

MAINE STATE LEGISLATURE

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



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

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

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST SPECIAL SESSION
2nd Legislative Day
Wednesday, November 29, 1995

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

Prayer by Reverend Stephen Hastings, Winthrop Congregational Church.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Joint Order (H.P. 1155) relative to the Joint Standing Committee on Appropriations and Financial Affairs reporting out a bill or bills related to the Department of Professional and Financial Regulation "productivity" plan as it has impacts on the operations of the department which was read and passed in the House on November 28, 1995.

Came from the Senate indefinitely postponed in non-concurrence.

On motion of Representative ROWE of Portland, the House voted to Recede and Concur.

REPORTS OF COMMITTEES

Refer to Committee on Legal and Veterans Affairs
Pursuant to Joint Order (H.P. 1154)

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing" (EMERGENCY) (H.P. 1157) (L.D. 1591) reporting that it be referred to the Committee on Legal and Veterans Affairs pursuant to Joint Order (H.P. 1154)

Report was read and accepted and the Bill referred to the Committee on Legal and Veterans Affairs and sent up for concurrence.

Refer to the Committee on Marine Resources
Pursuant to Joint Order (H.P. 1152)

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Productivity Plan of the Department of Marine Resources" (EMERGENCY) (H.P. 1158) (L.D. 1592) reporting that it be referred to the Committee on Marine Resources pursuant to Joint Order (H.P. 1152)

Report was read and accepted and the Bill referred to the Committee on Marine Resources and sent up for concurrence.

Refer to the Committee on Agriculture, Conservation
and Forestry Pursuant to Joint Order (H.P. 1156)

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council" (EMERGENCY) (H.P. 1159) (L.D. 1593) reporting that it be referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Order (H.P. 1156)

Report was read and accepted and the Bill referred to the Committee on Agriculture, Conservation and Forestry and sent up for concurrence.

At this point, the Speaker recognized the Representative from York, Representative OTT, and he was added to the quorum call of the First Special Session of the 117th Legislature.

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

ORDERS

On motion of Representative KERR of Old Orchard Beach, the following Joint Order (H.P. 1161)

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills related to the Department of Agriculture, Food and Rural Resources "productivity" plan as it has impacts on the State Soil and Water Conservation Commission to the House.

Was read and passed and sent up for concurrence.

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

On motion of Representative JACQUES of Waterville, the House recessed until 1:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-657) on Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (EMERGENCY) (H.P. 1150) (L.D. 1589)

Signed:

Senators:

BEGLEY of Lincoln
BERUBE of Androscoggin
HANLEY of Oxford
SIMONEAU of Thomaston
DONNELLY of Presque Isle
AIKMAN of Poland
JOSEPH of Waterville
DIPIETRO of S. Portland
POULIOT of Lewiston
KERR of Old Orchard Beach
MORRISON of Bangor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-658) on same Bill.

Signed:

Representative:

TOWNSEND of Portland

Was read.

Representative KERR of Old Orchard Beach moved that the House accept the Majority "Ought to Pass" Report.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: You see before you today the very first divided report to come out of the Appropriations Committee in the 117th Legislature. It was very nearly a unanimous report. I want to stress to you that we split on a very small drib, but I think an important point. I would simply like to explain to you what that point is. I also want to stress that I believe that many members of the committee shared my very same concerns.

At the heart of the dispute is whether you believe savings can be realized from this idea. The Majority Report contained language in section C-1 and C-11, which were contained in the Productivity Task Force bill. This is the only difference between the two reports. The language would allow the commissioner of the Department of Agriculture to move forward immediately in abolishing bureaus within that department and replacing them instead with offices and divisions. I also need to, add abolishing associate commissioners. The heads of those offices and divisions would be politically appointed. This is the issue I, personally, have a great deal of difficulty with. Whether you share my concern about political appointments or not, I hope to persuade you that this is a large enough piece of public policy to require a public hearing. That, again, is a very important point in my concerns about this issue.

The Agriculture Department went through the Productivity Task Force very early on in the process, before the kinks had been worked out, before the Productivity Task Force chose to allow the input of state employees. You may recall there were some controversial events at the time, which appeared in the newspaper. The commissioner did require his bureau heads to sign an oath of secrecy. The plan was developed in private without the input of employees. Later, as employees developed alternative plans and suggestions, including those made by the TQM Committee, the Committee on Agriculture decided to hold a meeting to meet with them. Unfortunately, a memo was circulated, which some state employees described as intimidating, making it clear they felt they ought not to attend that meeting.

I personally have a great deal of trouble with that. For this reason, I feel that a public hearing is critical to this issue. On a personal level, I have a very hard time understanding why these divisions and offices need to have a political appointee at the head. They deal in issues, such as weights and measures and I wonder if we had a Governor of a certain persuasion in the future, whether all the scales in the state would tip slightly to the right or if the Governor was of another persuasion they might tip slightly to the left. Nevertheless, if it is a good idea, it will hold up in a public hearing.

Of course, we will be back in just a month. It is very hard for me to believe that the \$400,000 savings attached to this idea must be realized as of the end of November. That is the point they would use. I need to point out that our staff, the Fiscal and Program Review staff, whose word I greatly respect, initially listed this proposal on a list of ideas which did not count toward productivity and to which no savings could be attached. The commissioner argued strongly that his entire plan was dependent upon the proposal. As a result, the Fiscal and

Program Review Office stated that perhaps some general fund savings could be attached to it, but they could not be quantified. Again, I have a very difficult time believing that these 30 days are critical to the realization of \$400,000 worth of savings.

In fact, we have stumbled upon an issue in committee, which leads me to believe that there could be a cost. That is if people move from a position of being classified to being nonclassified, this state could be picking up the employee share of their retirement, which is 4 1/2 percent. We have not been able to attach numbers to that. I can't tell you what it would cost, but I believe it to be a cost. If there are savings in the idea, I think that they can be achieved after a public hearing.

Finally, I want to say that my committee has sometimes, and I fully participated in making some hasty decisions, which we have regretted later, we were fortunate enough, in most cases, to be able to slow down, back up and correct them. I was relieved to be able to do that. I am afraid that if we rush through this enormous change in public policy in a very short time frame, we may live to regret it. I would urge you to support the Minority Report in order that this proposal may receive a public hearing.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I rise today to offer support to Representative Townsend's concerns about the appointment of these positions. One of the issues that was raised as we had a committee meeting this morning was, why is it necessary to have appointed positions in order to have policy? The response from the commissioner was in order to make policy there has to be a team and it needs to be basically your own people.

In the Department of Administrative and Financial Services' booklet about confidential employees, it says, "The terms confidential encompasses policymaking managers and specialists in field as diverse as education, law, medicine, secretarial support and law enforcement." Some of those are political appointees and many of them are not political appointees. It is interesting to me that we haven't even looked at the middle ground, which says, yes, there may be a need for confidential employees at some level in order to develop policy, but do they need to be appointed? My response is one of concern. I am not sure those all need to be appointed. It may be that some do and it may be that some don't. We haven't had an opportunity to thoroughly review that.

One of the other issues that I think is important is that some of these positions are, in fact, regulatory positions. What we are talking about is creating an appointed position that is also going to be regulatory. It is difficult enough to be in a regulatory function to have to be out in the field working with your peers and talking about things that may be out of or in compliance or how to make changes. To add to that, being a political appointee who is concerned not only about what is going on there, but maybe they will be around for the next four years and maybe they won't. I think this adds another level of stress that is totally unnecessary.

One of the things that we need to maintain within Agriculture and every department of state government is clarity in terms of regulation. When we need to regulate a particular industry, we want to make sure that regulatory process is as clean as possible and is as separate from partisan politics as possible. What this does is move that regulatory process in Agriculture into the absolute middle of partisan politics. Whichever side of the isle you are on, this may be a good thing or may be a bad thing depending on who happens to be on the second floor. That shouldn't be the situation. We want to remove it from that kind of a process.

One of the questions that I raised this morning also had to do with, why is this necessary? Will the people that are currently serving in those positions be able to continue in those positions? The response was, "Yes, at least for as long as I am commissioner." That is exactly what the problem is. The problem is a potential loss of continuity. We want to make sure that it is a level of regulatory process and the level that we are talking about with these positions that we, in fact, are not turning those positions over constantly. I know how difficult it was for our committee this year to deal with the budget when we had new commissioners in both departments that we work with and in many positions new associate commissioners.

It was very difficult to look at how are we going to develop this budget, what kinds of questions can we ask, when the answers we got were, "I have only been on the job a few days." I understand that and I am not critical of that at all. My concern is that if we go down one more level, then there won't even be people there potentially that have the hands-on experience of knowing what has been going on in those departments. I think it is going to be even more difficult for us, not only to set budgets, but to deal with even the ongoing function of some of those departments. I would suggest to members of the House that it would really make sense for us to understand the relationship between the technical aspect of these positions and the policy aspect of these positions and look at it in a very careful study. Do we, in fact, need some, all or none appointed positions at this level? What is the impact in regulatory? What is the impact in terms of technology loss that we may end up with? If we have people with significant technical experience, are they going to be willing to take two years out of their practice as, for example, a veterinarian? Is someone going to leave their veterinary practice and say, "Well I guess for four years, yes, that's ok. I will leave my practice and come work for state government with no understanding that maybe that is a career position?"

