

# MAINE STATE LEGISLATURE

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**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  
3rd Legislative Day  
Thursday, November 30, 1995

The House met according to adjournment and was called to order by the Speaker.  
Prayer by Reverend Victor Stanley, First Baptist Church, Gardiner.  
The Journal of yesterday was read and approved.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act to Reduce the State Tax Valuation for the Town of Hope" (EMERGENCY) (H.P. 1164) (L.D. 1597) (Presented by Representative SAVAGE of Union) (Cosponsored by Senator PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)  
Reference to the Committee on Taxation was suggested.

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

**SPECIAL SENTIMENT CALENDAR**

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

Recognizing:  
Suanne Moores Giorgetti, Principal of the Benton Elementary School and recipient of the 1995 National Distinguished Principal of the Year award sponsored jointly by the U.S. Department of Education and the National Association of Elementary School Principals, in recognition of her outstanding commitment to excellence in education; (HLS 570) by Speaker GWADOSKY of Fairfield. (Cosponsors: Senator MILLS of Somerset, Representative CHASE of China, Senator CAREY of Kennebec)

On objection of Representative GWADOSKY of Fairfield, was removed from the Special Sentiment Calendar.

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

**ENACTORS**

**Emergency Measure**

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 (H.P. 1160) (L.D. 1594)

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

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

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-669) on Bill "An Act to Clarify the Referendum Recount Process" (EMERGENCY) (H.P. 1149) (L.D. 1588)

Signed:

Senators: FERGUSON of Oxford

Representatives:

MICHAUD of Penobscot  
NADEAU of Saco  
GAMACHE of Lewiston  
CHIZMAR of Lisbon  
FISHER of Brewer  
TRUE of Fryeburg  
BUCK of Yarmouth  
LEMONT of Kittery

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

Signed:

Senator:

Representatives:

STEVENS of Androscoggin  
MURPHY of Berwick  
LABRECQUE of Gorham

Was read.

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

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

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House: You are being asked to pass L.D. 1588, an emergency measure presented to the Legal and Veterans Affairs Committee by the Secretary of State's Department. As you can see, I am on the Minority Report and there are a few things that I would like to point out to you that happened in the course of the presentation of this bill.

On the Wednesday before Thanksgiving, I was called and on my answering machine I was told of a meeting at 1:30 on Monday morning of the Legal and Veterans Affairs Committee. It was an answering machine message, therefore, short and brief. I assumed since we were coming up here to address budget items that it had something to do with that. When I got here Monday I was surprised that a number of us on the committee were unaware of what this bill was or why it was being presented.

A request by one or more persons had been received by the Department of the Secretary of State for a recount on referendum question number 8. They feel that the present procedures are unclear, therefore the need for this bill. On that same day, we had a public hearing. We listened to 6 or 12 people. We recessed and went into a work session. A motion was made and seconded and we were about to take a vote when our legal analyst advised us that we could not do that since the bill was not legally before us. Many of us questioned, at that point in time, if this was even a legal meeting. The comment was made that we have done things like this before.

I don't have to remind you, but I will. Many politicians at all levels are accused of doing things behind closed doors and changing the rules in the middle of the game, etc. That is what disturbs me the most about this particular bill. I was not ever given, as far as I am concerned, an answer to whether or not this was indeed a legal meeting. The bill was referred to committee and we had another work session. Three key points have been made. One of those concerns, are the present rules unclear in the recounts of referendums? In at least three different places in present law recounting referendums are referenced. In 1966 or 1968, depending on who you talk to, there was a referendum recount. Procedures were done then and a precedence has been set. Rules apparently are in place.

We were also told that in present law the state police would not pick up any of these ballots if they were requested. However, at this particular meeting there was a representative of the state police who

said, had they been asked or when they are asked, they will go out and get those ballots and secure them.

Finally, the cost of \$40,000 or more, what price do you pay for democracy? Recounts ensure public input. The present recount procedures have worked very well just last year. Why then are we assessing those procedures now, before the fact, not after? I feel present procedures will work just as well for a referendum count as they did for candidate recounts. We do not need two standards either. We need to have this issue legally heard before this committee and to see that as many as wants from the public have an opportunity to make testimony. We need to be given more than 48 hours to make a decision.

We have been told and assured that the recount that has been requested will happen whether or not this bill passes. It is very important for you to remember. The recount that has been requested will happen. This bill has now been amended and virtually all that was originally presented to us has been stricken and what is left now is wording that ensures that referendum recounts will indeed follow the same procedures as those for candidates. It also ensures that the bill will go back to the Legal and Veterans Affairs Committee for any further work or changes necessary. Why, then, am I standing here and asking you to reconsider and not pass this? To me, it is a question of ethics.

I think we were given a bill that was rushed to us in a panic. A panic situation that I don't think really existed. When we do something in a rush, we make mistakes. We inevitably have to come back and change those. Thank you.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: Essentially what you just heard was correct. However, the point that was not clarified, which I think is extremely important is this amendment which you got 10 seconds ago, (H-669), which replaces the bill. Forget the bill, it is gone. It is not around.

The bill, in my personal opinion, would have been far superior, but it became very clear early on that that wasn't the sentiment. Therefore, my co-chair, myself and other members of the committee figured what can we possibly put in front of folks that would be somewhat palatable and this is it. This basically says the recount process for a referendum question will be very similar and consistent with a candidate's recount. What that means essentially is it is going to be centralized. It is going to happen here in Augusta. Is this going to be costly? Yes, but a lot of other things are costly in life and we do them because we think the price is worth the preservation of, in this case, democracy.

What exactly is this going to do? We are going to basically order the state police to physically pick up ballots from over 600 voting places in the State of Maine and secure those 24 hours a day. There is no other way. That is the option that the majority of the committee wanted to go with. The part that I think is also crucial in this amendment is where this says and I think this is a critical point, "and be it ordered that the joint standing committee that will report out a bill in the Second Session of the 117th Legislature on this topic." We will have had, this could be in late January or early February, the experience and the luxury of looking at this event

and saying did it work or did it not work so hot. Regardless of what that answer is, we will justify whatever we did to suit you.

This concept basically came about because the last referendum recount happened 29 years ago. There apparently is no real direction on how you go about it. What could have happened and still could happen, I suppose, is the Secretary of State's folks will do what they consider to be the proper thing. However, there will be no legal ordering of the Legislature for them to do that. Someone could very easily legally challenge whatever they are doing. We could open ourselves to a possible liability case. Is that smart? I don't think so.

This simply says, yes, in very strong language to them, how they will proceed. Nothing more, nothing less. They feel they need that because other than that they would be basically walking in the dark. That is pretty much what this amendment is and that is all it is. I would be happy to answer any questions and entertain any comments regarding this whole topic, but it is basically very simple. With that, I would urge your support. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I came out "Ought Not to Pass" on this, not that I really have a problem with clarifying a law for this recount, but the way it was handled is what I am concerned about. What Representative Labrecque said is what I am concerned about. What Representative Labrecque said is absolutely true. I drove two hours and all the time in mind I thought I knew what the meeting was about. I got the same message she did only my mother happened to get the message. Even though she is 86, she has a very clear mind and got it exactly right that there was a meeting at 1:30.

I assumed it was a meeting because the task force on frozen liquor stores. Why I got that in my mind, I couldn't tell you, but that is what I thought it was. I talked to myself all the way up on that one. I had all these questions ready and blah, blah, blah. I got here at 1:00 and they handed me this. I had never even heard of it. I guess I was concerned because the people who asked for that recount were going into it thinking it was going to be just right and then all of a sudden it is coming out. Well, we may not want to do it this way. We may want to send it back to each community.

I am certainly not against looking at it in January. I think it needs to be looked at. I really look forward to looking at that, because I have some problems with both sides of that. I do think we need to work on it. On this amendment we have today, there is a fiscal note. I have a concern with that. I find it hard to believe that those in charge of elections do not put in their budget that there could possibly be a recount. I realize that the people who work over there in elections that 1966 seemed a long time ago. As I reminded them up there, to some of us 1966 was not so long ago. We remember it very well. It just seems like yesterday. We have set a precedence in this state. We had one before that. It is not new. That is what we should have gone by.

The bill should have come in in January and let us look at this. I really believe the way the law is intended that the recount should be done the same as the candidate's recount. I feel very strongly it's anyone's right to look at each and every ballot on a

recount. I don't care who they are or who they represent or whether I agree with them or whether I don't. Maybe if this does pass, so to clarify it for this recount, they will do it here in Augusta the way I feel it should be done for this recount. The state police will pick up the ballots.

I asked the deputy state police chief and he said they would pick them and they would secure them. I am sure they will. I have great confidence in them. I have a great confidence that every ballot is secured in that municipality. I don't have any problem with that at all. I don't think there is any hanky-panky going on. I find it hard that we would be willing to even entertain a piece of legislation to change a recount in the middle of a recount. You don't do that.

It is the perception that people have out there of us that when things don't quite go our way, we are going to do this and do it in the name of savings, \$40,000. When we start fooling with our election laws for \$40,000, I am not sure they are going to be happy with us. I certainly can see and that perception is not good. We had a problem and it straightened out and let's try to keep that straight. Let's try to keep our election laws open so that everybody can participate and feel as though we are doing it in an honorable way. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I am assuming, which is dangerous, I will admit, that the reference to a fiscal note is \$40,000, because that was what the comment by the Secretary of State was, that is what it is going to cost. I am disappointed to see that there is no reference on here to exactly what the value of that fiscal note is. I don't have any problem with supporting the amendment, but I have to tell you I have a real problem supporting it with a fiscal note on it.

I find it very difficult to believe that the Secretary of State's Office when the budget was put together for the biennium, did not provide for the potential of some recounts in the course of the two years or the two ensuing elections that would occur in the biennium. I am sure that the folks in the department know that we always have a potential for recounts and we would have budgeted the money. I can't help but believe the money is already in the department and I don't understand particularly the time when we are here to try find ways to save money, I don't understand why we have an amendment before us that provides a fiscal note to give that department more money to do what they should have been prepared for to begin with. Unless somebody can show me where I am incorrect, I will be voting against the amendment for that reason.

I don't have any real problem with clarifying the process, but I have a problem with providing money for something that should have been budgeted for already. Thank you.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: This whole argument seems to bring back to my mind a scenario, one that I think is very accurate. That is, you don't repair your roof on a sunny day. On a sunny day, you assume everything is beautiful, then you might have a leak two weeks down the road and then on the next sunny day, you might

repair your roof. You don't prematurely anticipate because you don't think there is a problem. In this case, the Secretary of State's folks accepted the petition and the recount was scheduled to happen. Then, the next logical step for them to take was not to do the recount, but how do we do it. There is not specific directions for them to go by. That is why this thing is here. It is very simple. Thank you.

The Chair ordered a division.

A vote of the House was taken. 92 voted in favor of the same and 23 against, subsequently, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-669) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading. Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-669) and sent up for concurrence. Ordered sent forthwith.

On motion of Representative JACQUES of Waterville, the House recessed until 1:30 p.m.

(After Recess)

The House was called to order by the Speaker.

#### REPORTS OF COMMITTEES

##### Ought to Pass as Amended

Representative CLOUTIER from the Committee on Marine Resources on Bill "An Act to Implement the Productivity Plan of the Department of Marine Resources" (EMERGENCY) (H.P. 1158) (L.D. 1592) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-670)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-670) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "a" (H-670) 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:

Legislative Sentiment recognizing Suanne Moores Giorgetti, Principal of the Benton Elementary School and recipient of the 1995 National Distinguished Principal of the Year award which was tabled by Representative GWADOSKY of Fairfield pending passage.

The SPEAKER: We are delighted to have Suanne Giorgetti with us today. As indicated in the sentiment, Suanne was chosen by the Maine Principals' Association and nominated by her peers for recognition as the National Distinguished Principal of the Year through a program that was designed to recognize excellence among elementary and middle school principals. This program sets criteria to select a distinguished principal of the year and

there is one selected from each state. She was recognized in October of this year in a reception by President Clinton as Maine's 1995 Distinguished Principal of the Year award winner. The program itself is sponsored by the U.S. Department of Education and the National Association of Elementary School Principals.

I know Suanne personally as the Principal of Benton Elementary and I can attest to her commitment to excellence as well as her interest in designing programs that meet the academic and social needs of the students in that area. The school itself has been honored by the Maine Coalition for Excellence as one of the three schools that models effective school change, and the A tests have improved substantially in the last two or three years. Suanne has gone out of her way to establish local ties with the parents and business communities throughout the area. She has been very creative, inspiring and motivating teachers as well as students and families to achieve and contribute to the school and environment and has done everything that could possibly be asked of her.

She has been a teacher for six years and a principal for 12 years. The last five of those years have been at Benton Elementary. She is also my neighbor, which makes it particularly a great thrill for her to be here today. I would like to ask the Sergeant-at-Arms to escort her forward at this time to receive the sentiment on behalf of the Maine Legislature.

Suanne, I will not read this in its entirety since the Clerk just did it, but on behalf of all the members of the Maine Legislature, we are delighted to present this to you with our best wishes and congratulations.

SUANNE GIORGETTI: Thank you very much. I realize how busy you all are and I thank the Legislature for taking time out of your schedule to recognize me today. I am truly honored. Thank you very, very much.

Subsequently, was read and passed and sent up for concurrence.

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

#### SENATE PAPERS

The following Joint Order: (S.P. 605)

**ORDERED**, the House concurring, that Bill "An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State" (S.P. 477) (L.D. 1301), and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate read and passed.

Was read and passed in concurrence. Ordered sent forthwith.

