than six months we are going to have some pretty solid answers in our hands and we can move from them with the study that we now have. Just think of it this way folks, if you have a hole in your boat, but it is a darn good boat, you don't burn the boat, you plug the hole and hopefully someday build an even better boat using the old one. Let's wait until January when it is cold outside and we can be inside building boats and do that and not simply just abolish a good law that has worked very well. Thank you.

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

Representative MARSHALL of Eliot requested a roll call on the motion to accept the Minority "Ought Not to Pass" 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 Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 229

YEA - Adams, Ahearne, Benedikt, Brennan, Chartrand, Daggett, Desmond, Driscoll, Etnier, Fitzpatrick, Gates, Gerry, Green, Hatch, Heeschen, Johnson, Jones, K.; Kilkelly, Look, Martin, McAlevey, Meres, Mitchell EH; Mitchell JE; O'Neal, Paul, Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Thompson, Townsend, Treat, Truman, Underwood, Volenik, Watson.

NAY - Aikman, Ault, Bailey, Barth, Berry, Bigl, Bouffard, Cameron, Campbell, Carleton, Chick, Clark, Clukey, Cross, Damren, Davidson, Donnelly, Dore, Dunn, Farnum, Fisher, Gieringer, Gooley, Gould, Guerrette, Hartnett, Hichborn, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McElroy, Morrison, Murphy, Nass, Nickerson, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Poulin, Povich, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Sirois, Spear, Stedman, Stone, Taylor, Tripp, True, Tufts, Tyler, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Birney, Buck, Bunker, Chase, Chizmar, Cloutier, Dexter, DiPietro, Gamache, Greenlaw, Heino, Jacques, Kontos, LaFountain, Lemaire, Lemke, Luther, Nadeau, Plowman, Poirier, Pouliot, Ricker, Rotondi, Strout, Tuttle, Vigue, Yackobitz, The Speaker.

Yes, 41; No, 82; Absent, 28; Excused, 0.

41 having voted in the affirmative and 82 voted in the negative, with 28 being absent, the Minority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-498) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-498) and sent up for concurrence.

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

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:

SENATE PAPERS

The following Communication: (H.C. 229)

Maine State Senate
State House Station 3
Augusta, Maine 04333

June 23, 1995

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today Insisted on its former action whereby it Accepted the Majority Ought Not To Pass Report from the Committee on Education and Cultural Affairs on Bill "An Act Concerning a Moment of Silence in Maine Public Schools" (H.P. 656) (L.D. 879).

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 230)

Maine State Senate
State House Station 3
Augusta, Maine 04333

June 23, 1995

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its former action whereby it Indefinitely Postponed Bill and Accompanying Papers on Bill "An Act to Provide Equal Political Rights for Classified State Employees" (S.P. 407) (L.D. 1095).

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-316) on Bill "An Act Concerning the Termination of Parental Rights" (S.P. 508) (L.D. 1367)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-316).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-316) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-316) in concurrence.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-317) on Bill "An Act to Amend the Laws Governing Child Support" (S.P. 556) (L.D. 1516) (Governor's Bill)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-317).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-317) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-317) in concurrence.

Ought to Pass as Amended

Report of the Committee on Inland Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-311) on Bill "An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife" (EMERGENCY) (S.P. 562) (L.D. 1530)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-311).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-311) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-311) in concurrence.

Non-Concurrent Matter

Bill "An Act to Protect Traditional Uses in the North Woods" (H.P. 1104) (L.D. 1551) which was passed to be engrossed as amended by Committee Amendment "A" (H-519) as amended by House Amendment "A" (H-548) thereto in the House on June 22, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-519) as amended by Senate Amendment "A" (S-320) and House Amendment "A" (H-548) thereto in non-concurrence.

On motion of Representative KILKELLY of Wiscasset, the House voted to Recede and Concur.

Non-Concurrent Matter

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1995 (EMERGENCY) (H.P. 1135) (L.D. 1579) which was passed to be engrossed in the House on June 22, 1995.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-314) in non-concurrence.

The House voted to Recede and Concur.

CONSENT CALENDAR

First Day

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

(S.P. 191) (L.D. 500) Bill "An Act to Connect Libraries and Communities Electronically" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "B" (S-310)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Bill was passed to be engrossed as amended in concurrence.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Making Comprehensive Changes to the Child and Family Services and Child Protection Act" (H.P. 948) (L.D. 1337)

Signed:

Senators:

MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot
TREAT of Gardiner
RICHARDSON of Portland
JONES of Bar Harbor
LaFOUNTAIN of Biddeford
WATSON of Farmingdale
HARTNETT of Freeport
MADORE of Augusta
LEMKE of Westbrook

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-595) on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
NASS of Acton

Was read.