I think that puts us in a position of having a much smaller pool of people to pick from and may, in fact, put us in a position of not choosing or not having available the people that have the most expertise, but the people that are, in fact, available for the political perspective. I would urge support of Representative Townsend's position and certainly my position and would urge that we move on to not pass this report so we can accept the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I didn't expect to get up and speak on

this issue, but having been a career state employee of 34 years and having served as a classified employee and having had the opportunity to apply for appointed positions, I find that we should be really careful on this particular issue as regard to the Department of Agriculture. I think that state employees expect that there is going to be an adequate career ladder for them as they go along in their careers. Change is inevitable. I saw change over a 34-year period. For a career employee who is working his or her way along, if an appointed position comes up and that administration serves only four years, that may end their career after they serve in an appointed position. I agree with the previous two speakers on this issue. We should be very, very careful on this. I agree with what they just said. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I also stand to support the position of the previous speakers. I believe that this provision of this bill simply doesn't belong in there at this time. No savings has been identified. In fact, the fiscal note that goes along with the amendment that would take this provision out says that it cannot quantify any savings and if there are any, it would be minimal.

In my experience, it is generally political appointees who have the highest salaries, so I question how putting this provision in here is going to save money anyway by just using my own common sense. I agree with the statements of others that this is a matter that should be carefully considered. There ought to be a public hearing on it. I see no reason why it cannot wait for one month so that that public hearing process can go forward and decisions can be made in a deliberate fashion instead of doing a hurried up two or three day productivity realization special session. This really doesn't relate to productivity. It doesn't relate to savings. It ought to be considered separately.

I urge that you vote against the pending motion so that we can go forward to accept the Minority Report, which in every other respect is identical. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The only reason I rise is to ask a question. The question pertains to our two reports. Why is it necessary, when we talk about saving money, that we have two complete reports here, where the only difference is part C on page 99, amounting to two paragraphs? We are printing up two full reports that are going to be thrown in the basket. Why not just have the difference in the reports shown as a separate Minority Report?

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I do apologize for the astonishing waste of paper and I share your feelings on that issue. If you would like to bring me your reports, I will be sure to see they get recycled. Unfortunately, as you know, the legislative process is one where issues fluctuate and things happen

quickly. Unfortunately, hopes for negotiations did not take place. So, I felt that the Minority Report was necessary.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: The Agriculture Committee did review this this morning with the commissioner and the deputy commissioner. They came in and made a presentation to us. When we got done, the majority of the committee voted to go along with the Majority Report. We feel that the commissioner has done an adequate job to move the department forward in the future.

I think he was reminded of the frame that the chief executive held up here this morning with the word "vision" on it. I think he has a lot of vision in the presentation he made to us. He has done away with a whole layer of bureaucracy. It has dropped down to another layer that will be less costly to us. He has made a 46-percent reduction in the organizational structure of the Department of Agriculture. He has abolished that whole layer of management. A 48-percent reduction in supervisory rolls. They had a 5-to-1 management aligned position before. They have gone now to a 14-to-1.

In my opinion and a majority of the Agriculture Committee, they have looked at saving money, which I have heard here this afternoon that we didn't know the figure, but I have heard it is around a \$400,000 savings. As to the issue with the retirement from classified to unclassified, yes, with keeping the people that they have there, it will cost us \$2,000. That is the only difference that will make in the positions of the people who hold them right now. With that all in mind, I think he has set a good course for us and I would urge you to support the Majority "Ought to Pass" Report.

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

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

The SPEAKER: The Representative may pose her question.

Representative LEMAIRE: Thank you Mr. Speaker. Was a public hearing advertised?

The SPEAKER: The Representative from Lewiston, Representative Lemaire has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I believe that the Appropriations Committee reported out that we could review this. It was not a public hearing, but these committees having to do with that policy were to review it and that is what we did.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I was one of those who had concerns yesterday. The commissioner came in this morning and Representative Spear has told you what he said. We heard the Governor yesterday and he talked about vision and about getting things done and not sitting still and doing nothing. This is a topic that was considered by the Productivity Task Force. It had been considered by the Appropriations Committee and the majority of that committee after having heard these topics debated and asked for

further consideration by the Agriculture Committee. We had our meeting this morning again with the commissioner. I was convinced that his plan is a good plan. I would recommend that we give serious consideration to the recommendation given by a majority of the Appropriations Committee and by the approval that was given by the Agriculture Committee and suggest that we support their decision. Thank you.

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: I would characterize the meeting this morning as not a particularly, well it wasn't a public hearing, that is absolutely true. It was fairly one sided. Essentially we had the commissioner and the assistant commissioner or the deputy commissioner. We really didn't get an opportunity and we never really have had the opportunity to go into the full merits or demerits of the proposal before us. I think the structure that the commissioner is proposing is probably a workable structure. I do question, as have previous speakers, the correctness of making four of the proposed appointed positions into appointed positions.

I just want to read some of the existing descriptions of the purpose of some of the divisions which are being transformed into these appointed divisions. Our current Division of Veterinary Services, under the departments proposal says, the division remains essentially the same under the proposal. Excuse me, that is the wrong one. They changed the name in expanding the scope.

The Division of Animal Health and Industry, however, the purpose is to prevent the introduction and spread of contagious, infectious and parasitic diseases among poultry and livestock, especially those diseases transmitted to man either directly or indirectly and those of greatest economic importance; to maintain fair and equitable practices in the buying and selling of poultry and livestock; to protect the welfare of commercial farm animals, race horses and animals; to supervise and maintain the Department of Agricultural Milk Quality Laboratories; and to evaluate and certify private milk laboratories. Is this the kind of thing that we want to have an appointed position for?

I want to look at the Division of Plant and Industry, if I can find it. The department's presentation to the Appropriations Committee says, this division remains essentially the same under the proposal. The Division of Plant and Industry was established to protect the public from hazards associated with the sale, transport or growing of weak, diseased or insect infested commercial planting stock fruit or seed and to encourage the keeping of bees. Its primary responsibilities are to enforce the statutes relating to certification of seed potatoes; to ensure an adequate supply of foundation seed potatoes; and to inspect nurseries, greenhouses and to license beekeepers and to inspect their hives. Division of Forestry Regulations dealing with quarantine procedures, seizures, insect destruction and so forth. Then, I have to ask, is this appropriate for an appointed position?

We will go now to the new Division of Quality Assurance and Regulation, which essentially merges two current divisions, the Division of Quality Assurance and Division of Regulation. The department justifies this and it is probably appropriate because

the similarities in the missions and programs. Now when I read the purpose of the existing Division of Quality Assurance, it is established to provide a voluntary quality control service for members of Maine's agricultural industry on a fee basis and to regulate the quality of certain agricultural products not utilizing the voluntary quality control service. It also involves some promotional activities.

Regulations, it is established to ensure a safe and adequate food supply for citizens of the State of Maine and its visitors and to protect the public economically, through the proper administration of the state food and weight and measures law. Primary responsibility is to inspect all foods, food processing establishments, food salvage operations, dairy farms, stores and other food outlets; to inspect feed, seed, fertilizers and hazardous substance; and to perform the duties of the state sealer, weights and measures. I would suggest that this division is not appropriate for an appointed position either. These aren't public policy influencing positions. These are carrying out a lot of the basic regulations protecting our food supply.

The one division that might arguably be called a policy influencing position would be the marketing ones, but even there I question whether we want to have the marketing go up and down depending on what that particular commissioner's debt is. Certainly that can be influenced through the current structure. I believe that we should take the time as has been pointed out before, the Agriculture Department never got a fair and open public hearing. The proposal was developed from top down. Everybody knows this, without input from the line employees. Our committee never got an opportunity to have a hearing on these issues. We did have one meeting with some department employees who were able to come once they got past the memo that some took as intimidation.

I think it would be appropriate to have an actual public hearing on these major issues here before we go and transform a lot of regulatory positions into political appointments. I would urge defeat of the pending motion.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I want to take issue with the concept that there has been no public hearings on these issues. The Appropriations Committee held public hearings. When Commissioner McLaughlin testified before the Appropriations Committee there were quite a number of people there to speak on the issues as they applied to the agricultural departments. There were employees there. There were people from the potato board. There were people there from other organizations, soil and conservation and what have you. Based upon all the testimony we heard there, we have taken the position where we rereferred some of these back to the committee for their reconsideration. I think it is a little misleading to suggest that there has been no public hearing. There has been a public hearing.

Looking at this whole process, for once this body, this state has addressed a major problem and moved forward rapidly. We can study every one of these things to death. They have been looked at, I think, by experts in their field and Representatives from this body and the other body and these are the final

results. I suggest we pass this and move on with our business. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I think some of us have been following this productivity commission through the newspapers and know that it has been an open process. I, for one, came up here to this special session to support whatever that task force did.

Whether we like it or not the people of Maine took it out of the hands of the Democrats and the Republicans last fall when they elected an Independent Governor. I think they did that because they are a little sick and tired of this government going bloated and growing and costing them more money and they get less services for their money. I think they decided that maybe we weren't able to do it so they thought maybe an Independent Governor could do it. Well, I have to give him credit. I think he has done it. The people out there really support him. Once we get out what they call in Washington the beltway, once we get out of the beltway of Augusta, the people out there support this Governor. They support the task that he has tried to do to bring this government into balance with what their pocketbooks can afford.