Resolve, to Amend Provisions of the Androscoggin County Budget Process (EMERGENCY) (S.P. 606) (L.D. 1598)

Came from the Senate, under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

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

#### SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Robert E. Yackobitz, of Hermon, a member of the House of Representatives of the 117th Maine Legislature, whose commitment and dedicated service to his legislative district and community will long be remembered. Representative Yackobitz was the former Chair of the Glenburn Town Council and Chair of the Hermon Town Council. He was also active in several professional, fraternal and service organizations and a member of the East Bangor Union Parish Church, where he served as parish clerk; (HLS 651) by Representative WINN of Glenburn. (Cosponsors: Representative WHITCOMB of Waldo, Representative PLOWMAN of Hampden, Senator CIANCHETTE of Somerset, Representative CARR of Hermon)

On objection of Representative WHITCOMB of Waldo was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending adoption and later today assigned.

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

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

#### ORDERS

On motion of Representative GERRY of Auburn, the following Joint Resolution: (H.P. 1165) (Cosponsored by: Representative ADAMS of Portland and Representatives: AHEARNE of Madawaska, BARTH of Bethel, BENEDIKT of Brunswick, BERRY of Livermore, BIGL of Bucksport, BRENNAN of Portland, BUNKER of Kossuth Township, CAMERON of Rumford, CARLETON of Wells, CARR of Bangor, CHARTRAND of Rockland, CHASE of China, CHICK of Lebanon, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUTIER of South Portland, CROSS of Dover-Foxcroft, DAGGETT of Augusta, DAVIDSON of Brunswick, DESMOND of Mapleton, DONNELLY of Presque Isle, DRISCOLL of Calais, DUNN of Gray, ETNIER of Harpswell, FARNUM of South Berwick, FISHER of Brewer, FITZPATRICK of Durham, GATES of Rockport, GOOLEY of Farmington, GOULD of Greenville, GREEN of Monmouth, GUERRETTE of Pittston, GWADOSKY of Fairfield, HARTNETT of Freeport, HATCH of Skowhegan, JACQUES of Waterville, JOHNSON of South Portland, JONES of Bar Harbor, JOSEPH of Waterville, JOY of Crystal, JOYNER of Hollis, KEANE of Old Town, KERR of Old Orchard Beach, KILKELLY of Wiscasset, KNEELAND of Easton, KONTOS of Windham, LaFOUNTAIN of Biddeford, LANE of Enfield, LAYTON of Cherryfield, LEMKE of Westbrook, LEMONT of Kittery, LIBBY of Kennebunk, LIBBY of Buxton, MADORE of Augusta, MAYO of Bath, McALEVEY of Waterboro, MERES of Norridgewock, MITCHELL of Vassalboro, MITCHELL of Portland, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, NASS of Acton, O'GARA of Westbrook, O'NEAL of Limestone, PAUL of Sanford, PEAVEY of Woolwich, PERKINS of Penobscot, PINKHAM of Lamoine, POIRIER of Saco, POVICH of Ellsworth, REED of Falmouth, RICE of South Bristol, RICHARDSON of Portland, ROBICHAUD of Caribou, ROWE of Portland, SAMSON of Jay, SAVAGE of Union, SAXL of Bangor, SAXL of Portland, SHIAH of Bowdoinham, SIROIS of Caribou, STEDMAN of Hartland, STEVENS of Orono,

STONE of Bangor, THOMPSON of Naples, TOWNSEND of Portland, TREAT of Gardiner, TRIPP of Topsham, TUFTS of Stockton Springs, TUTTLE of Sanford, TYLER of Windham, WATSON of Farmingdale, WHEELER of Bridgewater, WHITCOMB of Waldo, WINGLASS of Auburn, WINN of Glenburn, WINSOR of Norway, Senators: BERUBE of Androscoggin, BUTLAND of Cumberland, CIANCHETTE of Somerset, FERGUSON of Oxford, MICHAUD of Penobscot, PARADIS of Aroostook, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

JOINT RESOLUTION MEMORIALIZING THE  
CONGRESS OF THE UNITED STATES TO REPEAL FEDERAL  
LAWS AND RULES LINKING FOOD STAMP ELIGIBILITY  
WITH HEATING ASSISTANCE

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Special Session, most respectfully present and petition the members of Congress of the United States, as follows:

**WHEREAS**, the federal budget allocates less heating assistance for low-income homeowners than provided in previous years; and

**WHEREAS**, food stamp assistance under certain circumstances is linked to heating assistance; and

**WHEREAS**, the significant reduction in heating assistance to 54,000 households in Maine, 12,000 of which involve subsidized housing and 7,000 of this 12,000 involve elderly households, will have a severe impact on Maine people, especially those receiving food stamps; and

**WHEREAS**, cuts to the Low-Income Home Energy Assistance Program are concurrent with cutbacks in the prescription drug program, increases in Medicare premiums and the loss of food stamps. These cuts will be especially hard felt by Maine seniors and the disabled community who rely on these programs in their day-to-day existence; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully recommend and urge the Congress of the United States to change current federal policy to allow persons who meet the eligibility requirements for food stamps but who do not receive heating assistance under the Low-Income Home Energy Assistance Program to receive food stamps in the same amount as they would have received had they received heating assistance; and be it further

**RESOLVED:** That We, your Memorialists, respectfully recommend and urge the Congress of the United States to restore heating assistance and weatherization funds that have been recently cut in order that states, such as Maine, which ranks 33rd in the nation with respect to median household income, do not have to make the choice whether people starve or freeze; and be it further

**RESOLVED:** That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Was read and adopted 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 Reduce the State Tax Valuation for the Town of Hope" (EMERGENCY) (H.P. 1164) (L.D. 1597)

which was tabled by Representative JACQUES of Waterville pending reference.

Subsequently, the Bill was referred to the Committee on Taxation, ordered printed and sent up for concurrence. Ordered sent forthwith.

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

REPORTS OF COMMITTEES

Divided Report

Eleven Members of the Committee on Transportation on Bill "An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Appropriations and Allocations for Fiscal Years 1995-96 and 1996-97" (EMERGENCY) (H.P. 1148) (L.D. 1587) (Governor's Bill) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-671)

Signed:

Senators:

STEVENS of Androscoggin  
PARADIS of Aroostook  
FARNUM of South Berwick  
LINDAHL of Northport  
DRISCOLL of Calais  
O'GARA of Westbrook  
STROUT of Corinth  
BAILEY of Township 27  
HEINO of Boothbay  
BOUFFARD of Lewiston  
RICKER of Lewiston

Representatives:

One Member of the same Committee on same Bill reports in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-672)

Signed:

Representative:

CHARTRAND of Rockland

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-673)

Signed:

Senator:

CASSIDY of Washington

Was read.

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

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I know you have heard a lot about the facts and figures about this Majority Report, which has the 34 million from the Maine Turnpike Authority Bonds. I would just like to reiterate that this is more of a problem than a solution. It would be a great idea to support it, but I think we cannot afford, at this time, to be creating that much interest for the people of Maine without their having a chance to vote on it.

Most bond issues in the state for highway purposes are voted on by the voters as the one we just passed in November. This one would not be subject to their approval. If we pass the Majority Report, we will be essentially borrowing 34 million ahead of time from future revenues the department receives from the Maine Turnpike Authority. Part of that 10 years of borrowing would leave 13 million dollars in interest to help pay for the authority getting that money to us on time. I don't think it is about living within our means. I don't think it is about having

government be more efficient or any of the other things we came here to do this week.

In the case where there is unlimited federal dollars available to help us work on our highways and bridges, I think it is great for us to get as much as we can, but I think there comes a limit as to how much we can go after those federal dollars when we end up borrowing on top of borrowing to do that. I don't think that is a good fiscal policy for the state. I think we have to control that. In the past, the department has been overly optimistic in their projections of revenues available for state match to federal dollars and that is why we are in the position we are in now. We have heard some rosy forecasts about future savings and future changes in state police funding for the department, also, to help us feel OK about giving up this 4.7 million dollars a year for the next 10 years.

I would caution you against looking upon the future with too rosy a view. We don't know yet what is ahead and I think that is what has put us in the position we are in and we are creating a 34 million dollar borrowing that we didn't expect to do a few months ago. What we can do is carefully look at all the projects proposed under this proposal, as we have with other departments over the last days, and see what we really do need and what we can't live without and whether we are willing to obligate more borrowing for the citizens of Maine.

I think the Minority Report, should this not pass, I think there are other options available. You have heard about some of those today and there might be others offered. I would encourage you to vote against the Majority Report. Thank you.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I know this issue hasn't had much discussion and we are not really sure what we are voting on, so I thought I would stand up and explain it again.

First of all, let me congratulate and thank the Transportation Committee. About a week ago, they were ready to vote about the same number 11 to 2, predicted in the straw poll that they were going to vote for the plan that is now before you. It came before the Appropriations Committee on another subject and a few members of that committee said they had some problems and concerns about the plan. The gauntlet was thrown out. If you have a better idea, come up with it. Some members of the Legislature, including some members of the Transportation Committee were open to looking at other plans. I worked with some other legislators to put together a plan to bring to them. It may not be the best plan, it is not before us right now, so I won't discuss it. I am sure we will have plenty of time for that later.

As I started out to thank the Transportation Committee that they were open-minded about other ideas and they felt in their deliberations that this was the only solid alternative they thought they had before them. The point I want to make beyond that stands up for the cause that I am trying to advocate for voting no on this proposal now is that when we first got there, there were no other alternatives brought forward. What we heard was this is the only thing we have and there is too much at stake for us to just say no to the Governor's proposal. I agree

with that. That is why some of us worked on alternative plans.

What else is going on here today, other than this vote and the other plan? Right now, we are in the classic confrontation between the Legislature and the Governor. We have heard when alternative plans were put forward that those dollars were already spoken for and spent. Last I checked in my government classes, the only ones who could authorize expenditures of public dollars was this body. I went back and checked to see if we had voted to send those 15 million dollars from the general fund that the Governor was referring to and we had not. It is a matter of priorities. I think we have set a lot of priorities around here. In the last year, we maybe funded some things we wanted really bad at smaller amounts. We may have put on the brakes on spending on some accounts that we thought were valuable. We collectively voted with more than a two-thirds majority for the budget that did set those spending priorities.

On October 17, there was a financial order put in place that froze some accounts. That freeze freed up some money and that was the money that some folks have been talking about. This place is a pressure cooker or so it has been described. Most things don't get cooked until they are under pressure. I look at this issue in front of us right now as a piece of raw meat in the pan. It is kind of cooked. It is still a little pink and I don't believe it is healthy to eat yet. I think if we apply some more pressure and we force a compromise, we may have a meal that is more palatable to the people of the State of Maine. I urge you to vote against the proposal in front of us so we can move on and cook that meat and allow the people of the State of Maine to eat without getting sick. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: Federal money does not lay around. An experience in South Berwick explains some of it. We had federal money to pay for a sewer. We needed 4 million dollars. What happened? The people said wait we will get all of it instead of just 80 percent of it. We waited and now we have a 4 million dollar bill that we have to pay ourselves.

Today we are not voting on anything. We are voting on this. We are voting to avoid a shutdown of dozens of construction companies. Two of those companies are in York County. We are voting to avoid a layoff of 1,000 construction workers, many of which are from York County. We are avoiding paying \$200,000 a week, that is a lot of money for unemployment. Are we saving money? We are going to prevent 4 million dollars per week in secondary economic activity and the Governor said nobody is buying cars, so we can't get money to pay our bills. We can't get money to put into our general fund. Here we are with some people saying throw it out, we don't need that money. We are going to build roads and bridges in the state of Maine that will bring in industry if we vote for this bill. You have a chance for you to vote for it or put Maine, not going out, but going down. Thank you.

Representative CHARTRAND of Rockland requested a roll call on the motion to accept Report "A" "Ought to Pass" as amended Report.



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

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

The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I realize how important this money is. I realize how important it is for the bridges in this state. I heard the whole sob story. I just have to say this because it is the way I feel. I know it is important to the state to do these things. How many more times are we going to go to the cash cow to get money? Every time I have sat here, I think this is the third or fourth time, when the DOT is out of money, they go to the Maine Turnpike Authority. Well, they can stand here and tell you and me it doesn't cost anything, but I am sorry, I have heard this story before.

We were out of money so we tax the hospitals. We are in a sweet mess in York County because of taxing hospitals. We have a little hospital down there that they are trying to tax to death. I really am very skeptical and I would like to have someone here today promise me that in the next 10 years they are not going back to the Turnpike Authority to get anymore money, because I know come the 118th Legislature, DOT needs some money so they are going to say let's get another 4 million dollars from the Turnpike Authority.

Ladies and gentlemen, the first 30 miles of that turnpike is in dire need of widening. It is a safety hazard. It is very serious. When it comes time that we have to do that for safety, we are not going to be able to bond anything, because I am sure we are going to be bonded to death or we will have to raise the tolls. Remember one thing, that is the main highway into this state whether we like it or not. That is it. It is the main artery into Maine and every piece of goods that come north, most of it comes by truck, right up the Maine Turnpike. Don't tell me it can go through Route 1, we all know it can't. It would take forever.

Every time you up the tolls and every time you make more time for them to travel it, it is going to cost you money on your goods. Transportation is expensive today. Just remember when you are putting that on, one thing that really upsets me when I hear 50 percent of it is out-of-staters. Ladies and gentlemen, the other 50 percent is Maine people. I am a Mainer. I have never left the State of Maine. I am not from away and I never was from away. I am from the Town of Berwick for all of my life so far and probably for the rest of it, too. We are not from away down there. We are Mainers also. This is costing us money. Somebody has to pay. There is no free lunches in this state. Some of us think there are, but there aren't.