Representative TREAT of Gardiner 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.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-596) on Bill "An Act to Amend the Laws Regarding Child Placing Agency Disclosure of a Child's Background for the Purpose of Adoption" (H.P. 1080) (L.D. 1522)

Signed:

Senators:

MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot
TREAT of Gardiner
RICHARDSON of Portland
JONES of Bar Harbor
WATSON of Farmingdale

Representatives:

LaFOUNTAIN of Biddeford
MADORE of Augusta
PLOWMAN of Hampden
NASS of Acton
LEMKE of Westbrook

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

Signed:

Representative: HARTNETT of Freeport
Was read.

Representative TREAT of Gardiner moved that the House accept the Majority "Ought to Pass" as amended Report.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I am going to try to do this in less than two minutes. I am a realist and I am in a very small minority. I have a constituent who works for a private adoption agency and this law would greatly impact what they do. It won't impact it because they have more obligations or duties, but it will take them more time to fulfill those duties. Current law regarding research into the background of a child that will be adopted is about one paragraph. It is exactly one paragraph. This amendment will change that to four and one-half pages.

Yes, it covers more aspects of the child's background, but I am not sure it accomplishes much beyond that. During the hearings I wrote on my L.D., that I wondered if, perhaps the law was not looking for more guarantees about perfect children than even biological parents have. It was brought to our attention because a very tragic case in Portland where a child was adopted and was later discovered to be autistic and this bill is apparently trying to solve that by doing greater research into the child's background and the child's biological parents. The state agency is DHS handling adoptions and two private agencies said there were no problems and that is why I weighed in on this that way.

My greatest concern is that this fine-toothed comb researching through the child's background that we may, again, raise those expectations that every child will be perfect and there are many, many worthy children because of one little thing that might crop up, will be left unadopted.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I hope that you will go along with the Majority Report on this. It is a 12 to 1 Report. We worked very hard on this bill to make it a very manageable bill. It does basically clarify and make more specific current laws, which requires that efforts be made to obtain medical and other information about a child before adoption. We have extended that to put in requirements of continuing needs to get information if there is a reason to believe that there is a need for that information. This kind of information is needed after adoption so you know how to basically treat a child and what their allergies are and what other kinds of medical and health effects they have.

We did work very hard to make this so it was not a burden on the state. The original bill was opposed by the Department of Human Services. The final bill that came out of the committee was not opposed, but was supported by them and we believe it is a very reasonable compromise. I think the statement of fact

is really excellent that is in the Committee Amendment and if you wanted to simply turn to that it is (H-595) and it is a very exact statement of what the bill does. I think if you read it you will want to go along with the Majority Report. Thank you.

The Chair ordered a division on the motion to accept the Majority "Ought to Pass" as amended Report.

A vote of the House was taken. 67 voted in favor of the same and 26 against, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-596) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-596) and sent up for concurrence.

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

Bill "An Act to Amend Certain Effective Date and Referenda Provisions Regarding the Authorization for a Community School District in the Towns of Mechanic Falls, Minot and Poland" (H.P. 1138) (L.D. 1581) which was tabled by Representative HICHBORN of Lagrange pending reference.

Representative AIKMAN of Poland moved that the Bill be indefinitely postponed.

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

Representative AIKMAN: Mr. Speaker, Men and Women of the House: As you are aware, about a month ago or maybe it was two months ago, there was an L.D. 983 that was passed in this body. It was a bill that would allow the municipalities of Minot, Poland and Mechanic Falls to have a referendum. I would like to read to you letters that I have received in reference to L.D. 1581, which is a bill to allow another referendum.

This is a letter from the Town of Minot and it says, "June 12, 1995, To Whom it May Concern: It has come to our attention that through the news media that this L.D. is being proposed. Minot town officials have not been notified nor have they requested this bill. We have been unable to obtain a copy of this bill. If this bill forces us to vote again for a CSD, then we think you should know that we have had two legally binding referendums on a CSD for two or more towns. The first was in November of 1993 and the second was in May of 1995 and both were defeated. The turnout in May exceeded 50 percent.

This has sent a clear and unmistakable message to the town officials. If this bill is committed, it will hinder our current negotiations with other towns in seeking a placement for our high school students. Minot town officials urgently request that Minot's name be removed from this bill. The town's people have spoken loud and clear. Barbara Simard, Chairman of the Board of Selectmen, George Buker, Vice-Chairman of the School Board. This is supported by Dwight Tripp Jr. and Russell Pratt, Selectmen. Also, supported by Carol Robinson, Becky Gould and Stephen Holbrook, School Committee members."