Have I always agreed with him? No. He knows that and he and I have discussed it. I was disappointed when he did some things that I didn't think he should do to York County, but nevertheless, on the whole, I have to give him credit for doing what he thinks is best for this state. If it is a mistake, he will answer for it because the people out there will make him. I, for one, am going to support him in this. I hope it works. I know there may be some changes needed. We will be back here in January and I am sure he will see where the changes are needed and he will bring in some proposals for us to change also. On the whole, I think they have done a good job. I think he has done a good job. I think we ought to pass this so that we can go home and get on with our lives and have a nice Christmas. Thank you.

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

Representative CROSS: Mr. Speaker, Men and Women of the House: I feel that I need to get up and speak seeing that I am on the Agriculture Committee and I have listened to the committee reports. It seems to me that we have two things to consider here. The first thing is the political appointments or somebody else's appointments. Let's face the facts that if somebody, whether they are politically appointed or however they are appointed, gets the job and they don't do the job, they are going to get fired and that is going to be the commissioner's job to do.

Secondly, this is my third year going onto my fourth on my second term, we seem to hit a spot where let's refer everything to a committee and have a hearing and let's decide that way and nothing gets done. Here we have an opportunity given to us by an Independent Governor and I am a Republican with which you all know, but at least something is getting done. Something is trying to make it happen. There is a plan in place and as far as I am concerned, the majority of the Agriculture Committee goes along with that plan. The Appropriations Committee goes 11 to 1. How much more time do we need to make a decision here that will back this Agriculture Commissioner who

has a plan in place that will improve the whole system? I urge you to vote with the majority. Thank you very much.

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

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

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

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

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

ROLL CALL NO. 278

YEA - Aikman, Bailey, Barth, Benedikt, Bigl, Birney, Bouffard, Buck, Cameron, Campbell, Carleton, Carr, Chick, Clark, Clukey, Cross, Damren, DiPietro, Donnelly, Dunn, Farnum, Gamache, Gieringer, Greenlaw, Hartnett, Heino, Hichborn, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kneeland, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Marshall, Marvin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nass, Nickerson, Ott, Paul, Peavey, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Ricker, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Tufts, Tuttle, Tyler, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, The Speaker.

NAY - Adams, Ahearne, Ault, Berry, Brennan, Bunker, Chartrand, Chase, Chizmar, Cloutier, Davidson, Desmond, Dexter, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gates, Gerry, Gooley, Gould, Green, Guerrette, Hatch, Heesch, Jacques, Johnson, Jones, K.; Kilkelly, Kontos, Labrecque, Lemaire, Lemke, Luther, Madore, Martin, Meres, Mitchell EH; Mitchell JE; Nadeau, O'Neal, Pendleton, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Underwood, Volenik, Watson, Winn.

ABSENT - Daggett, O'Gara, Poulin, Richardson, Truman, Winsor.

Yes, 86; No, 59; Absent, 6; Excused, 0.

86 having voted in the affirmative and 59 voted in the negative, with 6 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-657) was read by the Clerk.

Representative ROWE of South Portland presented House Amendment "A" (H-660) to Committee Amendment "A" (H-657) which was read by the Clerk.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: This amendment restores the Department of Professional and Financial Regulation productivity plan to the bill. It amends Committee Amendment "A" by restoring Part I and by restoring the departmental cuts. These include the cuts to the Bureau of Banking and the Bureau of Insurance. The Appropriations Committee requested that committees of

jurisdiction review the departments productivity plan and both the Business and Economic Development Committee and the Banking and Insurance Committee have reviewed the proposed changes and both committees unanimously approved them.

I should state at this time I am speaking for both committees simply because I lost a coin toss with Representative Vigue from the other committee. We then went to the Appropriations Committee and explained that we had unanimously approved the departments request and the Appropriations Committee then voted to accept our report. They were unable to, as I understand, add this back into their original committee amendment. I put this forth now as a House Amendment to add back in the productivity plan of the Department of Professional and Financial Regulation. Thank you.

House Amendment "A" (H-660) to Committee Amendment "A" (H-657) was adopted.

Representative DEXTER of Kingfield presented House Amendment "B" (H-663) to Committee Amendment "A" (H-657) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: Approximately two weeks ago, I had an occasion to use the nurses station over in the state office building. I had an unexplained swelling of the face, throat and tongue. Ordinarily antihistamines will take care of it. This particular day it wouldn't so I had a choice of going to the emergency room here in Augusta or over there. I went over there and she took one look at me and said sit down I am going to give you a shot. I had to sit there about a half hour to check my blood pressure and so forth.

We started talking and she said, "You know they are going to ax my position." I couldn't believe it. Here we are with over a 3 billion dollar budget and we have this huge complex down here and have all the state workers and some of the women are pregnant, there are heart attacks and I am sure there are some legislators besides myself who have used those services. This particular nurse is fully qualified. In fact, I guess she could qualify for a practitioner. To me, it just simply did not make sense.

I have a real bad cold and I don't like to go on at length here, but I would like to yield at this time to my seat mate, Representative Gould, with some facts and figures.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: There are just a couple of facts, I will be brief, just as Representative Dexter was. The 1994 case load at that health station over there was 2,709 people. It ran from cholesterol screening down to lacerations and foreign bodies. One person had an object in his eye and had that taken out here.

The point I am making here is you remember we all have insurance that is paid for by the State of Maine and if we remember that many of these cases that take place and are treated over here would end up over in the emergency room in the hospital and you know what the emergency rooms costs, I am not sure if you quantify the exact savings that would take place by cutting this position out. Plus the fact that we also have to remember that if I go over to the

emergency room, not only is it going to be paid for at \$100 a cost for emergency room, but I am probably going to be gone for at least an hour and maybe two or three hours, which is also money that the state is paying me.

I am not going to stand up here and tell you that you can save all kinds of money. I am not sure how you would quantify what it is and I am not sure how you would quantify what the emergency treatment of a nurse over here might do in saving a human life. I think we need to look behind what appears to be the obvious savings and look beyond that and see if really going to an emergency room is really going to have a great deal of savings.

The 1995 summary, which is through October, they had 2,415 cases over here. Again, I think it is something that we should very definitely think about. I would urge you to support Representative Dexter's amendment. Thank you.

The Chair ordered a division.

A vote of the House was taken. 78 voted in favor of the same and 18 against, subsequently, House Amendment "B" (H-663) to Committee Amendment "A" (H-657) was adopted.

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

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

(After Recess)

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

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (EMERGENCY) (H.P. 1150) (L.D. 1589)

On motion of Representative KERR of Old Orchard Beach, tabled pending adoption of Committee Amendment "A" (H-657) as amended by House Amendments "A" (660) and "B" (H-663) thereto and later today assigned.

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Increase the Number of Washington County Commissioners from 3 to 5" (EMERGENCY) (H.P. 1162) (L.D. 1595) (Presented by Representative BUNKER of Kossuth Township) (Cosponsored by Senator CASSIDY of Washington and Representatives: BAILEY of Township 27, DRISCOLL of Calais, LAYTON of Cherryfield, LOOK of Jonesboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Reference to the Committee on State and Local Government was suggested.

Under suspension of the rules, and without reference to a Committee the Bill was read twice, passed to be engrossed and sent up for concurrence. Ordered sent forthwith.

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

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (EMERGENCY) (H.P. 1150) (L.D. 1589) which was tabled by Representative KERR of Old Orchard Beach pending adoption of Committee Amendment "A" (H-657) as amended by House Amendments "A" (660) and "B" (H-663) thereto.

Representative MARTIN of Eagle Lake presented House Amendment "C" (H-675) to Committee Amendment "A" (H-657) which was read by the Clerk.

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

Representative MARTIN: Mr. Speaker, Members of the House: Basically what this does is to make a technical change and it does exactly what was originally intended with the monies dealing with the Allagash Wilderness Waterway.

House Amendment "C" (H-675) to Committee Amendment "A" (H-657) was adopted.

On motion of Representative KERR of Old Orchard Beach, tabled pending adoption of Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660), "B" (H-663) and "C" (H-675) thereto and later today assigned.

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:

ENACTORS

Emergency Mandate

An Act to Increase the Number of Washington County Commissioners from 3 to 5 (H.P. 1162) (L.D. 1595)

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. 133 voted in favor of the same and 2 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

REPORTS OF COMMITTEES

Ought to Pass

Pursuant to Joint Order (H.P. 1153)

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize Appropriations and Allocations for the 1996-1997 Biennium and to Change Certain Provisions of the Law Necessary for the Operation of State Government" (EMERGENCY) (H.P. 1160) (L.D. 1594) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1153)

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. Ordered sent forthwith.

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

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (EMERGENCY) (H.P. 1150) (L.D. 1589) which was tabled by Representative KERR of Old Orchard Beach pending adoption of Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660), "B" (H-663) and "C" (H-675) thereto.

Representative CLARK of Millinocket presented House Amendment "D" (H-667) to Committee Amendment "A" (H-657) which was read by the Clerk.

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

Representative JOHNSON: Mr. Speaker, Men and Women of the House: I stand in opposition to the amendment concerning the recommendations by the esteemed Representative from Millinocket concerning intermittent employees. I speak on behalf of the use of intermittent employees. They will be used for unscheduled, unanticipated overtime events. These people will not supplement regular employees. The regular overtime that comes due to vacations and holidays will be taken care of by regular employees. The intermittent employees will be trained for those positions in which they are to serve in overtime. They will not be a haphazard appointment of these persons. They will know what they are about. They will know their clientele with whom they are working.