Promise me here today that they are not going after that Turnpike Authority for the next 10 years until this is paid off. They went after it for 16 million. Guess who is paying? The people in southern Maine who use the turnpike. It is 70 cents to drive 12 miles. We all complain about going to New Hampshire and paying \$1 for 17 miles. I can't see the difference. It is 70 cents from York to

Wells or Wells to York. That is what we pay to drive that turnpike. In the summer, we don't have a choice because you can't go Route 1, because you can't get by the Ogunquit Playhouse. It is bumper to bumper way out beyond that. I love it. I am not complaining. I love to have the people come in the summer because they enjoy the State of Maine and we enjoy their money they leave.

Nevertheless, there are problems. Don't keep going back to the cash cow. It is going dry. We have some problems on the first 30 miles of that turnpike that need taking care of, besides the bridges and things in the rest of the state. I just wish that you would stop and think today that what you are doing when you are putting that turnpike, in my opinion, in jeopardy of being able to bond to take care of themselves. That is a private authority. We have gone to it and one time, I think, it was 15 million dollars. Every time we need money, we go to the turnpike. Well, there has to be an end to it. I will probably vote for this today, but it is not because I want to. I think it is smoke and mirrors. It is the biggest gimmick we have done. I am a little fed up with smoke and mirrors and gimmicks.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I don't have any prepared speech. I stand here, I guess frustrated is the word. I am not opposed to the idea of these projects. In my mind it is not a question of it, it is a question of how. I think we should move toward compromise on this. I cannot believe that we can't use some general fund money. I just can't accept that. I am not going to talk about dollars and cents right now. I want to talk about image and what is bothering me.

The Appropriations Committee and this body, the other body and the executive branch have worked very, very hard to correct the accounting wizardry we had in this state, the pulls, the pushes and the gimmicks and whole thing. I believe we have collectively done it with the general fund. I listened to Commissioner Melrose talk downstairs the other day. I said to myself, good God, this is deja vu. It was the same thing in essence that we heard last January and February. We have a problem here and there. We have this problem and that problem. Well, why do we have these problems? We have these problems because of the accounting wizardry.

I was shocked to learn that I had been voting, this is my ignorance talking, for bond issues over the years thinking that those bond issues were dedicated for specific projects, but that is not so. This money has been spent and now it has caught up with us. What do we do? Do we suffer a little pain? That is what it is going to take. Do we step up and address this problem? Do we look it in the eye and say, look, we are not going to take the easy way out? That is going to take courage. We all have been talking it. The executive branch has been talking it. I suspect the people of Maine expect it. Here we are and maybe if we approve this, it may be legal.

In my profession for years, I have had with taxes a concept of form versus substance. What that means is this. You can put together the best tax plan in the world and it is really nice on paper and it is all legal, but what is the substance of what

you are doing? We are borrowing money that exceeds 2 million dollars. What bothers me is that the people who wrote our constitution, they had a reason for wanting debt of this nature to go out to the people. We are circumventing that, in my mind. We are circumventing that in substance. We may have to do some of that for very practical reasons. I am convinced that we don't have to do it for the whole piece of pie, no pun intended Representative Donnelly. I am not a gourmet cook.

The point of the matter is this, I think we owe it to the people of Maine. We owe it to ourselves to look to the alternatives and if it means a little bit of pain, then let's suffer it. We have an opportunity to look to this mess. When I say this mess, I don't mean this specific thing. I am convinced that we are going to have more of this coming out of this department before it is done. We saw that with the general fund account. Let's look to it and say that we have the courage to address the problem, correct the problem and suffer a little bit now, but in the long run we are all going to be better off for it. I suggest you defeat this motion. Thank you.

**THE SPEAKER PRO TEM:** The Chair recognizes the Representative from Westbrook, Representative O'Gara.

**Representative O'GARA:** Mr. Speaker, Ladies and Gentlemen of the House: It was probably apparent to many of you that I had not really planned and I know you have heard that before from others, to get up to speak at this point. Some things have been said that I really should respond to.

I would like, first of all, to respond to, not only one of mine, but I am sure just about everybody in this room's favorite legislator, Representative Murphy. Number one, first and foremost, please Representative Murphy and everybody else, do not vote against this and maybe there are reasons you have decided you will or maybe you will hear reasons later to vote against this proposal, please do not vote against it because the turnpike was not widened. That was a choice of the public. They voted. Right or wrong they voted not to do that. It had nothing to do with the DOT. It had nothing to do with the turnpike. It had nothing to do with, in fact, with us. Please don't vote against it for that reason.

Again, there was sort of an implication about the people in the southern part of the state paying the tolls. Ladies and gentlemen of the House, there will be no toll increase in any way, shape or manner connected with this proposal, not now and not in the future. I can't tell you that some Legislature down the road or the Turnpike Authority down the road may make a decision to raise tolls for some other reason, but associated with this, I believe the authority. They have gone on record as saying that. The director has gone on record as saying that before our committee. There will be no toll increases.

Speaking of that, it brings to mind the word gimmick. It has been used a couple times already. It brings to mind, in fact, the purchase of that property down in the southern part of the state, as a result of which, in fact, those people who drive from York to South Portland do have to pay an extra quarter. That was a plan that did, in fact, cost the taxpayers money, the specific toll users. This one does not and will not.

In regard to it being a cash cow, I don't know if you were looking at me Representative Murphy, it is hard sometimes and you look across and you think

someone is looking at you and you act very silly waving to them and acknowledging them and they are not even looking at you at all, you may not have been looking at me when you referred to this as being a cash cow. It occurred to me if I were to tell you that I promise you, Representative Murphy, that in the next 10 years we will never do this again, I saw several Representatives smiling back at me. I can't promise you that even in an attempt to get your vote. I can't tell you what some Legislature will do. You know that even better than I. I can't tell you just as legislators who went before us may very well have promised that Legislatures after them, now including us, would never do that.

Circumstances come up, just like they come up in your home, your town and this state. Conditions change on a daily or monthly basis that make even the most adamant of us who said that you would never do that; I will never do that in my home; I will never do that in my business; I will never do that on the town council or the school commit; I will never do that as a legislator, but things happen; it forces you, whether you like it or not, to adjust your thinking. I can't tell you whether a Legislature down the road will see this and look back to 1995, if this should pass and I hope that it does, to say that is a good idea. That Legislature, whenever that comes up, 2 years or 10 years or 20 years from now, will have to make that decision in exactly the same form you and I are discussing it.

As far as borrowing and two different Representatives have now mentioned about borrowing and that somehow we are circumventing the public at large. I will say something to you what I have said on several occasions and I was quoted in the paper today. I hope it is not going to be misunderstood. I am a great believer and I have great, great faith in the ability of the public at large to make decisions for themselves. In my judgment, you were sent up here to make the best and most reasonable judgment you can make. I tell you now, should that judgment be different from what I am supporting, I will live with that, as I always have on other issues I have been on the other side of.

I say to you that the public at large doesn't really care. The people who have had paving projects put off for years. The towns who took the Legislature's and the DOT's word that if they built their sand and salt shed, they would be reimbursed and have yet to be reimbursed. The people around this state who are losing their jobs and having services reduced and other things are not worried about where you get the money, but it is that you do what you promised you would do. For whatever reason, going back to something Representative Simoneau sort of alluded to and was alluded to by another legislator about what happened in the past, I don't believe we should be voting this project up or down based on what might have been done or not done in the past, by whomever and for whatever reason. Those decisions were made and we subscribed to a lot of them ourselves and they are done and over.

This is a proposal now that says to you, ladies and gentlemen of this House, that if you pass this proposal, not only will you be doing all the other things that we have already talked about and you have had chances to ask questions about, but the bond package that you let out to the public and they approved this November, will, in fact, get underway. It will not be put off. The items that were listed,

that were promised would be done, that many of you as well as myself, he promised people as he went out asking for support of that bond issue that those products were going to be done. This proposal will allow those to be done. Whatever happened in the past, as Representative Simoneau has alluded to, will not happen with that bond package. The items that were in that bond package in November will get underway, if this proposal is accepted.

I will not vote for any plan that takes one more dollar out of the general fund. This plan does not. If there is any legislator in this room who doesn't have a story to tell about a citizen or an employee for the state at the Corrections Center or in Human Services, that doesn't have a town, councilman, alderman or selectman that has complained and complained about the fact that their paving projects just aren't getting done. If you can in good conscience, vote for any proposal that takes money out of the general fund, in spite of all the concern that we had when we voted last night on the productivity task force that cuts programs and cuts positions and some of which are very distasteful to a lot of us. I would find it hard for us, if I were you, to go back to some of the employees who live in and around your district and your towns.

I will just give you one small example and several members have heard it already. I will be very brief. There is a lady who lives in my district, who works at the Maine Youth Center, she has been there 22 years and in a very key position. I can't stand here and tell you I have received hundreds of letters and lots of phone calls, but I have received a significant number from people who are very concerned that she is no longer going to be there. They consider her a very vital person in dealing with those young people in preparing them to go back from that youth center into their neighborhoods, cities, towns and schools. They have practically begged me, as I have told the committee, to do anything I could do save her position. I have not been able to save that position.

You will not have me vote for any item that is going to force me to go back and say to her, I am sorry I was not able to save your position, but I did support a bill that took some more general fund and paved the roads around the state. I can't do that ladies and gentlemen. There will be other issues that I want to address as we go along, I am sure. It may seem to you like we are circumventing the voters, but this is perfectly legitimate.

It has been approved and this is another comment that Representative Murphy made, this has been approved by the turnpike bond council, by the state, by the treasurer. The treasurer said he doesn't like it necessarily, but it is legal and it is proper. It is not going to tax the turnpike borrowing power. The 4.7 million dollars, ladies and gentlemen, will come to us all in one lump sum, is already budgeted by the turnpike in one way or another. They are either going to pay 4.7 million dollars a year to us or they are going to pay 4.7 million dollars to a financial institution, that is a given. It is already budgeted. It will not affect their ability to do anything on the turnpike that they are doing now, nor will it impact the DOT's ability to plow, sand, salt and maintain their roads as well.

I urge you, ladies and gentlemen of the House, to support the Majority Report and if you still have questions in your mind, I hope that you will get up

and raise them so, I or other members of the committee, speaking of the committee, then I will sit down. I want to say something about the Transportation Committee. It has been quoted in the paper that many of those who voted on the 11 to 2 Majority Report only voted for it to get it out of the committee. That is absolutely incorrect. I have a much higher regard for the members of the Transportation Committee. They listened and I am so pleased that Representative Donnelly acknowledged that. He is absolutely right.

We were prepared to vote because we felt we had the only and the best proposal. This committee decided absolutely not. We will and we have heard out everybody's presentation. I hope you will accept the fact that the 11 of us really believe, whether we like all aspects of it or not and we don't, that it is the best proposal for us at this point in time. Thank you.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: Sometime early this morning I determined there was no easy solution and no good solution. Often, here in the Legislature, we have a feeling that a gun has been put to our head. I dare say that in this current situation, a gun has been put to each side of our head. We have to make a choice as to which one will fire.

The good Representative from Westbrook, Representative O'Gara is right, the public who voted for us and trusted us to make good decisions, decisions that are often hard. Some decisions are not reserved on trust alone, such as borrowing and borrowing more money. The general provisions of the Maine Constitution, section 14, states that we should not borrow more than 2 million dollars unless two-thirds of us in this body and in the other body agree and if the vote is by majority vote in the next general or special election agree with us. That is a power that is reserved for the people of Maine.

The only time that we can do this, borrow in excess, is to repel invasion in purposes of war and that sort of thing. I know a lot of people come into this state from away, but it is hardly an invasion of war. I was concerned that we were, in fact, at least breaking the intent of the Maine Constitution. Don't worry, I was told over and over. Sure, the good faith and credit of the State of Maine is not going to be behind these bonds. The more I dug, the more I find that this is probably true. The bond issuers, I am sure if the Maine Turnpike Authority defaults, would probably take possession of the Maine Turnpike and not come after the good faith and credit of the State of Maine.

This morning I asked the Law Library to do some research on the borrowing authority of the Maine Turnpike Authority. It is rather clear in Chapter 24 of Title 23 that the Maine Turnpike Authority may borrow money for the purpose of paying the cost of constructing, reconstructing or making extraordinary repairs to the turnpike and the location thereof. I am afraid that the current report before us does not pass the test of whether this falls within the borrowing power of the Maine Turnpike Authority.

To the Transportation Committee members, if I am wrong and you have a better answer to that, I will be happy to hear it. The way that I read this, I don't see how the Maine Turnpike Authority has the authority to borrow money just to give the State of

Maine a 10-year advance on its allowance. You may say that these bridges are connected and I would say to you that they are as the shin bone is connected to the knee bone is connected to the thigh bone and eventually you get to the elbow bone and it is all connected.

In that case, I guess the good Representative from Eagle Lake would probably like to have some improvements made up there. It all filters down. It all comes in and out of the State of Maine. Again, I guess I would pose it as a question and I also pose it as an argument, but I don't believe the turnpike has the authority to borrow this money to advance the State of Maine its allowance.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: In fact, Mr. Speaker, dated November 17, as a result of the questions raised by members of the committee, we sought an opinion from the Attorney General's Office. In fact, in writing, every member has it. There is absolutely nothing wrong, illegal or out of order at all. It is perfectly proper, both to the turnpike and to the DOT to work out this arrangement. It is perfectly legal and perfectly acceptable and, in fact, although he doesn't say here, but in talking with him and others it is done on a regular basis. This kind of borrowing by the state, using their turnpike authority, in other states is done on a far more regular basis than here. I would be glad to pass this across to you if you like, but it is the Attorney General's opinion that, in fact, this is perfectly legal.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I do rise with some reluctance because I do find it necessary to disagree with my good friend from Westbrook. I share the sentiment of the Representative from Thomaston earlier. I really would like to see us come up with something better than what we have before us. I do think we have the collective wit and wisdom to come up with that kind of compromise. I can't support this measure, because frankly, I do not think it is fiscally responsible. I think it has been well articulated by other people and I will not take your time with those arguments. It does not strike me as a fiscally responsible way to be doing the people's business.