This is a letter that was sent to the town of Mechanic Falls from the Poland School Committee and it says, "In compliance with this legislation, L.D. 983, the Town of Poland held a referendum on May 6, 1995 and its voters voted no to this question. On

May 11, 1995, the Poland School Committee voted unanimously not to reconsider a three town, Mechanic Falls, Minot and Poland Community School District. Therefore, for the following reasons, out of respect for the decision of the voters of Poland in an effort not to adversely affect or hinder any of the efforts of our citizen committees in an effort not to adversely affect any legislative efforts the Poland School Committee may choose to submit or resubmit and in compliance with section 16 of L.D. 983.

It is the unanimous position of the Poland School Committee not to have Poland's name included in any further draft or redraft of L.D. 983. If it is included, we respectfully submit that it be removed." This was the letter that was sent to Neil Weiner, Chairman of the Mechanic Falls School Committee, dated June 21.

Here is a letter that is dated June 21, that was sent to me from the Poland School Committee. "We are hopeful that the Mechanic Falls School Committee will choose to omit Poland's name or delete it if it has been included in any draft or redraft of L.D. 983. If it is appropriate, your assistance in removing Poland's name would also be appreciated. If this is not the case, Poland's name included, we would ask you and anyone else that you may wish to involve, help us defeat this legislation."

Ladies and gentlemen, this process of forming a CSD between the towns of Minot and Poland have gone on for many years, 40 years or more. Many of you are aware, I am sure, that when decisions on forming school districts and water districts are made on the local level there is a great deal of emotions on all sides of the issue, communities against communities and neighbors against neighbors. I think now is not the time to resubmit legislation as we have before us in L.D. 1581. I ask that you vote for the pending motion and maybe in January there can be something that can be brought forward. I ask you please, for the communities who are torn apart, to allow them some time to put together what they see as in the best interest of each of their municipalities. Thank you.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Underwood.

Representative UNDERWOOD: Mr. Speaker, Men and Women of the House: I would like to give you a brief background to explain why I introduced this legislation. Just over a year ago the Auburn School Committee informed the towns of Mechanic Falls, Poland and Minot that they could no longer accept their high school students because of overcrowding. The three towns began to look into what alternatives they had to educate their students, starting in September 1996. After many days, hours and nights of work, they came to the conclusion that forming a CSD and building a high school for their three towns was the best choice.

As the Representative from Poland stated, this Legislature passed legislation in May, which allowed the towns to vote on the issue. Unfortunately Poland and Minot narrowly defeated the referendum while Mechanic Falls unanimously passed it. After the vote, I spoke with many of the people in these two towns and I began to realize that officials in both towns, the officials that the Representative from Poland just read letters from, were distributing false information and using inflated property tax increases as a scare tactic in order to defeat this referendum. Unfortunately the citizens of these two

towns were manipulated into voting against this measure.

Since the Legislative council approved this after deadline bill, I have received dozens of phone calls from some of these people who did go out there and vote and voted against this referendum. They asked me to give them another chance to vote. What this bill will do is allow the two towns another chance to vote. As the good Representative from Poland stated in one of her letters, the officials stated they would be forced into voting. They will not be forced into voting. What they will be is they will have the chance, if they decide, to hold another vote, to hold a vote. They do not have to act on this referendum in any way, shape or form.

I believe everyone has been distributed a letter that I was given this morning from a Joe Patreen. Joe is an eighth grade student in the Town of Minot. I would like to ask everyone to read this letter. I think this really sums up the reason for me putting in this piece of legislation. I would like to ask you to vote against the pending motion and go on to adopt this legislation. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: This is an issue that the Education Committee dealt with. Let me just give you what is obvious by what has not been said or perhaps what some of you may not know. The problem here is that, in fact, there is no place for those students to be going. Auburn has indicated that they have no intentions of taking those students anymore. They do not want them. They cannot take them. They simply do not want to accept them. That is problem number one. When we looked at it, we knew that we had a serious problem and those towns have been told before by Edward Little in Auburn that they don't want them. They can't take them. They cannot handle them. The towns, for the most part, did not take action.

All of a sudden it became a crisis and we got this legislation. When it came to us, we tried to determine why there was opposition among the three towns and what we found out was each one of them wants their own high school, which is kind of nice, but those were the good old days. My attitude is very clear, if you want your own high school, pay for it with your own property tax and not through the state formula. We know that we have 500 students here we have to take care of. We said you can build one high school as long as two of the towns agree to join together. As you all know and you have all been involved in local campaigns, you know how easy it is to distort information and it happens.