Furthermore, these intermittent employees will help us achieve what we are here assembled for and what, that is the cutting down of our budget and the saving of our state jobs. That is why we are here tonight and that is why the people have sent us here. I ask for your endorsement of the intermittent employees and not to vote for the amendment concerning the abolishment of that.

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

Representative KERR: Mr. Speaker, Men and Women of the House: It is not often I like to speak against another Chair if they submit an amendment or a bill, but this bill would jeopardize the savings that the Governor and the Productivity Task Force has presented to us. I would urge you to vote against the pending motion. We may collectively agree that we don't like this policy, but those savings that the task force created that is in the bill before us will be jeopardized if this amendment is passed.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I concur with Representative Kerr. This would cost savings. This has been a big problem in the department for a long time, the overtime issue. The commissioner has been hammering on this time and time again. He has come up with a solution. In the private sector part-timers are used in banks and hospitals.

I have to say on the floor that I am a little disappointed in the Chair of our committee. The last time I heard about this we had broken a compromise between the commissioner in this issue. This was addressed, I thought, at that time that the concerns of the state employees were taken care. The commissioner had what he wanted. The overtime issue was taken care of. I wish the Chair had taken the

time to notify the members of the committee that he planned on putting this amendment in. Please, ladies and gentlemen of the House, this is going to save us a lot of money and it is good for the state and the taxpayers of the state. I urge you to vote against this amendment. 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 you will bear with me for a few minutes if I can hear myself speak. The good gentlemen that just spoke gave a little bit of history of what happened. I wish you would follow back to what took place in our committee hearing.

When I first came to Augusta and saw the bill, I told our committee that I had four major concerns. This is one of the concerns I told them back last week. You should have been listening, not reading. I told them in the Appropriations Committee when I got to speak that I had four major problems. This is one of the problems and I am going to offer an amendment to it. There has been no secrets. There has been nothing hid. There has been no compromise with the unions and Mr. Leeman. There is absolutely none. That is why the amendment is here. There has been nothing secret. If the member who just spoke would only listen, instead of talk all the time, he would know what is going on.

The SPEAKER: The pending question is adoption of House Amendment "D" to Committee Amendment "A." The Chair would encourage all the members to confine all their comments to the items before us.

The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: I am going to vote for this amendment and the reason I am going to vote for it is things are not cut and dried. Several years ago, not even several, but a couple of years ago, we gave workers furlough days. We have given them all kinds of things and we have crammed it down their throat. Now we are talking about corrections. We want to put intermittent in here. Does anyone in the House have an idea what intermittents are? I know about part-time, seasonal and temporary employees, but intermittents are people you call in when you just need a couple hours.

I have news for you folks. We have a lot of people trained out there and are these people going to have the same training that our corrections officers do? Probably not. Are they going to be used on a regular basis? You bet they are going to be used. Do you really want to put people who are not trained in these positions? I really believe folks that you should follow the Chair of the Corrections Committee. Vote this down. Send this item on the intermittents to the Labor Committee and have us look at this issue, what kind of training they are going to receive? Do you really want to put your families in danger of having someone of the job at one of these correctional facilities who is not fully aware of all the conditions and have their health and welfare be in danger and also your families'?

I think this is a very bad policy to set on the spur of the moment and we really need to take a look at it. Sure there is going to be some money amounts that are not going to be saved, but we can look into this issue in another month and we can look at it more clearly and decide just what savings are going

to be, if there is any. We can make an informed decision then. Please don't jump and vote for this just because it happens to be part of the package and because a commissioner who is very new in this state has told you this will work. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I am probably going to stand up and take a little different tone on this. I have been very concerned about the overtime issue, but I am more concerned about the intermittent workers because I see it as a way of progressing very slowly into a lot of different departments in the state. I am also concerned because I see this as a collective bargaining issue and a very distinct labor issue. What I would like to see happen to it is for it to go back to the committee of jurisdiction, which is the Labor Committee and have it thrashed out there. Thank you Mr. Speaker.

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

Representative JOHNSON: Mr. Speaker, Men and Women of the House: Again, let me tell you that I have been awake and I have been listening. There have been times in my time here in the Legislature, I have been nodding, but I have been awake on this one. I remember very well the commissioner being pressed on this matter of intermittent employees and very definitely it was said they would be trained for their positions. They will not surpass regular employees. This is not a haphazard employment. If you will read in the document itself, G-17, I will read the underlined section, the last line. "These intermittent positions will only be used at specific posts or work sites to be identified," listen, wake up, "through an agreed upon discussion process with labor." Ladies and gentlemen, I move indefinite postponement of this House Amendment, amendment "D."

Representative JOHNSON of South Portland moved that House Amendment "D" (H-667) to Committee Amendment "A" (H-657) be indefinitely postponed.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: Whatever happened to collective bargaining? The solution to excessive overtime is to employ enough full-time employees so that you don't need intermittents, if that is what we are going to call them now. People need full-time jobs with benefits. For the state to create part-time jobs with no benefits is to add to the state's problems, not solve them. The goal is to improve the quality of life. I rise in support of the good Representative from Millinocket's amendment. Thank you Mr. Speaker.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "D" (H-667) to Committee Amendment "A" (H-657).

Representative LUTHER of Mexico requested a roll call on the motion to indefinitely postpone House Amendment "D" (H-667) to Committee Amendment "A" (H-657).

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

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

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Thank you Mr. Speaker. My question is to anybody, probably somebody from the Appropriations Committee, but I think we are at a point where somebody needs to help me understand. My thought when we came down here was that if anybody proposed changing any of the proposals put forth by the task force, that there had to be found an equal amount of savings somewhere else in state government. I don't think I dreamed that. In none of the discussions on amendments have I heard any proposals where we can make up the difference.

This is kind of a general question, it is not specific to this one amendment. I would like somebody to explain to me if I completely misunderstand what is going on here and if I do understand what is going on here, someone needs to be doing what we agreed that we would do last year when they made proposals to take money out of these task force recommendations. Thank you.

The SPEAKER: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: It is very clear and we all know that this task force was developed to achieve savings of 45.2 million dollars. The budget is predicated on that. If, in fact, as you voted earlier, we developed in the committee to separate what was productivity and nonproductivity, for those items that were nonproductivity we put into a separate bill. The original document that came before the Appropriations Committee consisted of a little more than 27 million dollars worth of savings. The committee scrutinized again dividing what was within the purview of this Productivity Task Force. We pulled out, which is on your desk, almost 1.8 million dollars that was what we considered nonproductivity.

Also, language things and items that had nothing to do with or again within that purview of productivity or didn't create any general fund savings, we sent that portion of the language to the committee of jurisdiction. Those were some of the joint orders that were passed earlier in the day.

Now, what you are asking is if we do not achieve these savings or we don't go along with what the administration is proposed, what do we do? It is very clear what we have to do. We have to go in and reduce the budget in order to achieve those savings. I guess when this amendment did come forth, I was a little reluctant to stand because I felt that everybody knows the predicament that we are in. This would drastically affect the savings that the administration is trying to achieve.

If this bill starts to unravel, we will never get out of here. You will be back in January. I am not saying that Commissioner Leeman is going to be able to live within his budget. There is some skepticism

on that. He knows that. We have shared that time and time again. I can only tell you that the budget is predicated on these savings. Whether or not we have to come up with those savings now is unclear. The budget is predicated on 45.2 million dollars worth of saving that are to come from this Productivity Realization Task Force.

Again, by voting in favor of this amendment, those dollars will be jeopardized. The corrections budget will be jeopardized. I don't want a share in that. I don't think that you do either. There has been a very lengthy debate on that particular budget. There have been work sessions and that was one of the areas where state employees came forth with some suggestions. They were very helpful to both committees. I can only tell you we did the best that we could with what we had. I urge you to vote against this amendment. It will jeopardize the savings in the Corrections Department.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I have been involved in corrections for the three years that I have been down here and overtime has always been a problem. The Appropriations Committee has been after the ex-commissioner continuously to do something about the overtime issue. They were not allowed to budget for overtime. As you can see in the amendment, this may result in future requests for supplemental appropriations. I can tell you, it will result in future requests. This is the first time that I have seen anything positive put forth to deal with the overtime problem in corrections. Believe me, it is a big problem.

I do remember the good Chairman of our committee having concerns about this and three other issues. He made those known to our committee, but I should point out that his view was very much in the minority. We, the committee, voted 11 to 2 in favor of the proposal. I hope that you will support the Criminal Justice Committee and the Appropriations Committee and vote to indefinitely postpone this amendment. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I don't know if this answers anyone's question and I certainly speak for no one but myself, but no previous agreements can or should be able to bind my conscience or anyone else here. We should vote for what we believe is right and what is right for the constituents that send us here. I am going to be happy to vote no on this proposal.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I want to take the time right now to publicly apologize to my committee Chair. I have been reminded of his stance. I was in error and I deeply apologize for the mistake. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to indefinitely postpone House Amendment "D" (H-667) to Committee Amendment "A" (H-657). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 279

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Brennan, Buck, Cameron, Campbell, Carleton, Chartrand, Chick, Clukey, Cross, Damren, DiPietro, Donnelly, Dunn, Farnum, Gamache, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Johnson, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nadeau, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Poirier, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Spear, Stedman, Stone, Taylor, Thompson, Townsend, True, Tufts, Tyler, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Bunker, Carr, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gerry, Green, Hatch, Heeschen, Hichborn, Jacques, Jones, K.; Keane, Kilkelly, LaFountain, Lemaire, Lemke, Lemont, Luther, Madore, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Paul, Pendleton, Povich, Richard, Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Strout, Treat, Tripp, Tuttle, Volenik, Watson, Winn.