Secondly, I still cannot get over the constitutional hurdle. I still have a real problem with this. It strikes me as an end run around the referendum bond process. I think we break an important bond with the people when we break that process. Those are my concerns. I understand and respect anybody else, but I cannot, myself, support the pending measure. We need to do more than just change our attitude in this House. I think we have to also change the way we do the people's business. We can start by rejecting the pending motion. Thank you.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I will say this as calmly and as respectfully as I can. Perhaps the Representative was not in the room earlier. That, in fact, this does change the way that we are doing the citizen's business. He is not listening now either,

so it doesn't make any difference. This does change the way that the Legislature does the citizen's business.

In fact, it does say to them once and for all that we are going to respect commitments that were made to you by previous Legislatures and previous Departments of Transportation and commissioners and Governors and all that. Not only does it say that; not only will it send a message to those towns that I mentioned to you earlier, to those areas all over the state in your districts and out of them that have been waiting and waiting for a simple .23 miles of paving or 1 1/2 miles here or 1 1/4 there of crucial paving and road reconstructing or bridges that are dangerous as many of you know; not only will it do all of that and certainly that is doing the people's business differently, it will also starting with this bond package, as I said only a few minutes ago, initiate that bond package as it was voted on by the voters in November. I submit to you, ladies and gentlemen, that it is doing the people's business differently. Thank you.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Earlier during the joint caucus, I asked the commissioner if we had gone out to bond and asked the people of the State of Maine for them to give us the authority to use their credit for these projects. The commissioner's answer, I will try to sum it up, was that part of one of the projects, the million dollar bridge project, had been discussed in a proposal two bienniums ago. The other two have not. My question, with that premise to Representative O'Gara, is how is it that we are not end running around the voters and breaking faith with them by doing this proposal, if we never asked them to start with?

The SPEAKER PRO TEM: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to the Representative from Westbrook, Representative O'Gara.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: Representative Donnelly, I am not altogether sure I understand the question. I will attempt to answer it anyway and I am sure you will tell me whether I have answered it or not. I will be watching your face.

Although you mentioned the one specific, the so called million dollar bridge or the replacement in South Portland, in truth and in fact the other two projects have also been started. The public is fully aware of those two projects. We have approved those in the past and they are underway. They are about half done or whatever stage they are done. I don't think we are going around them and doing something about two projects that they are not fully aware of, especially the people who live in and around those communities. I am not sure who the legislators are who supported those. I am not sure if that answers your question, but I don't think we are doing something that the public isn't well aware of and wants completed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Donnelly. Having spoken twice now requests unanimous consent to address the House a third time. Is there

objection? Chair hears no objection, the Representative may proceed.

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: Thank you Representative O'Gara. Maybe I misunderstood the commissioner earlier, but the point I will make that I think he said pretty clearly was that two of the projects have never been discussed when it went out to a bond issue. Had they been started? Yes. Was it smart to start them when federal monies were available? Yes.

In my opinion, it would also be smart to go to the people who have a very good track record with approving bond issues for transportation projects. We have been told this is a one-time blip. We are not going to see this kind of money again. That sold me the vote for a bond issue and I rarely vote for them as you might know. I would vote for a bond issue to go through the people. That is not the issue before us. I just wanted to throw that last point out here before we vote. Thank you for your patience.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Men and Women of the House: I would like to concur with everything that Chairman O'Gara has stated. I would just like to pass on a few things that I have observed.

First of all, when this first came about, it was the only show in town, the Majority "Ought to Pass" Report. I signed onto it because the people in Portland have got to get to South Portland. The people in Waterville have got to get to Winslow. I think there is one more, oh, the Brunswick bypass. Where this was the only show in town, I signed on and it was explained to me that this would not interfere with my people. It would not interfere with your people. It was an in-house thing where they were going to raise money by a bond issue. There would be no taxes involved. I went home to my people and talked around. They had no problem with that. Even though it was in the southern part of the state, it was not going to hurt them. It was not going to hurt your constituents. We were going to raise the money that would allow the Department of Transportation to finish these projects and also to do the other projects so we would be able to go home and say that project in a certain area was going to be done.

I come back to the next meeting and I was told that people were talking about it in the Appropriations Committee that they didn't think it was right. We decided to listen and see what else was on the floor. We went to two or three meetings and we had Representative Donnelly come in and he did a tremendous job presenting his case. We had several on the Transportation Committee who stated their case where they thought they might be able to do something different. I didn't hear anything in those programs that I could go along with. I will tell you why.

First of all, raising the money through the Turnpike Authority, the money is there. You are going to pay 4.7 million dollars over 10 years. The money that you are paying, we are going to get into the Transportation Department anyway, it is coming into us every year. Granted you are going to have to pay some interest, but whenever you do make a loan, you have to pay interest.

The thing that I don't like is that these people who came in started talking about taking money out of the general fund. Ladies and gentlemen, there is no

money in the general fund. The state has no money. That is why we are downsizing. If I went home and told my people that we were going to take 30 or 40 million dollars out of that general fund after in the last biennium we told my school department and my towns and the economy down in that area, that we didn't have the money to support those programs. You are going to go in there and dig here and there. I asked them, where is this money coming out of the general fund? Well, some here and some there. We are going to dig more down the road.

We are going to find some here and find some there. Probably the first place they are going to find some is in education. I was talking to my superintendent the other day. He said, "In the last several years that our school department in Calais has lost \$500,000 in cuts." That is \$500,000. That 30 million dollars would help a lot toward bringing some of that back. He said, "If you think that is bad, you wait until next year." I was hoping that in some of these meetings where we were discussing compromise, that somebody would come in with a basket with 30 million dollars that would not take away from education and would not dig here and there to find \$1. It didn't happen. That is why I signed onto the Majority Report, because the money is there. It will take care of the problem. It will take care of all of the problems. I can go home with a straight face. Thank you.

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

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I will be brief. I had a feeling that something along the lines of federal money was going to come along since it did back in June on the last day when we borrowed a half million dollars out of the rainy day fund to collect 1.3 million dollars of federal money available. Here we are looking for 40 million dollars plus to collect between 170 and 180 million dollars from the federal government.

Back in June we were looking for money to fund one project in one part of the state. Now we are looking for money for different parts of the state. There are three major projects going on right now. There are major projects going on elsewhere in the state if this passes. I think we have to take a look at what is going on. I don't like, in other words, going in debt for 10 years, putting the state in debt for 10 years. I don't think we have any other solution, which the good Representative from Calais mentioned earlier. His school is taking a beating and I won't dwell on my schools that have been taking a beating. This is the best case scenario.

We have projects in the works that have to be done. We have more projects in line. What are they going to be? I don't know maybe we can wait and decide in January when we come back. I urge you to vote for the pending motion and accept the report.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: When I came here today, I didn't anticipate speaking on this issue. I guess being a member of the committee for a number of years. I heard from Representative Simoneau today in regards to things that had happened in the past. I can't stand here today and blame any former administrators and commissioners any more than I can blame myself

and members of the Legislature. At those particular times, we all knew what we were faced with.

I can remember in the late 80s and the early 90s when we helped the general fund out of a dilemma with funds from the highway fund. If we hadn't done that, in my opinion, we wouldn't be in this problem today, but that is history. I don't think we want to look at the past. I will tell you today, just like I told the committee, I commend the present commissioner and I commend the present Governor for taking the initiative to put this proposal forward without a tax increase, without using money out of the general fund. Maybe going the bond route with the Maine Turnpike Authority is not the best way to go in the eyes of the public.

I agree with the Representative from Westbrook. I was sent down here to do a job and I was sent down here to represent my people and come out with a recommendation for you people that I feel is best for all. Two weeks ago today, we had a briefing on this with the commissioner and since that time we have had a proposal brought before us. One proposal that never was brought before us and some time ago you might have heard on public radio that I made a statement and I will make this statement again today. You are not very many years away, in my opinion, from passing a fuel tax increase in this state to take care of the roads and bridges that are going to have to be taken care in the next 20 years. If three to five years from now you do this, you can remember what I said on this day in 1995. The proposals that were given to us this week, if you move to take money out of the general fund, in my opinion, you open up a hornets nest.

Just recently as of the last month, I have been involved in Charleston Corrections Facility and believe me if there is 15 million dollars worth of surplus, Representative Simoneau in that general fund, I would like about 1.7 million of it. I am sure there are other people in this body that would like to have some of those funds for other purposes. You look at another proposal that does some bonding and it cuts back on some of the other programs. When you get into those proposals, you open up another hornets nest, because what you are saying is we will do the three major projects, but we are going to defer 11 million dollars in those other rogue programs that do affect some of us outside of the Augusta south area. I wouldn't buy it. I told the committee yesterday, being selfish, I really don't care about those three bridge projects, but I am not going to be that selfish.

I am going to vote for this proposal to take care of those projects as well as some of those other programs that are near and dear to my heart. The collect-a-road program and the resurfacing program, I can tell you that those programs have a large effect, especially the skinny-mix program. I question anybody in this House that has had resurfacing done that doesn't get positive reactions from the people. I have seen it and there is an additional 200 miles of paving to be done in addition to what we put in the budget when we start the 1996 program.

I have argued for years and I think many of you have seen in the last six to eight weeks paving going on in October and November. The former commissioners that I have served with, I have said every year and members that have been on the committee with me know this, every spring I always say get those bids out in April, don't wait until July. We have a short season

in the State of Maine to do paving. My understanding with the commissioner is that this proposal will help us free up the money that we can go out with bids early in the spring and start these programs as we should.

When I read in the paper a week or so ago about the big gimmick, you know, I don't know, maybe I'm wrong. I don't look at this as a gimmick. I look at it as a secured loan. There is no impact on the general obligation of this state. I have to tell you, if there had been a better program presented to us in the last three days, the majority of the Committee on Transportation would have supported it.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House: All three of these reports avoid the most important issue and that is that once again in transportation, as in the rest of state government, our revenues are not keeping pace with our expenses. Inflation exists. Expenses go up, personnel costs go up, material costs go up and yet our income isn't going up. Instead we are cutting, cutting and more cutting. We have a shell game and there is nothing left under the shells.

Our gas taxes are at only 19 cents a gallon. They were 4 cents a gallon in 1927. They were 7 cents a gallon in 1955. With inflation, gas taxes should be at 50 to 75 cents a gallon. We suffer from a credit card mentality or a gimmick mentality. We borrow or we shift funding from one inadequate source to another.

Ladies and gentlemen, we have a deteriorating system of road and bridges. We can't even afford basic maintenance. At the very minimum, we should have gas taxes that are at the average of the other five New England States, which is 23.2 cents a gallon. Anything less than this shows an incredible lack of willpower and vision. None of these proposals that we have address this issue, let's reject them all. Send this back to committee or to the Taxation Committee and look at our inadequate gas tax revenue. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I am a little hesitant to say what I am going to say, but I sat here and chewed on my tongue as long as I can.

Ladies and gentlemen, we have less than eight hours left to do our business. We came down here to address productivity task force issues. I don't believe and I apologize to anybody that I offend, but I don't believe anybody's vote is being changed at this point. I think that this debate has gone on as long as is necessary. We have a tremendous amount of business. Every 15 minutes we have another amendment coming across our desk. We are nowhere near done. We have sat here for two days and have done virtually nothing. I am not prepared to go home and be embarrassed by my constituents because we couldn't do our job.

Right now we are spinning our wheels as far as I am concerned. We have a tremendous amount of work to do and less than eight hours to get it done. A lot of us in this room have another life and we have some other things to do, to go home and get out of this place. It just seems to me that we have covered the territory. Nobody's votes is being changed and I apologize if this sounds like I am calling for the



vote, but it is time to get on with our work folks. We have got a tremendous load to carry out tonight and I am afraid we are not going to make it. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: At the risk of not changing anymore votes, I will add one more item. I would like to be able to have us go home with projects for everywhere in the state, as Representative Strout suggested. It would be great if we could pass something here today that had road projects for everybody. I just don't think we can afford it. If we are going to do any borrowing at all through this means, I think it has to be the absolute minimum necessary to continue projects that are already fully underway and contracted. I think if we would like to pass more and be more generous to all parts of the state, then this isn't the vehicle to do that. I would appreciate you joining me in voting against this report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I have listened very carefully to all your concerns and all of your concerns are legitimate. I hope that you will go away feeling more comfortable about this after I say a few things that were explained to me.

I, too, felt that this was not a prefect package. I support the Majority Report of the Transportation Committee although it is not a perfect plan. I do so after having long discussions with the Treasurer of the State of Maine, of whom I do have confidence. Our options as explained to me are that our bond rating, which has been enviable in the past, which continues to be enviable and at the highest level possible is secured by the work that we do here, as persuaded by Sam Shapiro to the bond houses, by the work we do.

If we accept the plan before us today, yes, we may pay one quarter of a percentage more interest on the borrowing of that money. However, it does not oblige the full faith and credit of this state, which is a good position to be in. Therefore, it will not jeopardize our bond rating with the bond houses. However, if we accept an alternative plan that would include general fund money, the bond houses would more than likely drop our bond rating and that would be more costly than the quarter of a percent greater interest rate that we would be paying.