I stand ready to give the right to Mechanic Falls to build their own high school without the other two and let the other two towns pay tuition to Mechanic Falls, if that is the way they want it. We need to build a high school somewhere to serve the citizens in that area, unless we ship them all to Limestone or some other place that I don't know. Those are the facts. I would have loved to have the Representative from Poland have to do the job that she would have to do, if this bill had been here last year. As I recall, Mechanic Falls is in the same House district as Poland. Low and behold, redistricting took care of that this year and now we have two Representatives fighting against one another. It is the same group of people and here we are.

I would urge that you send this bill to the committee and let us very quickly deal with it on Monday. We will then get it back to you on Monday afternoon. This much, men and women of the House, I can tell you. We have to build a school. As much as I would like not to, we have to do something, because in two years those students have no place to go, other than Limestone or home schooling.

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

Representative AIKMAN: Mr. Speaker, Men and Women of the House: I would like to correct a couple of things that the good Representative from Eagle Lake said. Yes, there are three towns. There is no interest in building three high schools. There is one town in particular that asked not to have this piece of legislation submitted because they were in negotiations with another town and they told this other town that, please are you going to submit anymore legislation? Do you plan on forming a CSD? This town said, "No, we don't. We are coming and we are negotiating in good faith."

Low and behold, these people read in the paper that there is a bill being submitted before the Legislature. I ask you, these are the last days of the Legislature, I believe this issue is too complicated. It is too emotionally charged at the local level that I believe it can wait until January. These schools have a contract with Auburn through the construction list, Edward Little was denied their application for construction. This is what started the whole process off. They gave these towns two years notification that in two years, please find another school.

There are other options. We have a town that is located close to Poland, which is Raymond, they are listening and they would be interested in sitting down and talking. This process takes time. Raymond is currently tuition to Windham and I believe there is also Lake Region, Oxford Hills and there have been committees that have been formed at each of the municipalities, short-term committees, committees to study tuition and committees to do long-term planning. Please allow these committees to go forward and support the wishes of at least two of these towns. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: This issue is clearly one that must, I feel, be debated in committee. It is a problem that I don't know that we can put off. It is a problem of the taxpayer against the student. It is a problem of where do we put these kids. We had a hearing earlier this year, yes, that is true. Unfortunately, because of events that have happened since then, there has been no resolution to this issue. It is a difficult and complex issue and I am afraid that it is our duty here to reexamine it. I would like to forward that to you as a reason not to vote for the pending motion. Thank you.

The Chair ordered a division on the motion to indefinitely postpone the Bill.

Representative AIKMAN of Poland requested a roll call on the motion to indefinitely postpone the Bill.

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 Indefinite Postponement. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 230

YEA - Aikman, Ault, Barth, Campbell, Clukey, Cross, Daggett, Damren, Donnelly, Gates, Gieringer, Gooley, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Libby JL; Lindahl, Look, Lumbra, Madore, Marvin, Mayo, McElroy, Nickerson, Ott, Peavey, Pendleton, Perkins, Povich, Reed, G.; Reed, W.; Savage, Simoneau, Stedman, Taylor, Thompson, True, Tufts, Waterhouse, Whitcomb, Winglass.

NAY - Adams, Ahearne, Bailey, Berry, Bigl, Bouffard, Brennan, Bunker, Carleton, Chartrand, Chick, Davidson, DiPietro, Dore, Dunn, Etnier, Farnum, Fitzpatrick, Gerry, Gould, Green, Hatch, Heeschen, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Labrecque, Lane, Layton, Libby JD; Marshall, Martin, Meres, Mitchell EH; Morrison, Nass, O'Gara, O'Neal, Pinkham, Poulin, Pouliot, Rice, Richardson, Robichaud, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Spear, Stevens, Stone, Townsend, Treat, Tripp, Truman, Tyler, Underwood, Volenik, Watson, Wheeler, Winsor.

ABSENT - Benedikt, Birney, Buck, Cameron, Chase, Chizmar, Clark, Cloutier, Desmond, Dexter, Driscoll, Fisher, Gamache, Greenlaw, Heino, Hichborn, Jacques, Kneeland, Kontos, LaFountain, Lemaire, Lemke, Lemont, Lovett, Luther, McAlevey, Mitchell JE; Murphy, Nadeau, Paul, Plowman, Poirier, Ricker, Rotondi, Saxl, J.; Sirois, Strout, Tuttle, Vigue, Winn, Yackobitz, The Speaker.

Yes, 44; No, 65; Absent, 42; Excused, 0.

44 having voted in the affirmative and 65 voted in the negative, with 42 being absent, the motion to indefinitely postpone the Bill did not prevail.

Subsequently, the Bill was referred to the Committee on Educational and Cultural Affairs, ordered printed and sent up for concurrence.

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

On motion of Representative CROSS of Dover-Foxcroft, the House adjourned at 6:00 p.m. until 9:00 a.m., Monday, June 26, 1995.