ABSENT - Dexter, Kontos, Plowman, Poulin, Truman, Underwood, The Speaker.

Yes, 81; No, 63; Absent, 7; Excused, 0.

81 having voted in the affirmative and 63 voted in the negative, with 7 being absent, House Amendment "D" (H-667) to Committee Amendment "A" (H-657) was indefinitely postponed.

Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660), "B" (H-663) and "C" (H-675) thereto was adopted.

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

Representative CHASE of South China presented House Amendment "B" (H-662) which was read by the Clerk.

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

Representative CHASE: Mr. Speaker, Colleagues of the House: I am presenting this amendment for one reason and one reason only and that is that I hope to improve the document that we have voted on and will be voting on again and yet again.

This amendment, the one that says, filing number 662 in the upper right hand corner and House Amendment at the bottom, it is one of the first ones you would have gotten at the bottom of your pile of papers. It simply deals with the piece of the recommendations that have to deal with the Department of Agriculture. We spoke earlier about some of the problems in the recommendations from the Department of Agriculture.

I would like to tell you one thing about the process of the Productivity Task Force that we haven't discussed and it was not appropriate to discuss. There were two things that the task force involved. One was, particularly in the beginning, a complete lack of public input. Later on, we actually heard from some employees in one of the subcommittee meetings. The task force, as a whole, did not function as our committees functioned. There was no testimony from any members of the public, private individuals, employees or otherwise.

The other thing that we did in the task force when we voted was, we voted to accept or reject in entirety all the proposals that came our way. When you think of the recommendations of the task force, please realize that there were no opportunities for amendments, no discussion among the members of the task force as we have in our legislative committees about how to improve something, change something and how to address a concern. We did not hear the concerns. We heard a presentation and then we were allowed to ask questions. Then we were asked to vote up or down on a proposal in its entirety. There was one occasion which I asked for a delay until the next meeting to get further information and the delay was not granted by the committee. We acted quickly. We often had the entire proposal faxed to us two or three days prior to listening to the presentation. I tell you that just because I was listening to speakers in this body earlier today and one good Representative said that this has been approved by the task force as though we had scrutinized it and we were in agreement.

I voted for the proposal presented by the commissioner of the Department of Agriculture and I had problems with it, but those problems were not great enough to make me repudiate the entire package, which I think hold some merit. Most of the presentations held merit. Many of them were very, very good and I only had a couple of reservations. Some I didn't feel that way about. I only voted against one presentation and that was Corrections. I have a lot of trouble with the Corrections piece. The committee of jurisdiction has looked at it and the committee of jurisdiction has approved it.

All I am presenting to you is the equivalent of the Minority Report. That is, we are once again attempting to address the simple fact of positions being made political appointments. That is all that is in this amendment. I am sorry to take so much time to say that to you, but I think it is important that you know that there was no opportunity in the task force consideration of the proposal to say, Oh, by the way let's change this piece. The questions were asked and the responses were given. There is no opportunity to amend and no opportunity to discuss to change. I feel strongly about it and I am presenting it to you for your approval. There is no fiscal change, no financial effect on the major bill except perhaps a bit more of a savings as has already been explained to you because of the retirement piece that would be picked up by the state. Who knows how much we save, maybe a few thousand dollars. That is not the point. The point is that these positions should not be politically appointed positions, with that, I will close and urge you to accept this House Amendment. Thank you.

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

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: This issue is obviously the same issue I spoke on earlier and I would just remind members that the concern that some of us have is that we would be seriously politicizing positions that are, in fact, regulatory positions, evaluating positions and technical positions. That is what the concern is. I would urge your adoption of this amendment. Thank you.

The Chair ordered a division on adoption of House Amendment "B" (H-662).

A vote of the House was taken. 56 voted in favor of the same and 81 against, House Amendment "B" (H-662) was not adopted.

Representative ADAMS of Portland presented House Amendment "C" (H-664) which was read by the Clerk.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: As the Governor pointed out the other day when first we gathered for special session and I quote, "Attitude makes all the difference." Our attitude should be, I hope it is, legislators searching for cost savings. We want to find the best ideas from those folks who are best in the know. For example, I imagine if the clerk on the front desk or the warden in the woods has a good hands-on idea that does that, I want to know about it as the work of the task force continues into our much tougher Phase 2, which we will face when we return next January.

The Governor also pointed out there is much more to do to achieve savings that were promised. That is true and to do that, this amendment makes it clear that our state employees have the same rights to contribute on their own time to the work of the Productivity Task Force that they do now in current law. Again, on their own time before our own legislative committees and that we will have the opportunity to benefit from their input.

In the Governor's own words on the first page of the House Calendar for the first day we gathered cites that we are here because and I quote, "An extraordinary occasion." So, we must be extraordinarily clear about what. That is, if a good idea is offered, all of us should have the opportunity to hear it from all the good people. The bottom up, sides in or however these ideas might arrive. Thank you.

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

Representative KERR: Mr. Speaker, Men and Women of the House: This amendment as presented by Representative Adams has zero impact on the proposal that is before us. I would urge you to support this amendment simply because we do look to state employees for suggestions. They are our front-line workers. I don't think that their jobs should be jeopardized should they come before the Productivity Task Force and give suggestions. Again, I would urge you to support this amendment. It has zero impact on any savings and has no implications on whether it is with or within the purview of the Productivity Task Force. We should encourage public participation and that includes state employees. I would urge you to support this amendment.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I just have a couple of points of clarification. As I said previously in a report as this idea was flowing, I don't think it is a bad idea that we provide state employees protection as they come forward and offer them. In reading this proposal, I have a question though. If Representative Adams would mind clarifying it for me, I would appreciate it. It says, "A state employee may not be impeded or prevented from contributing to or participating in the study." I just need a little bit more clarification on what that means and if it

provides a state employee more rights under this section than any other citizen in the State of Maine?

The SPEAKER: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to the Representative from Portland, Representative Adams. The Chair recognizes that Representative.

Representative ADAMS: Mr. Speaker, Men and Women of the House: To answer Representative Donnelly's second question first as politicians always want to do. No, it does not at all provide any more protection than already exists in law for everyone else, including state employees. The other citations of law that you see upon the page before you specifically delineates that. The words in pair are indeed an oratorical flourish and I thank you for taking notice of them.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Thank you. I would like to ask the good Representative Adams why he considered it necessary to put this amendment in having read Title 5, Chapter 2 that gives the state employees every right and protection to do exactly what he has on his amendment? I would like to know what his intent is to do something that it seems as though they are already allowed to do and also protected to do? I heard earlier that there might be some interpretation as to legislative committee, but if you look at the definition of legislative committee in Title 5, it includes task force and councils and whatever committees set up by the legislature. I guess I am a little concerned to wonder if this is a redundancy and if it isn't, where it isn't? Thank you.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: To reply to my friend the Representative from Bridgton, I would point out that existing law as specifically cited in the citation on the page before you, now brings you to the part of the Maine State Revised Statutes that explains that existing law provides for state employees testifying on their own time before existing standing legislative committees, board, panels and etc.

The Productivity Task Force is not one of these and yet, it acts like one and is sort of one. It falls in the region between all those creatures that quack, walk and act like ducks, but quite aren't. Nevertheless, it is the duck we got and it is the one that is going to be speaking to us in January. In order to make sure that the clarity of the law as expressed now for existing boards, panels and legislative committees is expanded and touches upon the Productivity Task Force, which is doing the work of standing committees, it would seem, at least in my mind, to be necessary. So that we say what we mean and mean what we say.

We have the opportunity to have all their good input without any further impediment. I would not

have felt it necessary had not we had regrettably placed upon the record of this chamber and on the work of the Productivity Task Force attempts from at least one department to indeed both impair and impede state employees from having direct opportunity to speak to the Productivity Task Force. Perhaps it was somewhat regrettable. We are holding the memos from the Agriculture Department that, in fact, did exactly that. I would prefer to think that we are better than that and expect more of our state employees than that and have the opportunity to judge on our own once they have had their full say. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the good Representative from Portland's amendment. Most times I am very much opposed to doing things that appear to be redundant. I think the task that is before us on making state government more responsive and more responsible to the taxpayers of the state is a daunting task at best.

I think we need to reinforce and send a message out to all those 15,000 employees that we need their help and value their input. Particularly those folks that are on the front line day after day after day. They see the waste. They laugh when we talk about trying to save money and then they see in reality what happens throughout the state. They see the place to save \$100 and they see the place where \$500 was wasted. They see the \$5,000 waste. Maybe that isn't a whole lot of money compared to the millions that we have to save, but the old adage says that if you take care of the pennies, the dollars will take care of themselves. I believe that very strongly.