Let's talk about what that means to you at home. At home in your towns and your municipalities that means if the bond rating of the state drops, when your town or your city wishes to borrow money then, in fact, it will cost you at least a half a percent more than what the state's bond rate borrowing ability is. That is a very important issue because whether you are going to be buying a grater or a ladder truck or whatever the cost that you are going to need to incur in your towns and you must borrow money, if our bond rating would drop because of decisions that we make here today, then, in fact, it will cost your towns more money.

It is also my understanding that the money that we are talking about here today since 1983, this money has always been used to be matched with federal funds for certain projects. Quoting Sam Shapiro, why would

our bond rating drop. According to the treasurer of the state on June 30 when we passed the budget, the cash flow shortfall of this state was 45 million dollars. At the end of this fiscal year, it will probably be 77 million dollars. That means that our checkbook does not balance. If you, in fact, would dig into the general fund money that is already earmarked for obligations and expenses of the state, then, in fact, you will be jeopardizing the bond rating and you will also affect this balance that we do not talk about very often.

I urge you, as unpalatable as it may seem to you, to support the Majority Report and if you believe that all of your concerns have not been talked about by those persons who have brought this to us today, be it the commissioner, be it the department, be it the Governor's Office and be it their economic advisors, then I think that, in fact, you are not looking at the broad picture. More people have agonized over making this decision then, in fact, we probably even know about today. I think it is critical that we accept this package and move forward. Thank you.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to respond to my good friend from Waterville's remarks about the bond issue and about surplus. Treasurer Shapiro did speak to us the other day. He said flat out that the budget was out of balance at the end of the year. At the time, we didn't pick up on it. What is happening here is you are getting the budget and the surplus is getting mixed in with a tax balance and this is altogether two different things.

I have in my hand a copy of the comparative balance sheet of the general fund as of June 30, 1995, that is last June and June 30, 1994. In the asset part of that balance sheet, quick accounting 101, the balance sheet, assets, liabilities and equity, what you own plus what you have is what you have left. In the asset account you have the equity in the treasury cash pool. It is overdrawn by a little over 48 million dollars. It was about 39 million dollars the prior year. It is about a 10 million dollar increase. That is a far cry from 77 million. When you drop down to the equity, the unappropriated equity for the State of Maine on June 30 was a plus 4.4 million dollars. It was not a negative figure, it was a plus 4.4 million dollars.

Just looking at, quickly looking at this, I can pull 10 million dollars out of here. The rainy day fund 6.4 million dollars. Equity surplus 4.4 million dollars. That is your balance sheet. We talk about the bond ratings. I don't pretend to be an expert on bond ratings. I question whether they are going to assess an impact on the municipalities, but I do know this, we are borrowing money and we keep our rating up, we sure do.

I was shocked to learn that most our bonds are noncallable bonds. That means that we are issuing bonds with the good faith and credit of the State of Maine and if the interest rates drop, you can't go out and refinance. Think about that. If my memory serves me correctly when I ask for a schedule of the bonds that we are presently paying in the State of Maine as of last year, I could be dead wrong on this, I think some of them were as high as 11 percent. What could you bond for today? You know something, I

would just as soon see our rating change a little bit if we could issue callable bonds.

If we are going to go out and borrow money from the Turnpike Authority the same way, but that is going to cost you. This plan that is before us, we can talk about simply a shift of 4.7 million dollars from either the general fund or giving it some financial house. That is right, that is exactly what it is. You are giving 13 million dollars to the financial houses. That is 13 million dollars that is not going into your roads. It is as simple as that. Let's not get caught up on these bond ratings and a few other things. Let's look at what we are doing from a common sense point of view. Does it make sense from an economic point of view? Does it make sense to tie up that kind of money? Representative Kerr in committee has used the expression that he doesn't want to see us pull back 47 million dollars worth of revenues coming into the general fund.

We are going to spend it on capital improvements anyway. Well, yes, maybe we are. At least we are going to have a whole 47 million dollars. You are not giving 13 million dollars to somebody else in a form of interest. I urge you to reject this plan and I urge you to give it this, the time to look into alternatives. I don't care, we have eight hours left tonight that we can extend it if we have to. Let's look into this and do it right. That is what we are here for.

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

#### ROLL CALL NO. 283

YEA - Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carr, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, Lane, Lemaire, Lindahl, Look, Luther, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Morrison, Nadeau, O'Gara, O'Neal, Paul, Peavey, Pendleton, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Stone, Strout, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Whitcomb, The Speaker.

NAY - Adams, Ahearne, Aikman, Ault, Birney, Buck, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Donnelly, Dunn, Gates, Gerry, Gieringer, Green, Guerrette, Hartnett, Heeschen, Jones, S.; Joy, Joyce, Joyner, Kerr, Labrecque, LaFountain, Layton, Lemke, Lemont, Libby JD; Libby JL; Lovett, Lumbra, Madore, Marvin, Murphy, Nass, Nickerson, Ott, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Rice, Robichaud, Savage, Shiah, Simoneau, Stedman, Taylor, Thompson, Townsend, Treat, Tuttle, Underwood, Volenik, Waterhouse, Watson, Winglass, Winn, Winsor.

ABSENT - Mitchell JE; Poulin, Truman.

Yes, 84; No, 64; Absent, 3; Excused, 0.

84 having voted in the affirmative and 64 voted in the negative, with 3 being absent, the Majority Report "A" "Ought to Pass" Report was accepted.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The Bill was read once. Committee Amendment "A" (H-671) was read.

On motion of Representative JACQUES of Waterville, tabled pending adoption of Committee Amendment "A" (H-671) and later today assigned.

#### SENATE PAPERS

##### Non-Concurrent Matter

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) on which the Unanimous Refer to the Committee on Agriculture, Conservation and Forestry Report of the Committee on Appropriations and Financial Affairs was read and accepted and the Bill referred to the Committee on Agriculture, Conservation and Forestry in the House on November 29, 1995.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

Representative KILKELLY of Wiscasset moved that the House Recede and Concur.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: The nonconcurrent matter that is before us today deals with the Soil and Water Conservation Commission that is being abolished in the productivity task force report. The language in that is now in the report because an amendment has been put on in the Senate, which eliminates the independent board of soil and water conservation and transfers all of its authority to the commissioner of Agriculture and then creates an advisory committee on soil and water conservation.

I met this morning at 7:30 in Bangor with some members of the association. After a lengthy discussion last evening, the group voted 11 to 5 to accept the commissioner's proposal. The opposing groups were from Franklin, Oxford, Androscoggin, Sagadahoc, Waldo and Hancock counties. I am pleased that they were given an opportunity for this discussion especially in light of the fact that the proposal was presented to them in September and October as a done deal and one that could not be amended, adjusted or changed in any way. That was obviously not accurate.

There are several points that I wish to include in the record to express my concern as I accept the desire of the association to agree to this plan. First, the state Soil and Water Conservation Commission will be out of business upon this bill becoming law. The new advisory commission will need to be in place very soon. I hope that the process to create the new committee will be thoughtful and open for debate and discussion.

The advisory committee will consist of 18 voting members. One from each of the 16 districts, the president and vice president of the Maine Association of Conservation Districts and one nonvoting member being the state conservationist of the U.S.D.A. and the Natural Resource Services. That is an increase of seven members over the current board. It also



creates the potential of one county having three members on the board or in the case of Aroostook County, which has three distinct districts, there could be five members on the board. One from each of the districts and the president and vice president of the Maine Association of Conservation Districts potentially.

The current language also stipulates that local representatives to the state board are elected by their groups to serve and while the new statute is silent on selection, I would hope that representatives would be duly elected at an appropriate meeting of their local districts. Another power that is granted to the Commissioner of Agriculture is the power to appoint two members to each local board.

Before the Agriculture Committee yesterday, I asked the commissioner his plans for this process. He said he had talked to some districts about it and that he was willing to let local groups appoint their own folks or work this out in some way. I hope that we will see a bill early in this next session to clarify this process as it will need to be defined in statute. The current board includes ex officio members, the Commissioners of DEP, Inland Fish and Wildlife, Conservation, Marine Resources, Agriculture and a researcher from the University of Maine.

The new structure moves the Commissioner of Agriculture to the final decision maker up from an ex officio member and deletes all other commissioners and the University of Maine representative. I am not aware of their part in this decision. However, according to the annual report of 1994, the DEP policy on the mining of top soil was written by the Commission of Soil Scientists. I would hope that this new advisory board and the Maine Association of Conservation Districts would review this change and determine how information beyond that of an agricultural nature would get into their decision making process and be adequately heard.

The commission currently has responsibility to develop a budget, which includes an operating budget, salary and the distribution of funds to local districts. Under the new plan, the Commissioner of Agriculture reserves that power. The commissioner only needs to solicit advice on, I am quoting from the bill, "Formulation of that part of the department's budget that pertains to the operations of the Soil and Water Conservation Districts." It is unclear to me what that means in relation to the cost of operating the advisory committee, associated staffing, overhead, STACAP and DICAP and because that advice is not binding, I would suggest that the committee and the commissioner develop a system to assure that any disagreements about the distribution of funds can be resolved in a reasonable manner and that the advisory committee will have knowledge and the ability to consult on the remainder of the operating costs. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House: This commission has served a vital function and it is unfortunate that it is being eliminated. It gave grassroots or local farmer input to policy making at the state level. I served as an ex officio member during the 1980s. While change sometimes is good, I have reservations about this change. Thank you.

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

#### ENACTORS

##### Emergency Measure

An Act to Clarify the Referendum Recount Process (H.P. 1149) (L.D. 1588) (C. "A" H-669)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### Emergency Measure

Resolve, to Amend Provisions of the Androscoggin County Budget Process (S.P. 606) (L.D. 1598)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

By unanimous consent, L.D. 1588 and L.D. 1598, having been acted upon were ordered sent forthwith.

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Temporarily Reestablish Eligibility Standards for Low-Income Home Energy Assistance" (EMERGENCY) (H.P. 1166) (L.D. 1599) (Presented by Representative GERRY of Auburn) (Cosponsored by Representative WHITCOMB of Waldo and Representatives: ADAMS of Portland, AHEARNE of Madawaska, BARTH of Bethel, BENEDIKT of Brunswick, BERRY of Livermore, BIRNEY of Paris, BRENNAN of Portland, CARLETON of Wells, CARR of Hermon, CHASE of China, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DAGGETT of Augusta, DAMREN of Belgrade, DAVIDSON of Brunswick, DESMOND of Mapleton, DiPIETRO of South Portland, DORE of Auburn, DUNN of Gray, ETNIER of Harpswell, FARNUM of South Berwick, FISHER of Brewer, FITZPATRICK of Durham, GIERINGER of Portland, GWADOSKY of Fairfield, HARTNETT of Freeport, KEANE of Old Town, LAYTON of Cherryfield, LEMAIRE of Lewiston, LOVETT of Scarborough, LUMBRA of Bangor, LUTHER of Mexico, MARVIN of Cape Elizabeth, MERES of Norridgewock, MITCHELL of Vassalboro, MITCHELL of Portland, MORRISON of Bangor, MURPHY of Berwick, NASS of Acton, NICKERSON of Turner, O'NEAL of Limestone, OTT of York, PEAVEY of Woolwich, PINKHAM of Lamoine, POVICH of Ellsworth, ROBICHAUD of Caribou, ROSEBUSH of East Millinocket, SAMSON of Jay, SAVAGE of Union, SAXL of Bangor, SAXL of Portland, SIROIS of Caribou, STONE of Bangor, STROUT of Corinth, TAYLOR of Cumberland, TOWNSEND of Portland, TREAT of Gardiner, TRUE of Fryeburg, TUTTLE of Sanford, UNDERWOOD of Oxford, VOLENIK of Sedgwick, WATERHOUSE of Bridgton, WHEELER of Bridgewater, WINGLASS of Auburn, WINN of Glenburn, Senators: BUSTIN of Kennebec, CIANCHETTE of Somerset, CLEVELAND of Androscoggin, ESTY of Cumberland, FAIRCLOTH of Penobscot, FERGUSON of Oxford, GOLDTHWAIT of Hancock, KIEFFER of Aroostook, LAWRENCE of York, MCCORMICK of Kennebec, MICHAUD of

Penobscot, MILLS of Somerset, O'DEA of Penobscot, PARADIS of Aroostook, PINGREE of Knox, RAND of Cumberland, RUHLIN of Penobscot, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

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

#### ENACTORS

##### Emergency Measure

An Act to Implement the Productivity Plan of the Department of Marine Resources (H.P. 1158) (L.D. 1592) (C. "A" H-670)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

#### SENATE PAPERS

##### Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (EMERGENCY) (H.P. 1150) (L.D. 1589) which 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-665) thereto and House Amendments "C" (H-664) and "E" (H-668) in the House on November 29, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660) and "C" (H-665) and Senate Amendments "E" (S-410) and "F" (S-411) thereto and House Amendment "C" (H-664) in non-concurrence.

On motion of Representative KERR of Old Orchard Beach the House voted to House Recede.

Senate Amendment "E" (S-410) was read by the Clerk and adopted.

Senate Amendment "F" (S-411) was read by the Clerk and adopted.

Representative KERR of Old Orchard Beach presented House Amendment "F" (H-675) which was read by the Clerk and adopted.

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

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

Representative GWADOSKY of Fairfield presented House Amendment "G" (H-676) which was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Over the past couple of days many of us have tried to come to grips with this

process and understand the impact of the process. There has been an attempt to provide some opportunities for state employees that currently do not exist in the productivity task force recommendations nor do we know for sure if we can expect to see them in the second round.

My office has spent a great deal of time over the last couple of days talking to Democratic and Republican legislators. We spent some time talking with the President of the Senate, Republican leadership in the Senate and House, as well as the Democratic leadership in the Senate and House. We have tried to find some language that would be acceptable to all the members of the Legislature. I offer this on behalf of many Democrats and Republicans who I think want to do just this. Certainly not all Democrats and Republicans and I will freely admit that. I offer it on behalf of many of you who have had constituents who were affected by the changes in this productivity task force and wish that we all, collectively, Democrats and Republicans alike have an opportunity to provide an alternative for them.

The amendment before you provides for an early retirement incentive for state employees. This measure will assist the productivity task force by encouraging people who are already eligible to retire to do so and thus reducing the number of involuntary layoffs that we have tragically seen over the past several months. This bill provides that vacant positions that are created by the retirement will not be filled by another person until the cost can be recouped within a particular department. There is a latitude so that it is revenue neutral. One of the concerns by the State Retirement System was that now that we have passed the constitutional amendment that we adopted most recently that we can't incur an unfunded liability.

The Democrats and Republicans have worked for the last couple of days to try to find language that would be acceptable to the retirement system to ensure that this would be revenue neutral. In fact, as you see the fiscal note on this particular document, it is expected to bring in some savings. Those savings would be attributed to the Productivity Realization Task Force. Under the provisions of this bill, state employees would have the opportunity to retire by April 1, 1996. They would have to give the notice of that intention by February 1, 1996. For those who choose to do so, take advantage of this early retirement option, they would be provided two options.

One would be three months base salary payable July 1, 1996 or they could take the equivalent amount in monthly cash payments toward retiree dependent medical insurance at the current rate for dependent employees for state employees. That in a nutshell is what it is. It provides an incentive for state employees who are at the retirement age to take an opportunity for providing a financial incentive for them to retire early. The net savings will be determined and we will know that by February 11, 1996, when we know how many people have actually applied for the program. It is revenue neutral. At the request and insistence of obviously the state retirement system. I think at this time I feel good about it.

We have worked on language for several days and we have tried to make the numbers work and I am very pleased with the bipartisan support, the Democrats

and Republicans and the interest they have showed to try to move something ahead for state employees who are going through an incredibly difficult time at this point. I would urge your support.

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

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

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

Representative STONE: Thank you Mr. Speaker. My question is to Speaker Gwadosky. Could you tell me in here what refers to normal retirement age? Could you define that for me? It says about reaching normal retirement age. I guess what I am trying to find out is at what age is somebody considered the normal retirement age and how is that going to affect the amount of money that the department is going to put in to cover their retirement for future years? How much of a set back are we going to have?

The SPEAKER PRO TEM: The Representative from Bangor Representative Stone has posed a question through the Chair to the Representative from Fairfield, Representative Gwadosky. The Chair recognizes that Representative.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: We have to respond to the question by the Representative from Bangor, Representative Stone. The answer to that question really depends on the position that the individual holds, what department it is and what unit is it. In some instances it is 60 or maybe 62. It really depends on whether they are a state trooper or a game warden. It varies by department and by bargaining unit. Whatever the normal age would be for that particular unit, that would be the age that is applicable in this case.

As I said earlier, there is a section in this bill that deals with vacant positions and this bill says that the department or agency for which any state employee retires under subsection 1, either may not fill the resulting vacancy position or if the position is filled, shall maintain a vacant position elsewhere in the department. Alternatively, however, it does give even greater latitude because it authorizes the Governor to recover these costs by maintaining and off setting vacancies in some other departments, or agency to ensure that the necessary salaries are there. That is the revenue neutral portion of the bill that is required, obviously, because of the state retirement system.

House Amendment "G" (H-676) was adopted.

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660), "B" (H-663), and "C" (H-665) and Senate Amendments "E" (S-410) and "F" (S-411) thereto 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-665) and Senate Amendments "E" (S-410) and "F" (S-411) thereto and House Amendments "C" (H-664), "E" (H-668), "F" (H-675) and "G" (H-676) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

On motion of Representative JACQUES of Waterville, the House recessed until 7:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**SENATE PAPERS  
Non-Concurrent Matter**

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (EMERGENCY) (H.P. 1150) (L.D. 1589) which 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-665) and Senate Amendments "E" (S-410) and "F" (S-411) thereto and House Amendments "C" (H-664), "E" (H-668), "F" (H-675) and "G" (H-676) in the House on November 30, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-657) as amended by House Amendments "A" (H-660) and "C" (H-665) and Senate Amendments "E" (S-410) and "F" (S-411) thereto and House Amendments "C" (H-664), "F" (H-675) and "G" (H-676) in non-concurrence.

Representative DEXTER of Kingfield moved that the House Adhere.

Representative WHITCOMB of Waldo moved that the House Recede and Concur.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: This is all about that little nurse's amendment that I put on. I would urge this house to vote against the motion to Recede and Concur. I feel that we have justified that position over there. I can go into it a little bit more. We have the bus loads of children that come here. We have all these state workers. It is not just for us here in this body. It is for this whole huge complex. I can go back to my people and justify it. I won't have a bit of trouble. In fact, I think I would have a hard job to explain why we couldn't afford the nurse down here in this huge state complex. I hope that you would join with me and vote no on the pending motion.

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

A vote of the House was taken. 39 voted in favor of the same and 85 against, subsequently, the motion to Recede and Concur was not accepted.

Subsequently, the House voted to Adhere. 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 Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Appropriations and Allocations for Fiscal Years 1995-96 and 1996-97" (EMERGENCY) (H.P. 1148) (L.D. 1587) (Governor's Bill) which was tabled by Representative JACQUES of Waterville pending adoption of Committee Amendment "A" (H-671)

Representative DONNELLY of Presque Isle presented House Amendment "A" (H-674) to Committee Amendment "A" (H-671) which was read by the Clerk.

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

Representative KERR: Mr. Speaker, Men and Women of the House: The amendment that you have before you, I know that the good Representative Donnelly has spent a lot of time and energy in preparing this. Although it is very clear how I am going to be voting and how I have voted on this transportation bill as proposed by the Governor, this bill will be taking money from the general fund.

The problem is that we all know that we are facing a revenue shortfall of about 14.8 million dollars. What the administration hasn't told you is that revenue shortfall is just in the first year of this biennium, FY 96. We all know that we have a two-year budget. That revenue shortfall will probably most likely be carried over to the second year of the biennium. If, in fact, you take these general fund revenues, that would mean you would have to make deeper cuts within the programs that we have already passed.

I would have been more likely to support this amendment prior to yesterday. We had the finance commissioner, while Representative Donnelly and myself, were in the Transportation Committee trying to come up with what we thought would be a viable alternative to eliminate the pull in the Governor's proposal. The Governor has proposed we pull nine years of revenue forward and spend them this year. This amendment, I don't believe at this particular time, given the information that we have facing the shortfall, we are still not there in the productivity. We are still short by about 20 million dollars. I don't think it would be prudent of us to pass this amendment. I would urge you to vote against the pending motion.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I was hoping sometimes, by the old adage that the less said, that we might be able to avoid a lengthy debate on this and just adopt this reasonable proposal. I have to admit that Representative Kerr hit some points that were very important for us to consider.

When the administration came before Appropriations yesterday, they listed off over 150 million dollars worth of problems with no solutions. Either it was a scare tactic, which is what I believe, or we have some real problems that aren't being addressed to the tune of 150 million dollars. The scare tactic isn't scaring me off. We have pulled the numbers on the accounts in the Executive Order and just passed them around to you. It lists off the number of accounts which are frozen or supposed to be frozen because there is quite a spending rate out of this frozen account. Professional services not by the state, travel in-state, travel out-of-state, vehicle operations, repairs, general operations, office supplies, miscellaneous supplies and capital equipment all of which the members of the executive department has termed as discretionary spending. Discretionary means to me when you have another priority that is something you can set aside.

In order to avoid opening Pandora's box and beginning the process of end running around the voters for borrowing and proposing a fiscally responsible alternative of paying our bills today and saving the taxpayers 13 million dollars in interest. In that frozen account as of November 1, there is a total of 36 million dollars. Twenty-five million of which was not personnel services. According to the members of the administration and we could not provide a more recent one, I did provide these runs to every member, because there was some question if these numbers were real and the documentation, this is the first and last page of a report which is at least one to one and half inches thick. It shows line by line and number by number. These are real numbers, real cash and real accounts.

It would not have been there if it were not for the Executive Order that I just passed around. There is a method by which this money was gathered and there is proof that this money is there in spite of what we have heard. I urge this body, not as I said earlier to some friends, that I would debate it, but I would not belabor the issue. It is an important issue. I think it has ramifications that will carry out over the next decade as we see other agencies and departments who have quasi-state instrumentalities and authorities that they operate with and run around the voters for issues that are not popular and they are afraid they will lose with the voters and take the money in other fashions.

This is a terrible precedence that is being set by taking this money from the Maine Turnpike Authority. It is as bad a precedence as when we sold the Turnpike Authority a piece of I-95. I cannot in good conscience support it and I could not in good conscience not offer this body another alternative. Here it is. I hope you will vote to adopt House Amendment "A." Thank you.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: Very briefly Mr. Speaker. I think Representative Kerr has stated it just as well as I could and perhaps even better, but I just want to make sure that I say and urge you to please, because of the fact that this proposal does take money out of the general fund, I hope you consider that very, very carefully. I hope you will defeat this measure and vote against it. Thank you very much.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be very brief. I keep hearing that this takes money out of the general fund. That seems to be the bugaboo here. Representative Donnelly just referred to what I had distributed here, the two page document. I repeat what that is. That is the lapsed allotment report. That is the first and last page of a report about this thick.

If you look at the second page of that, you will see where it starts off with a column of an allotment amount, that is what you appropriated. Then there is what has been encumbered up to that day and what has been expended up to that date. What is the balance? It is 36.7 million dollars. That is money that has not been spent from the general fund. One of the things that I have trouble understanding, I am slow sometimes with these numbers, is that we have a

column here of encumbrances of 49 million dollars plus those are funds that are committed. They then turn around and say that you have to reduce this 36 million dollars by an additional 30 million dollars plus, because these are things that we incurred, but we haven't paid and they will be recognized in the next quarter, etc., etc., etc.

My God, if they can recognize 49 million dollars of encumbrances, why can't they recognize payable? Simple math is this, if you subtract from that 36 million dollars what they say is encumbered, you have somewhere in the vicinity of 5 or 6 million dollars left, times four is 20 million dollars. It is that simple. Someone wants to use that money for some purpose. I agree with Representative Kerr. I totally agree with him that we are going to have a revenue shortfall and we have to address that. I am not standing here urging you to vote irresponsibly. We have to look for these projects. They have to be funded in some fashion. I urge you to stick to our guns.

There has been no effort to compromise. Let's walk out of here with a little bit of a compromise. Let's walk out of here with something out of that general fund. I pointed out from the balance sheet alone there is over 10 million dollars sitting there. Let's get something. This is supposed to be a government made up of three branches. We are one. The executive is one. Let's move toward some sort of a compromise as opposed to being told it can't be done. It can be done. We are not going to crucify any general fund program. The sky is not going to fall in. Let's identify some amounts of money and move toward a compromise. I urge you to do that and think about the long range implications of what we are doing here this evening. 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: I have been put in an odd position here because I do not support the Governor's proposal, but I can't support this either. I must go back in time. I think that we must go back to when we were discussing the biennial budget and I can understand where the good Representative Donnelly is coming from along with Representative Simoneau. I am debating members of my own committee, but I think philosophically we agree. I think everybody in this House will agree.

I would take the liberty just to go back. We all came into this institution. We knew there were some gimmicks in the past. We voted for things that we didn't like because of the shortage of revenue. When there was a shortage of revenue, we had needs that exceeded that. Many of us that were here, we did things that we didn't like to do. Now we are paying back the piper. When the Governor came forth with his biennial budget, there was 244 million dollars worth of new spending. At that time, the Governor of this state said these are the priorities that I want to address.

Unfortunately, back in 1990, United States Senator, George Mitchell came forth and was able to get us 80/20 matching funds to make sure that bridges were built. What happened from that point forward was they started the bridges without having the money tied in. Like you starting to build a house, but not having the financing. That is where we are at today. I can only say that Representative Donnelly

has put in some time to try to reach a compromise and take a bad situation and try to make it better. The problems that I have had are probably philosophical ones with the Governor.

I do not and will not support pulling revenues forward nine years in advance and spending them today. To me, I don't think that is prudent either. Would I like to see a compromise? Yes, I would. Can it be achieved today? I am not sure. When you talk about general fund remember, I am going to talk in terms of biennium to biennium, general purpose aid was increased by 58.6 million dollars. The teacher retirement was increased by 27.8 million dollars, the Medicaid account by 36.8 million dollars, personal services in higher ed a total of almost 30 million dollars, the rest of state government was about 92 million dollars. That is where you get that number 244 million dollars.

I can only tell you whenever I have addressed this body, I have always put my cards face up. I wanted you to have all the information and I did the same when I went to the Transportation Committee with the good Representative Donnelly. We went there in hopes to strike a compromise. I then told people the difference between what the administration is proposing and what we have suggested when I had said at the Appropriations Committee that there was 16.2 million dollars available in the general fund. The only difference between the administration and this Legislature was who was going to spend it and where. Those dollars are going to be spent either toward the revenue shortfall, which is currently projected at 13.9 million dollars, but could increase. We all know that. That is a reality.