I think, again, that it is extremely important that we get the input from all of these folks. I think these folks are sitting out there now thinking, nobody values our opinion and our contribution. I think we would make a grave error if we send that message. I think this amendment is an opportunity, hopefully through the media, if no other way, to let these folks know we do value their contribution and we certainly value their ideas. Does that mean we are going to agree with everyone of them or we are going to carry out every one? No, it doesn't mean that, but we certainly can't do them if they don't bring them forth.

Just because the law is on the books, doesn't mean that those folks know it. There are literally millions of laws on the books and except for maybe the attorneys in this room, we don't know what they all are. I think it is very wise for us to take the opportunity to send the message throughout the whole state organization that not only do we appreciate their efforts, we want to hear their ideas and hopefully we will respond favorably. I urge you to support the amendment from the good Representative from Portland. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: So many of the things go on in state government, and legislators are the last ones to know. There are many times that legislators ought to listen to state employees because they are the ones that really know what is going on in state government. Many times it is not the department heads that tell us what is going on in state

government, whether it is to protect themselves or protect someone else.

I would like to read what the employees of the Department of Agriculture got and see how you would feel if you were to receive such a memo. "It has come to my attention that members of the department have been asked to attend the meeting of the legislative committee of Agriculture, Conservation and Forestry on Friday, November 3. It should be clear that anyone planning to attend this meeting needs to speak to their supervisors about the time they will be taking off from their regular duties and make arrangements for those responsibilities to be met."

This is the line that really bothered me, "The decision to attend must be authorized by the unit director, since this is not part of the normal work day and there have been complaints about not having enough time for staff to meet our responsibility, it is particularly important that each director carefully evaluate how this will impact the units ability to accomplish its mission. I would like to have a written evaluation as to who will attend and how you plan to cover the loss of each member's time by Wednesday, November 1."

It makes absolutely no sense to me, because it seems to me that it is the people within the department who know. I would point out, who knows better than this commissioner who has been on the job less than a year? There are people who have been in that department for 30 years who can tell you what the problems are in the department and tell you where the fossils are and, by the way, I suspect that some will be left there when this is over, and who can tell us, as a Legislature, the way the law ought to be. Whatever it is we can do to make state employees come forward and tell the legislators what is wrong in the system, we ought to encourage and not to discourage. If this amendment does that, I would hope that we would adopt it tonight, because in the long run we will be the benefactors, not the department heads and not the commissioners of this state.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Thank you. Just for a matter of clarification, present law says state employees can attend these hearing to testify on their own time. Will the language in this amendment say they can attend these hearings to testify on state time?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: No.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Having been explained by Representative Adams what is covered and what protections are in there having been shown by

Representative Waterhouse earlier, I feel comfortable with this provision and would encourage you to support it.

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

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I know it is late, but I am confused. If we are trying to say, state workers we like you, that is fine and I do and I would like to say that and that is fine, but if we are trying to say that state employees may not be impeded or prevented from contributing or participating in a study conducted, why doesn't it just say, no person may be impeded or prevented? Could somebody please answer that please.

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: My best guess is that any other person who is not working for state government would not have their job threatened if they wanted to testify in front of a committee contrary to a commissioner. That may not be the case with a state employee and I think that is probably the whistle-blower protection and all the other protections that happen at federal and state levels. The difference being anybody, not specific to state employees is that their livelihood is on the roll and anybody who has a family knows what a big hammer that is.

Representative JACQUES of Waterville requested a roll call on adoption of House Amendment "C" (H-664).

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 adoption of House Amendment "C" (H-664). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 280

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

Tripp, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

ABSENT - Dexter, Kontos, Plowman, Poulin, Truman, Underwood.

Yes, 145; No, 0; Absent, 6; Excused, 0.

145 having voted in the affirmative and 0 voted in the negative, with 6 being absent, House Amendment "C" (H-664) was adopted.

Representative MARTIN of Eagle Lake presented House Amendment "D" (H-666) which was read by the Clerk.

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

Representative MARTIN: Mr. Speaker, Members of the House: Let me first of all state the obvious, this amendment did not have a public hearing before this Legislature. That is also true of many of things which we have before us today, so in that regard it is not different.

Second, it is something that has been heard before this Legislature and previous Legislatures many, many times. It is one which, frankly, in my opinion, the time has come, especially with the new Governor, especially since we are talking about retooling and reinventing government. We are dealing at the present time with a county jail system that has been in place since 1820, when Maine became a state. It is time that we do something about it.

Frankly, many of us and many of you have been concerned about the cost of government at the state level, but, frankly, not much is being done about what is going on at the local or county government. Why is it that the Cities of Bangor and Brewer both need ladder fire trucks? Why is it that Portland and South Portland need the same? Why is it that we have 16 county jails? I can go on and on and on.

Those are things that we don't dare look at because we are and I quote, "Scared of local control issues." This amendment basically does what I have offered before, before the previous Legislatures and it transfers the county jails from the county to the state effective in 1997 and it is also obvious that it has no fiscal note for this biennium and that is for obvious reasons. I make no apologies for that. Frankly, it cannot be done in any other way. It will never be done in any other way.

Let me ask you, is it really and truly a county jail? Is it really? Who places the prisoners there? State law, enacted by this body and the body at the other end. Who determines the length of sentence, county officials or state officials? State officials do. Who regulates the jails? It is the Department of Corrections that comes in with its determinations with its jail quote, "Experts." It is not the county. Who pays the bill? It is the county property tax payers. If you have looked at your county budgets lately, you will find that better than half of your budget is directly connected with the county jail, over which you have no control as a county taxpayer.

It is born entirely by the property tax, not by the sales tax, not by the income tax or any other form of taxes. If you see that as being fair, then I will ask you what is and isn't fair to the property taxpayers of your county? If I thought there was any other way to accomplish this goal, I would have tried it, but there isn't. If you really want property tax being removed at the local level, if you

really believe in reducing property tax by better than 20 percent in some of your communities, you will vote for this amendment, especially in some of the larger cities.

I can recall when I suggested to the City of Portland that it was not to their advantage to do what they were doing in the City of Portland before the jail was transferred to the state. The County of Cumberland now has the highest debt for any jail in percentage of the total in comparison to any other county. That burden will be upon those property taxpayers forever. I feel strongly that if the state is going to determine the length of sentences and the state is going to determine who enters them and how long they stay there and what is going to happen in terms of the standards, then let the state pay the bill. It is really that simple.

What this amendment does is it does two things. First, it transfers the county to the state to the Department of Corrections on the first of July of 1997. Secondly, it says to the commissioner of Corrections for the next session to bring forth a plan to place it before the Criminal Justice Committee for implementation. If we really believe that we want a correction plan statewide for this state, it is my opinion that this is the way to do it. I know some of you may think that this is just a joke or whatever, but I guarantee you I have been serious about this issue for 15 years or whatever it is and it is one, I think, whose time has come.

Ask any of the taxpayers at the local level whether or not they have control over their county jails and you will know what that answer is. I urge you to vote for adoption of House Amendment "D" and request when the vote be taken it be taken by the yeas and nays.

The same Representative requested a roll call on adoption of House Amendment "D" (H-666).

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I could not agree more with the previous gentleman and what he has said. Our budget for our jail in York County this year, the sheriff came in with a 1.8 million dollar increase. He also has come in and wants to build a new jail. We are fortunate. We own our jail. We built one in 1970 and we added onto it in the early 80s. We don't owe a dime on it. He doesn't think it is good enough for those prisoners. He has to have a more modern jail. Without even a building, it is 1.8 million dollar increase. The people in York County can no longer afford that. I agree 100 percent that the time has come to get rid of county jails. We can no longer afford it on the property tax. I would hope that every person in this House would support this amendment. Thank you.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: Probably I am one of two people in this room who has been involved in county government. I have debated this issue before in the last nine years. I will debate it again. The question is, who has control and who is making the decisions on the county jails? I concur with them, but why? Why, is because the federal government imposes through its influence from various agencies throughout this country, the American Dental, the American Medical and a multitude of agencies and

groups that put these requirements into the regulations that control correctional institutions.

You ask me how I know. Back in my former years, I attended seminars. I attended one in Minneapolis that was devoted totally to corrections and another one in Atlanta at a county annual meeting. It was the same way. These regulations have led to absolute waste. At one of these meetings, it was brought to our attention that a jail was built, I am not sure where it was, I think it was in the south, to the specifications of what was imposed on correctional institutions through all of these recommendations of these agencies. By the time it was finished, it was totally obsolete because of these changes. What did they do? They bulldozed it down and started again. Now that is waste. This is where this is coming from.

Furthermore, the law has been passed here that says if the crime and punishment is for less than 365 days, it is served in the county jails. Many times these decisions are rendered so it will put this burden on the county. I do not agree with the two former speakers. What are you going to do with those institutions that may be part of your courthouse and that does exist? Are you going to take over the whole building now in a very sly manner? Jails are expensive because of the rules and regulations that are imposed from above. We have no voice in it. Maybe here we do, but I don't think so. This is passed down from the federal level.

Those who have been involved in corrections know the matters that you have to deal with, the regulations and everything. It is not easy. I hope you will think very seriously about this issue. The people back home should have a chance to express their opinion. The people in the county structure should have a right to express their opinions. None of us like the costs that we are paying in taxes. However, our civilization in this country has reached a point where that law and order is being stressed to the hilt and sometimes we wonder if we are winning the battle. That is very questionable, too and why?

We have all thought how can we stem the tide of crime in this country when we are losing it all the time. I ask you to think seriously about this. Don't blame the people at the county level. They would like to cut back, but what happens, the inspectors come in and say you have to do this and you have to do that. I have seen the counties in this state against their good judgment and will be forced to improve their jails with the promise from the state that they will be getting federal and state prisoners. Yes, they have them, but they are not being paid to take care of them. That is where the pinch is coming. Right now the counties of Maine are owed a sizable amount of money from the State of Maine for prisoners that they have had and cannot collect the money.

I think you should think about this very, very seriously. If we want the public to know, then let's let them know before we vote on it. Thank you.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: My first question, I guess would be for the Chair, would be a point of order. Do we need to have a vote on whether we are going to continue past 9:00 p.m. as we have in the general session?

The SPEAKER: The Chair would respond to the question of the Representative from Old Town,

Representative Keane based on the last two precedences used by former Speaker Martin and former Speaker Pro Tem Reed that the House has voted to suspend House Rule 22 by implication.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: As a freshman legislator, I am afraid this is an overpowering problem for me. I don't really believe that I can make an intelligent decision either tonight or any time in the near future. I certainly would have to see some data and statistics. I am sure it might be a good idea and most of you experienced legislators probably know much better than I, but in all good conscience I think I would need more time and data to vote intelligently on this issue.

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

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

The SPEAKER: The Representative may pose his question.

Representative LINDAHL: Thank you Mr. Speaker. We have gone through this effort of the Productivity Realization Task Force, wouldn't we be adding about 1,000 new state employees to the state ranks?

The SPEAKER: The Representative from Northport, Representative Lindahl has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: This would be entirely based on what the Criminal Justice Committee would choose to do with the implementation of the plan that the commissioner of Corrections would propose to the Legislature in January. Frankly, I can't prejudge what would take place at that time, but it seems to me that it is a perfect opportunity to save money.

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

Representative FARNUM: Mr. Speaker, Members of the House: Someone said there had been no hearing on this. For the last 11 years, I have heard the people of my area say get rid of that jail. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative DiPIETRO: Thank you Mr. Speaker. I know that the good Representative Martin has done a lot of work on this. I know that this is not the first time this bill has come forth. My question is, who is going to take over the debt that the county jail has? Cumberland County has just built a new jail and has a tremendous amount of debt. Does that mean that when we turn the jail over to the state that they also incur the debt?

The SPEAKER: The Representative from South Portland, Representative DiPietro has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: That, of course, is a matter that the

Legislature, in the future, would have to decide. There are two possibilities here. One is that the state could take over the indebtedness. The second one, keeping in mind that the original bonds were issued by the Cumberland County government and, in fact, they became responsible for those bonds. That second issue would be a determination of what the Legislature would choose to do. It would seem to me that there are a number of bonds outstanding and if they were to be merged together that there would be a reduction in the total cost. There is no question, for example, there are a number of counties that have outstanding bonds left for jails and I suspect that there is at least one more that is in the process of doing the same thing. That is a matter that the Legislature would deal with.

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

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: I was part of the building of the new jail in Piscataquis County. I was on the committee that did it. There was nothing that the state did that costs less money than what the county did, to be sure. In our county, the jail is a big part of the total budget, but there is no way, in my mind, without considerable more information than is available right now that I can ask that we go do this with nobody knowing what the cost is going to be. If off the top of my head and from what knowledge I have, we are just going to increase the cost to the state and the county, people are going to pay it to the state instead of to the county. They are going to pay more money. I think we ought to defeat this.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I have worked in county government as the member and chairman of the very first Cumberland County Budget Advisory Committee. I will tell you that I am a believer that some of the best ideas come after 9:00 p.m. I think we ought to do this more often. My only regret is that the bill does not also include rolling the county sheriffs into the state police and reducing county commissioners from three to zero.

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

Representative McALEVEY: Mr. Speaker, Men and Women of the House: The amendment that we have in front of us, I think is ill-timed. We are trying to get our corrections house in order right now. We are downsizing. The State of Maine has done a wonderful job over the last 20 years causing its local jails to come up to state and federal standards. For the most part, these jails have met these standards. The DOC makes the jails meet those standards yearly through jail inspection.

One-third of the people who work in my jail are my constituents. They live in my three towns. I think speaking for them, they would like this. Their salaries would go from a starting salary of \$7.50 and they do work at a jail and they don't flip burgers at McDonalds, to probably \$11.00 or \$12.00. If you were going to bring them into the state fold, you are going to have to pay them the salary as you pay state employees and that is only fair. We are wacking our corrections budget disproportionately to any other

budget in the state government through this task force.

Let's get our corrections house in order in the state first before we look at encumbering us and the DOC with any other obligations. This does warrant study. It does warrant some consideration. I think the timing is wrong. I think we need to get our own state of corrections in order before we start assuming 16 other potential problems. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I realize to some this may be a surprise, but to some of us who have been here a while, this is no surprise. We do realize what the cost is. I would like to explain that the cost and I can only speak for York County because it is the only budget that I have been involved in, but the good gentleman from Waterboro is right, the starting pay is low. When you look at the overtime and I don't believe there is a deputy sheriff up there or a jail guy who doesn't get in all his overtime. It is \$290,000 in overtime money we have put into the jail account.

We are downsizing the corrections at the state level. I perceive 1.8 million dollar increase downsizing it at the county level. Those people who live in my district for the elderly, the property tax is going up and they cannot afford to live in their homes because they can't afford the property tax. I say this is unfair. If we do it at the state level, we are spreading it out over the state and maybe the state will be a little more careful about the laws they pass and the things they do if they have to pay for some of this. We cannot afford the county jail. The people in our county can't. I realize the people who have worked there and everything, but they know there is no person who works for York County jail making \$7.50 an hour, because his overtime is adding up to a lot more than that. They are very well paid with overtime. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: Last year county taxes in Cumberland County increased by about 25 percent. By and large, that increase was directly attributed to increased cost at the county jail. In fact in the City of Portland alone, the county taxes went up a half million dollars.

I think it is very premature, without having any public hearing or discussion, we are talking about giving up local control of our jail not understanding the full context of what is happening with the corrections system and at the same time not understanding the full context of services that are being delivered on a regional basis by county government. I ask you and even though we have experienced significant problems in Cumberland County, to vote against this amendment. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: I would like to make a couple of responses to the comments that have been made. First of all, county jails do not perform regional services. The sheriff's department might. This has nothing to do with the sheriff's department. This has to do only with the administration of the county jail.

Second, there are some people who suggested that this only include the sheriff. Let me point out that the sheriff is a constitutional officer in this state. It cannot be done away with by a simple vote of the Legislature. That is a matter that requires a lot more than this action that we might contemplate here tonight.

Third, let me just say that in the long run, if you believe that you are going to be able to this in the short run, without some sort of action like we are doing tonight, through a Productivity Task Force of this fashion, it will never happen.

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 adoption of House Amendment "D" (H-666). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 281

YEA - Ahearne, Barth, Berry, Bouffard, Buck, Chartrand, Chase, Chizmar, Cloutier, Desmond, DiPietro, Farnum, Gates, Gieringer, Gould, Green, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Kerr, Labrecque, LaFountain, Lemont, Lovett, Martin, Mayo, Morrison, Murphy, Nadeau, O'Neal, Paul, Pendleton, Pinkham, Poirier, Pouliot, Reed, W.; Richardson, Rosebush, Samson, Sirois, Stevens, Strout, Thompson, Townsend, Tripp, True, Tuttle, Tyler, Vigue, Volenik.

NAY - Adams, Aikman, Ault, Bailey, Benedikt, Bigl, Birney, Brennan, Bunker, Cameron, Campbell, Carleton, Carr, Chick, Clark, Clukey, Cross, Daggett, Damren, Davidson, Donnelly, Dore, Driscoll, Dunn, Etnier, Fisher, Fitzpatrick, Gamache, Gerry, Gooley, Greenlaw, Guerrette, Heino, Jones, S.; Joy, Joyce, Joyner, Keane, Kilkelly, Kneeland, Lane, Layton, Lemaire, Lemke, Libby JD; Libby JL; Lindahl, Look, Lumbra, Luther, Madore, Marshall, Marvin, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Nass, Nickerson, O'Gara, Ott, Peavey, Perkins, Povich, Reed, G.; Rice, Richard, Ricker, Robichaud, Rowe, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Spear, Stedman, Stone, Taylor, Treat, Tufts, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Dexter, Kontos, Plowman, Poulin, Truman, Underwood, The Speaker.

Yes, 55; No, 89; Absent, 7; Excused, 0.

55 having voted in the affirmative and 89 voted in the negative, with 7 being absent, House Amendment "D" (H-666) was not adopted.

Representative MITCHELL of Vassalboro presented House Amendment "E" (H-668) which was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: It is very intimidating to try to address my distinguished colleagues at this hour on something that is of the utmost importance. I feel very humbled by the responsibility of trying to articulate to you the very grave situation that I

bring to you and I am trying to address in this amendment. The amendment that I will present to you will say that decisions about the closure of mental health institutions are best made by the policy committee, by this Legislature and by the commissioner of Education.