When you look at allotment reserves, it is a snapshot in time. Currently there is 12.9 million dollars or there about. The administration has tried to get these departments to reduce that by 30 percent. That is why you hear that 3.9 million dollar figure. If those savings are achieved, then there would be about or a little under 4 million dollars available. The rainy day fund, yes, we all know there is 6 million dollars there. We, as a Legislature, separated what we felt was productivity and what was not. We didn't take the administration's proposal of the 27 million dollars, because we didn't feel it all should be put toward productivity. We separated about 1.8 million dollars there. Those dollars are also available. Unappropriated surplus is about 4.4 million dollars. If those numbers were added up, 16.2 million dollars is available now.

Do we have obligations that we are going to be facing? Yes, we still have to achieve another 20 million dollars through productivity. For those that are hyperventilating about the cuts that you see today, come January and February, believe me they are going to be much more difficult. If you think that pressure is boiling and that meat is raw, wait until we get back here in February people. The revenue shortfall, we can only hope that it stays at 14.8 million dollars. We know what our constituents are facing. Many are looking for jobs and can't find them. People ask me that they know Maine is on the move, but which way is it going, up or down. No one knows.

We, members on the Appropriations Committee are often the deliverer of bad news. That is what we have to do. That is our job. We have to deal with reality. We have to have vision and we have to have

the proper attitude. I think that we have. It may be a little bit different than that on the second floor, but I think that we do have it. I think by tonight it is very clear that this Legislature, at least this body, put together a budget package that we believe is fair to the people of the State of Maine. We are not balancing this budget on the most vulnerable people in this state. We have proven that through amendments that we have added.

The taking of money from the general fund based on information that we know on the Appropriations Committee from Commissioner Waldron, whose numbers I heard for the first time yesterday, were much greater than what we have ever heard before. At this particular time, I would urge this body not to take any dollars from the general fund until we know what the problems that are coming up in the very near future may be. I don't think we can cut 20 million dollars on top of an additional 20 million dollars. That would give us another 40 million dollars of general fund cuts. I am a realist, people.

I have only been here a short period of time, but I am just suggesting to you that I admire this amendment. I admire people that are trying to work for a compromise. I don't think that it is right for this Legislature to go out and allow the Turnpike Authority to borrow 40 million dollars, because they can't do it under current law. That is wrong. That is why I have proposed this legislation. This amendment does take care of that. The problem with this amendment, in my opinion, is that we are tapping the general fund. I think that we are going to wish that these dollars were there come January or February. I would urge you to vote against this amendment. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to be too long, but I would like to commend Representative Kerr for the point of view he just gave you. It is what I told you today. I am glad he came out with it. As I said today, there is just one show and that is the transportation show with the turnpike. There is no other. If you go with the general fund, you are going to hurt yourself. It is a lose, lose situation.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: What concerns me about this amendment is the fact that the funding level for state police has been reduced to 50/50. I asked the question yesterday where do you get 50/50? The answer that I got was that that was the way that it always was. I believe probably originally it was driven by budgetary considerations rather than facts and figures as it probably is this time. I don't know what the funding level would be, but I believe that the state police spend more than 50 percent of their time on highway work. What I feel is if they are having to compete with human services, education and some of those other general fund agencies for their funding, I have an idea that probably their budget is going to be hurt by it. I hope you will consider this very carefully.

Representative JACQUES of Waterville requested a roll call on adoption of House Amendment "A" (H-674) to Committee Amendment "A" (H-671).

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 Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I would first like to thank my House Chair for complimenting me on my efforts, but it was not just me. It was a number of legislators who were interested in these projects going forward because of the long-term implications they have on the State of Maine. They were interested in doing so in a fashion other than borrowing from the Maine Turnpike Authority because of the long-term implications that has for the State of Maine. What is positive out of challenging that dictate of the MTA proposal that we have is now that we have a commitment from the Governor, regardless of what percentage you believe the state police ought to be at to at least move toward a 60/40 split in future bienniums. We did that by challenging the proposal that was put out.

The Transportation Committee did that by being open to other ideas. I believe we can continue to push the administration to make decisions on this proposal that are more suitable. They may not be taking 15 million dollars from the general fund. They may be taking 1 million dollars or they may be taking nothing. There are two committee reports that we had not heard that had alternative ideas. They were very similar in fashion. They were from each party from each end of this House. I encourage that if you don't vote for this, that you reject the other proposal after this. It is the only way that we are going to get a real compromise out of here. We have all sat through the budget negotiations and there was a lot of posturing. We all sat down in the end and made the compromise.

I think it is time for the Executive Branch to compromise with the Legislature. That was my intention for putting this in and looking for an alternative. I respect the members of the Legislature who disagree on the proposal. That is fine. You can't say these aren't real numbers. The proof is in the pudding and it is in front of us. I just want to thank you for the time you have given for consideration of these things. I hope you will support this amendment and if not, you will go on to defeat the existing motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-674) to Committee Amendment "A" (H-671). All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 284

YEA - Adams, Aikman, Ault, Barth, Birney, Buck, Campbell, Carleton, Chick, Cross, Donnelly, Dunn, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Layton, Lemont, Libby JD; Libby JL; Lovett, Lumbra, Madore, Marshall, Marvin, Murphy, Nass, Ott, Peavey, Perkins, Pinkham, Reed, G.; Rice, Robichaud, Savage, Simoneau, Stedman, Taylor, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

NAY - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carr, Chartrand,

Chase, Chizmar, Clark, Clukey, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lane, Lemaire, Lemke, Lindahl, Luther, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Pendleton, Poirier, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

ABSENT - Cloutier, Look, Plowman, Poulin, Truman, Tuttle.

Yes, 48; No, 97; Absent, 6; Excused, 0.

48 having voted in the affirmative and 97 voted in the negative, with 6 being absent, House Amendment "A" (H-674) to Committee Amendment "A" (H-671) was not adopted.

Subsequently, Committee Amendment "A" (H-671) was adopted.

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

Representative STONE of Bangor presented House Amendment "A" (H-677) which was read by the Clerk.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: From 1987 to 1995, the legislative department, which includes the House, Senate, Clerk's Office, Document Room, Legal Council, Library, Fiscal and Program Review and other departments have had a 9 percent increase in the total number of employees. If you compare full session budgets of 1993, 1995 and 1997, that is an 11 percent increase.

What this amendment calls for is to make a 3.5 percent cut in the current two-year budget, which will amount to 1 million dollars. That million dollars will reduce the amount of money that the Maine Turnpike Authority will have to borrow, which is a savings of about \$300,000 for them over the ten-year period. For those of you who think that the 1 million dollars would be difficult to come up with, the fact that we extended our session back in June was approximately \$105,000. The Document Room has a standing order that for every bill that is produced, they produce automatically for distribution in the Document Room, not to be mailed out, but additional copies of 379 copies of every single bill, regardless of how frivolous they are, even including this one some of you might think.

Also, every time you get a piece of mail from the legislative department, it has 32 cents postage on it. Check your Visa bill and find out that is probably 27 cents or 28 cents. I have been, two years since I have been down here, trying to find out why we don't send things out with reduced postage on it and haven't been able to get a full answer yet. The reason I mention these things is that I believe the million dollars is an easy amount of money to come up with. I think that before we keep looking under everyone else's rug in the productivity task force, we ought to look under our own. Like

Representative Donnelly, I wish to thank you in advance for your anticipated support. Thank you.

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

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to go into a long dissertation. I think you have heard it once. This, too, also takes money from the general fund. As you all know, the legislative department was also part of the productivity task force. There was a reduction of 1.9 million dollars that was deappropriated from the legislative council and put toward the productivity task force.

If anyone in this body can find more efficiencies within the legislative department, I would urge you to bring them forth and we can make those deappropriations as a body. Again, I would urge you to vote against this amendment. It simply does take money from the general fund. These dollars may have to be used to cover revenue shortfalls or other areas within the general fund. If it is appropriate, I would move that this amendment be indefinitely postponed.

Representative KERR of Old Orchard Beach moved that House Amendment "A" (H-677) be indefinitely postponed.

Representative STONE of Bangor requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-677).

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

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

The pending question before the House is the motion to indefinitely postpone House Amendment "A" (H-677). All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 285

YEA - Adams, Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lemke, Libby JL; Lindahl, Lovett, Luther, Martin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Poirier, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Buck, Cameron, Campbell, Carleton, Damren, Dunn, Gieringer, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Labrecque, Lane, Layton, Lemaire, Lemont, Libby JD; Lumbra, Madore, Marshall, Marvin, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Reed, G.; Rice, Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, Underwood, Waterhouse, Winglass, Winn, Winsor.



ABSENT - Cloutier, Look, Plowman, Poulin, Truman, Tuttle, Whitcomb.

Yes, 95; No, 49; Absent, 7; Excused, 0.

95 having voted in the affirmative and 49 voted in the negative, with 7 being absent, House Amendment "A" (H-677) was indefinitely postponed.

On motion of Representative JACQUES of Waterville, tabled pending passage to be engrossed as amended by Committee Amendment "A" (H-671) and later today assigned.

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

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) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected the House necessary. A total was taken 132 voted in favor of the same and 0 against, accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Expression of Legislative Sentiment in memory of Rep. Robert E. Yackobitz of Hermon (HLS 651) which was tabled by Representative WHITCOMB of Waldo pending adoption.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: It seems too often this year and for the last two years we have met on this kind of occasion.

Bob Yackobitz probably wasn't someone that most of us got to know very well in this body. I think the literally hundreds of people who gathered in Bangor one beautiful day in late September to honor Bob, was a testament to the kind of impact Bob had in his community. Bob was a very quiet person. Bob was a very gentle person. Bob was a very caring person. Bob was the kind of political inspiration, I think we should talk about when we go to people in the community and to young folks, when we urge them to seek higher political office, such as these offices. Bob labored on the sidelines, worked in the community and served on the town council of two communities and worked on everybody else's campaign for decades.

He finally made his bid for office and lost. Then the next time around, won, what was for Bob a lifetime dream of serving in the Maine Legislature. Then within weeks of being elected to this place, he became severely ill as those of you around him knew. It was difficult to find out until you asked why it was that Bob Yackobitz lost 70 pounds in a matter of a few weeks as he served with us. He didn't know at the time why. No one knew and no one could find out.

Bob was perhaps the epitome of the humble public servant. He spoke rarely. He spoke thoughtfully. He cared deeply and worked hard. Bob would call me at this phone from time to time late last spring and in the early summer as we met. He called from his hospital bed when they finally found out he had cancer, as he was taking chemo, asking what it is that was going on. He was talking about being here soon. All of us who were in the House recall the day

that he came back late in the session. He was really in a great deal of pain. In early August, Bob was talking about being back. Talking about recovery.

In a sense, this place to him was what he looked forward to. It gave him the courage really during the last few weeks and hours of his life. Bob left to all of us a quiet legacy of inspiration. I think he will be remembered in the community because he served there so long, but perhaps not remembered by so many of us because we didn't get to know him. Among those of us who did know him, he left a lasting impression. We wanted to take this occasion to pause for a few moments in memory of one of us. It was someone who I think worked hard for a political party, in a sense, transcended the political party definition and spoke well for all of us. Those of you who were there, many of you, at his memorial service know that it was a very bipartisan gathering. Bob worked hard for everyone.

As we adjourn this night, it is pleasing and I think probably an appropriate tribute that we do so in memory of one of our members who has passed, Bob Yackobitz.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: In my almost 18 years of service in this body, I have attended a lot of funerals. Much too many actually of members of this body. I was telling one of the newly elected members the other day that I don't think I have served a term in the Legislature where we didn't lose someone. When you think about that out of 151 members that you lose at least one almost every legislative session that I have been here, that really says an awful lot.

Members of the Legislature and people from the outside will never understand this. You didn't when you weren't here, but it is much like a second family. The fact of the matter is, you spend much more time with these folks when we are in session than you do your family. I remember when my dad died and there was a section set up in the church for legislators and staff and I heard my mother say in the background, that is for the Legislature, that is Paul's other family. She understood that.

Unfortunately, some of our members we had just got to come to know. They weren't members very long and we lost them. Some had been here a long time and we got to know them very well. I barely got to know Bob. When he came back, I did send him a note because every time I met him in the hall he was always friendly and courteous. He was a real pleasurable guy to talk to. I have to tell you, you can judge a lot about a person when you attend the funeral of that person and you hear what people who knew him best had to say. That day, sitting in the front of the church, we heard from everyone including the mother of the former Governor, Governor McKernan, the Republican Floor Leader of the House, a selectwoman who had served with him, a lifelong friend and I dare say that we heard from every walk of life and that funeral was represented by every walk of life in the town and surrounding towns.

It was very clear to me that Bob epitomized what is the best of the public servants. What bothered me the most was that someone would have to pass away before people would take the time to stop to realize what kind of a person he was and the service he provided to his district and his state. When people



talk about politicians in a negative cite, just remember Bob Yackobitz. There was not much negative about that man. He will be missed here. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hermon, Representative Carr.

Representative CARR: Mr. Speaker, Men and Women of the House: I told Representative Whitcomb I was a little too nervous to do this, but he inspired me with his moving remarks. Bob Yackobitz was my neighbor and my friend. I just would like the members of the House to know that I consider it a very dear privilege to be sitting in his seat. Thank you.

The SPEAKER: The Chair would ask the members of the House to please stand in a moment of silence at this time in honor of Bob Yackobitz.

Subsequently, was read and adopted and sent up for concurrence.

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

#### COMMUNICATIONS

The following Communication: (H.C. 279)

#### STATE OF MAINE

#### Department of State

I, the Secretary of State of Maine, certify that according to the provisions of the Constitution and Laws of the State of Maine, the Department of the Secretary of State is the legal custodian of the Great Seal of the State of Maine which is hereunto affixed and that the paper to which this is attached is a true copy from the records of this Department.