It does not allow it in the Productivity Task Force because in the event we make that decision and that decision has not been made, the people who currently reside in the Augusta Mental Health Institution must go somewhere, either to another institution or a community-based facility. The only reason to put decisions about Augusta Mental Health Institute or Bangor Mental Health Institute into the Productivity Realization Task Force is the belief that if savings should occur, they are available to help us reach that target of 47 million dollars. I submit to you that is unconscionable. It is totally unconscionable. It is totally inappropriate and it does not stand for what we, as a Legislature, have said that we will do for our most vulnerable citizens.

Last session we attached to some legislation that any savings would go into a consent decree reinvestment fund to create places for mentally ill who have been discharged from mental institutions a place in their communities. I invite you out on the streets of Augusta any day and any night and because of the proximity of Augusta Mental Health Institute, you will see many people who have been either prematurely discharged from an institution or who may have forgotten to take their medication and who are unable to take care of themselves.

Speak to your local police department. People often need assistance even after they are taken out of an institution. I believe that we, as a Legislature, who created the Productivity Task Force, it is no more no less than our creation. When we created it, we said that off-limits would be general purpose aid to education and revenue sharing. I am suggesting by this amendment also off-limits would be any savings from a potential closing of a mental institution because those monies are going to be needed to fund places in the community.

Some of you are as old as I am and you know that deinstitutionalization started long before now and you know that the picture is not very pretty. You know that many homeless shelters become the places for people to go. You know that people live in filth and squalor because we have not had adequate community placement. We cannot sit and say we are going to close an institution and in good conscience not provide a safety net for those individuals who have no one else to trust but us.

I bring this to you because it never occurred to me that it would be a part of the Productivity Task Force, but the Augusta delegation was told yesterday by the commissioner of Mental Health that she was recommending to the Governor, who has not made a decision, that AMHI be closed. I am suggesting to you that does not square with the testimony that I heard when I was a member of the Human Resources Committee. That confirmation hearing that we talked about, a responsible plan for downsizing our mental institutions, we would bring the stakeholders to the table, the consumers of mental health, the workers, the community members and all the people who want to make this system work. Nobody in Augusta has ever said they want to lock up all mental patients in Augusta and never consider a better way of treating people.

We do say it is wrong to do it in the guise of Productivity Task Force taking money that should go for the care of people who cannot speak for themselves. I would urge you to vote for this amendment to simply say the Productivity Task Force does not have within its purview this very serious decision. It belongs with the commissioner, stakeholders and our own Committees on Human Resources and Appropriations and Financial Affairs as we move to make a responsible decision and as we comply with the consent decree. We cannot throw people into the streets without appropriate community settings.

If you notice my amendment, the fiscal note that was attached to this bill should make your blood chill. It has a fiscal note because it may impede the savings that can be accrued for the Productivity Task Force. If they don't intend to take the savings from the closure of a mental hospital to go to this goal of 47 million dollars, why does this bill have a fiscal note? I don't believe it does, because I do believe we have made a commitment as decent human beings that we will not, again, put people into the streets without proper placement. I implore you as late as it is to think and to feel the anguish of those families who face the agony of mental illness and vote to get this out of the Productivity Task Force and back into the setting where this Legislature can resume its rightful responsibility. I ask for the yeas and nays Mr. Speaker.

The same Representative requested a roll call on adoption of House Amendment "E" (H-668).

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

Representative REED: Mr. Speaker, permission to pose a parliamentary inquiry?

The SPEAKER: The Representative may pose his inquiry.

Representative REED: Thank you Mr. Speaker. In so much as House Amendment "E" (H-668) seeks to amend "An Act to Implement the Recommendations of the Productivity Task Force" and in so far as there are no recommendations in this bill before us relating to mental health matters and as I read it (H-668) is, in reality, a retroactive modification of Chapter 99 of the Public Laws of 1195. I respectfully request a ruling from the Chair as to whether or not (H-668) is in compliance with House Rule 31.

Representative REED of Falmouth requested a ruling from the Chair if House Amendment "E" (H-668) is properly before the House pursuant to House Rule 31.

The SPEAKER: The Chair would respond to the request by the Representative from Falmouth, Representative Reed with regards to the germaneness of House Amendment "E," that has been presented by the Representative from Vassalboro, Representative Mitchell. The Chair understands the concerns that have been raised by the Representative from Falmouth, Representative Reed that deals with the implications of House Amendment "E" which would in the opinion of Representative Reed would limit the recommendations that have yet to be made by the Productivity Realization Task Force with regards to this issue.

He has also referenced House Rule 31, which is the germaneness ruling in our House Rules. The Chair would interpret House Amendment "E" as further defining the process under which the Productivity Realization Task Force has and will use in the future if adopted. It is similar to House Amendment "C" that was recently adopted by this House and sponsored

by Representative Adams that also deals with the process. The Chair would rule that House Amendment "E" attempts to merely further define Chapter 99 of Public Law 1995 that was adopted by this Legislature and would therefore rule that House Amendment "E" is properly before the body at this time.

The Chair ruled that House Amendment "E" (H-668) was properly before the House.

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 Augusta, Representative Madore.

Representative MADORE: Mr. Speaker, Ladies and Gentlemen of the House: I rise this evening in strong support of Representative Mitchell's amendment. Without repeating all the points that she so eloquently made, I just simply want to say that I do believe this is an issue that is very sensitive and very important regarding the adequate mental health care of not only our constituents, but for many of us, our loved ones. This issue requires the full attention of the Legislature and I believe should not be buried within the lines of the Productivity Task Force. I urge you to join me in supporting passage of this amendment.

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

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: I need to say briefly that the Human Resources Committee has been looking at this issue and has asked the department to report back to us in January on the feasibility of closing either Bangor Mental Health Institute or Augusta Mental Health Institute. It is on track for us to discuss. Let me also say for the people who are new here that in terms of the will of this institution to look closely at whether we should close our public institutions with persons with mental retardation or mental illness, we did take up the Pineland decision and agonized over the Pineland decision and, frankly, finally made the decision to close it, which will happen probably this summer. There is a will if the facts bare out the need to close one of our public institutions. What I am asking you for and to follow the last two speakers is to give the policy committee the opportunity to review this very complex issue. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to belabor this question. I intend to support the amendment from the good Representative from Augusta. I do want to take a moment to say a couple of things about what is going to happen. Representative Fitzpatrick is right. It belongs before the policy committee, which institutions you close and what the time line is for closing them. It is a critical decision because that population is a very vulnerable population and it is not a population that can advocate for itself. The shame that is affiliated with this illness and the stigma on families, people are not as forthcoming

about the need for the services that state mental hospitals provide.

I absolutely, fundamentally believe in every single state in this country there will always be a state hospital. There has to be that final safety net because there is nowhere else to go. I can't tell you which institution will be closed, but I can say this, other states in New England are spending three-quarters of their money in community services and one-quarter of their money in hospitals because of the last decade they have made the transition to serving the population more in the community to mainstreaming the population and therefore destigmatizing the population of people who have severe episodes with mental illness.

It puts people in community hospitals and in community apartments. It can't happen overnight. I fundamentally believe that the policy committee will move Maine in the direction of deinstitutionalizing more people, not everyone. I fundamentally believe that it is in the best interest of that population in terms of becoming productive members of society. You will serve more people with fewer dollars, but it doesn't happen overnight. It does belong before the policy committee.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support this amendment. Unfortunately, there will always be populations of people who are in need of this kind of care, be they in the Augusta region or in the Bangor region. I think you have to realize that there will be people, though we don't want them institutionalized, who need this kind of supervision. I think it is an inappropriate time and place to carry on the debate now. I urge you to vote for this amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "E" (H-668). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 282

YEA - Adams, Ahearne, Ault, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Campbell, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Guerrette, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Keane, Kerr, Kilkelly, Kneeland, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Look, Lumbr, Luther, Madore, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Poirier, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, True, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, The Speaker.

NAY - Aikman, Barth, Bigl, Birney, Buck, Cameron, Carleton, Clukey, Donnelly, Dunn, Farnum, Greenlaw, Hartnett, Heino, Joy, Joyce, Joyner, Labrecque, Lane, Layton, Libby JL; Lindahl, Lovett, Marvin, Nass, Ott, Peavey, Pendleton, Perkins, Pinkham, Reed, G.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, Tufts, Waterhouse, Whitcomb, Winsor.

ABSENT - Dexter, Kontos, Plowman, Poulin, Truman, Underwood, Winn.

Yes, 101; No, 43; Absent, 7; Excused, 0.

102 having voted in the affirmative and 42 voted in the negative, with 7 being absent, House Amendment "E" (H-668) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660), "B" (H-663) and "C" (H-675) thereto and House Amendments "C" (H-664) and "E" (H-668). Ordered sent forthwith.

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

REPORTS OF COMMITTEES

Refer to the Committee on Agriculture, Conservation and Forestry

Pursuant to Joint Order (H.P. 1161)

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the State Soil and Water Conservation Commission" (EMERGENCY) (H.P. 1163) (L.D. 1596) reporting that it be referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Order (H.P. 1161).

Report was read and accepted and the Bill referred to the Committee on Agriculture, Conservation and Forestry and sent up for concurrence. Ordered sent forthwith.

On motion of Representative BUNKER of Kossuth Township, the House adjourned at 10:05 p.m., until 10:00 a.m., Thursday, November 30, 1995.