In Testimony Whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta, November 27, 1995.

S/BILL DIAMOND  
SECRETARY OF STATE

#### State of Maine Proclamation

#### Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto

WHEREAS, the One Hundred and Seventeenth Legislature of the State of Maine, in the First Regular Session, by Constitutional Resolution 1, passed by a concurrent vote of both branches June 6, 1995, proposed to the electors of the State of Maine the following amendment to the Constitution, to wit: Article IV, Part Third, Section 2-A is enacted to read:

'Section 2-A. Line-item veto of dollar amounts appearing in appropriation or allocation sections of legislative documents. The Governor has power to disapprove any dollar amount appearing in an appropriation section or allocation section, or both, of an enacted legislative document. Unless the Governor exercises the line-item veto power authorized in this section no later than one day after receiving for signature the enacted legislation, the powers of the Governor as set out in section 2 apply to the entire enacted legislation. For any disapproved dollar amount, the Governor shall replace the dollar amount with one that does not result in an increase in an appropriation or allocation or a decrease in a deappropriation or deallocation. When disapproving a dollar amount pursuant to this section, the Governor may not

propose an increase in an appropriation or allocation elsewhere in the legislative document. The Governor shall specify the distinct dollar amounts that are revised, and the part or parts of the legislative document not specifically revised become law. The dollar amounts in an appropriation or allocation that have been disapproved become law as revised by the Governor, unless passed over the Governor's veto by the Legislature as the dollar amounts originally appeared in the enacted bill as presented to the Governor; except that, notwithstanding any other provision of this Constitution for dollar amounts vetoed pursuant to this section, a majority of all the elected members in each House is sufficient to override the veto, and each dollar amount vetoed must be voted on separately to override the veto. Except as provided in this section, the Governor may not disapprove, omit or modify any language allocated to the statutes or appearing in an unallocated section of law.'

WHEREAS, it appears by the return of votes cast by the electors of the various cities, towns and plantations voting upon said amendment as directed in the aforementioned Constitutional Resolution at the election held on November 7, 1995, and reviewed by the Governor on November 27, 1995, that a majority of said votes were in favor of this amendment; namely,

286,929 for, and  
115,216 opposed;

NOW, THEREFORE, I, ANGUS S. KING, Jr., Governor of the State of Maine, do proclaim the Constitution of the State of Maine amended as proposed in accordance with the provisions of this said Constitutional Resolution, the amendment shall hereupon as of the date of this proclamation become a part of the Constitution.

IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed given under my hand at Augusta this twenty-seventh day of November in the year One Thousand Nine Hundred and Ninety-Five.

S/ANGUS S. KING, Jr.

Governor

S/BILL DIAMOND

Secretary of State

Was read and ordered placed on file.

#### SENATE PAPERS

#### Non-Concurrent Matter

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State (S.P. 477) (L.D. 1301) (C. "A" S-331)

- In House, passed to be enacted on June 28, 1995.

- In Senate, passed to be enacted on June 30, 1995 in concurrence.

- Recalled from the Governor's Desk pursuant to Joint Order (S.P. 605)

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-331) as amended by Senate Amendment "A" (S-414) thereto in non-concurrence.

Subsequently, the House voted to Recede and Concur. Ordered sent forthwith.

#### REPORTS OF COMMITTEES

#### Ought to Pass as Amended

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act

to Correct an Error in the Hospital Assessment Program" (H.P. 1151) (L.D. 1590) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-679)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-679) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-679) and sent up for concurrence. Ordered sent forthwith.

#### ENACTORS Emergency Measure

An Act to Temporarily Reestablish Eligibility Standards for Low-Income Home Energy Assistance (H.P. 1166) (L.D. 1599)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 137 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

The following matter was taken up by unanimous consent without the printed matter before the House:

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

Bill "An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Appropriations and Allocations for Fiscal Years 1995-96 and 1996-97" (EMERGENCY) (H.P. 1148) (L.D. 1587) (C. "A" 671) (Governor's Bill) which was tabled by Representative JACQUES of Waterville pending passage to be engrossed.

Representative HARTNETT of Freeport presented House Amendment "B" (H-681) which was read by the Clerk.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I was extremely nervous and realized I might be in great physical danger by presenting this amendment so late in the evening of the third day of the special session. When I found out the bill was not even printed and available, you can imagine how I felt about the chances of me leaving here safely. I do hope the changes of this bill safely in good hands, or this amendment, are strong.

Early this morning you heard me speak about some of my objections to the planned borrowing scheme of the Maine Turnpike Authority and how I believe that, in fact, the Constitution of the State of Maine and the statutes regarding the Maine Turnpike really didn't allow this to happen. Remember the Maine Turnpike issuance of bonds may be done for the purpose of paying the cost of constructing, reconstructing or making extraordinary repairs to the turnpike and the location thereof, not to advance the state money. I hope a lot of you agree and during

the break a lot of you told me you did agree with me on that point.

I want to just take you back to early in this session when a lot of us were new and very impressionable and perhaps less so now. The executive spoke to us at the time of presenting the budget. The budgets are policy. Remember those words, budgets are policy. I would hope that we would be able to really hear those words again tonight and make it the policy of this body, not to resort to financing schemes and budgetary gimmicks to meet the true needs of this state.

Also, recently the executive mentioned that this was a historic time. I dare say that if we could get through this special session without those budgetary gimmicks and without financing schemes, it would indeed be a historic moment. We have come so far eliminating the payroll push, eliminating the furlough days, paying up our past bills. We have come so far. It bothers me that we might be able to backslide now and say that this one time because it is so important and because we really, really want to do this, we are going to resort to this borrowing scheme.

Remember, if we do this, the 118th, 119th, 120th, 121st and the 122nd Legislatures will be feeling the impact of that. They will not be getting that annual surplus allotment from the Maine Turnpike Authority. That is how far we are reaching into the future. What my amendment does, and I believe this is what I have in my hands now, it does exist, is it tries to meet this 34 million dollar need in what I don't think is a necessarily creative way, because sometimes creativity is full with gimmicks. I think it is a straight forward way. Right off the top, let me tell you that I intend to raise half this money by borrowing the money. The general obligation bonds for the State of Maine, bonds that are approved by the people of Maine as the Maine Constitution says they should be. I intend to have this done in the spring when we can send out this item as a referendum item during the primary season. That is half the money. Eleven million dollars of this 34 million dollars, I hope to get from the general fund.

Before anyone panics and says I can't do that. I want you to recall some of the conversations earlier when we debated using general fund money. Because of the freeze, we have approximately 35 million dollars that has been frozen. Earlier it was mentioned that about 25 million dollars of that is out of personal services. Eleven million dollars isn't. That is where we get 11 million dollars. Personal services the money is frozen and it is also spending needs, whether it is out-of-state travel to a convention. That is long ago passed. They are gone. It is not like they have been holding up buying copying paper in some cases. It is pretty hard going into a convention in January that was actually held in October. Over the biennium, I hope to get 11 million dollars from there.

The final component of 6 million dollars in this package comes from the DOT itself. I spoke with the commissioner this afternoon and the people down at the Fiscal and Program Review Office to find out, ok, we appropriated a lot of money to the DOT in the budget we adopted in June. How much of that is left? Did they spend it all yet? Can we get to it? What I found out is that in the highway and bridges fund approximately 12 million dollars that we appropriated has not been spent and has not been

contracted to be spent. It has not even been advertised to be contracted to be spent. Additionally 7.3 million dollars exists in the highway paving account. This is money that hasn't been used yet. In total you have 19.3 million dollars. Just to give you an idea we appropriated approximately 40 million dollars to the DOT, 20 million in 1996. This was for the highway and bridges account. In that highway and bridges account what there are our priorities and our choices, which roads and bridges we thought should be done.

Why I want to get 5 million dollars for that is that it seems to me that in November of 1995, there is really one that we would rather do more than anyone else. It would be three demonstration projects. It is our priority. What I am asking you to do tonight is to make a choice. We can't have it all. Make the choice. Say we are going to take some of the money here and take some there and we are going to rearrange our priorities and we are going to make some tough choices. Some things are going to have to wait. That is what the people sent us here for, not for more gimmicks and not for going around and finding this sort of shadowy uncle called the Maine Turnpike Authority who can go off and do our dirty work, to get a little money from here and a little money there for us.

Let's do it in the broad open daylight. Let's let the voters be a part of it. Let's make choices and rearrange our priorities in highway and bridge repairs. Let's say tonight that this is one that we really want to do. Those are the components of my bill. I would be happy to answer questions. Please keep in mind that I am not from the Transportation Committee or the Appropriations Committee. I am from the Judiciary Committee. All day long I felt like I was wading out into the alligators, but I think I have something that works here. I know it is something that I will feel good about. I do hope you receive it kindly. I really thank you for your indulgence of letting me speak to something that you don't even have in front of you. Thank you very much.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: At this late hour of the game and to bring in a proposal like this with the figures that are thrown around tonight, I think it makes it very hard for the committee to try to digest this without looking at the printed material and to hear some recommendations to defer some of those programs, in the paving program or in the bridge program, that I can't stand here and answer without having a chance to look at my book and say that 19 million of those projects haven't been scheduled.

It really concerns me that anybody, I guess, would put a proposal out at this stage of the game when we have looked at this for seven months and when we put our program together for the highway and bridge program and maintenance program and then you look at the part you want to go out to referendum in the spring. The part of that bond issue. Let me tell you that we made a commitment and I heard the Senate Chair of Transportation speak very clearly in the last two days that he made a commitment that we would bond no more than 100 percent of our transportation bonds in the biennium. We did that when we put the 59 million dollars out.

It was very clear to me that we said to our people that we wouldn't come back with another bond issue

for highways in the next two years. Again, we have had part of the proposal brought up tonight to take money out of the general fund. We heard it very clear here an hour and a half or two hours ago that members voted up there that they would not take money out of the general fund. There were 97 votes up there. I think it is time that we get on with the bill that has the number of votes to pass it and send it down there and see what happens.

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

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

The SPEAKER: The Representative may pose his question.

Representative MARTIN: Did I hear correctly that the amendment contains some adjustments in the Highway Department Budget as well as contains a bond issue in the same amendment?

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

Representative HARTNETT: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that seeing the final language of what the Revisor's Office has given, that is what we would be trying to accomplish. It is a change in the projects that MDOT money would be spent on this biennium.

Additionally, I do want to say to the good Representative from Corinth is that the commissioner this afternoon told me that there was 19 million dollars. You may not know it without looking in the book, but the commissioner standing right before me said there is 19.3 million dollars that has not been expended. That is where I got that.

As far as not going to 100 percent of the bonding of the highways, oh no, you are not doing it in the DOT budget, but you have found another way to do it. In fact, we are going over 100 percent.

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

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure I got the answer to the question, but if the answer is that this amendment at the same time contains adjustments in the highway budget and at the same time contains a request for a bond issue to go to the voters, I would then question the germaneness of the amendment.

Representative MARTIN of Eagle Lake asked for a ruling from the Chair if House Amendment "B" (H-681) is germane to the Bill.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: In an attempt to try to move us forward and get out of here as quick as I can, I am going to withdraw my request for germaneness and go to a vote so we can deal with this issue.

Representative MARTIN of Eagle Lake withdrew his question about whether House Amendment "B" (H-681) was germane to the Bill.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I would simply ask if at this point this amendment would need a two-thirds of those present and voting because this is a bond issue request?

The SPEAKER: The Chair would respond to the request by the Representative from Saco, Representative Nadeau that it would require a majority vote, a simple majority vote at this time.

The Chair ordered a division on adoption of House Amendment "B" (H-681).

Representative HARTNETT of Freeport requested a roll call on adoption of House Amendment "B" (H-681).

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 "B" (H-681). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 286

YEA - Aikman, Ault, Barth, Birney, Buck, Carleton, Cross, Donnelly, Dunn, Gerry, Gieringer, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Labrecque, Layton, Lovett, Lumbr, Madore, Marvin, McAlevey, Nass, Ott, Peavey, Perkins, Pinkham, Reed, G.; Reed, W.; Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, Waterhouse, Whitcomb, Winn, Winsor.

NAY - Adams, Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gooley, Gould, Green, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Luther, Marshall, Martin, Mayo, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Pendleton, Poirier, Pouliot, Povich, Rice, Richard, Richardson, Ricker, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Underwood, Vigue, Volenik, Watson, Wheeler, Winglass, The Speaker.

ABSENT - Cloutier, Kerr, Look, Plowman, Poulin, Rosebush, Truman, Tuttle.

Yes, 42; No, 101; Absent, 8; Excused, 0.

42 having voted in the affirmative and 101 voted in the negative, with 8 being absent, House Amendment "B" (H-681) was not adopted.

On motion of Representative JACQUES of Waterville, the House reconsidered its action whereby Committee Amendment "A" (H-671) was adopted.

Representative CHARTRAND of Rockland presented House Amendment "B" (H-678) to Committee Amendment "A" (H-671) which was read by the Clerk.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: It is with some trepidation that I get up and attempt another amendment on this Committee Amendment to the bill. I think this is the amendment that we have all been waiting for, not because it is the last one. Also, the compromise that I am trying to affect in this amendment I think will satisfy a lot of people who have some problem

with the bonding of the Maine Turnpike Authority bonds to accomplish the end the department would like to accomplish.

On the other hand, as Representative Hartnett said earlier, we are in the position of having a gun on each side of our head. There are some projects the state has already begun commitments to that we don't see a way out of funding them to some degree to complete them, the three major federal demonstrations projects. On the other hand, a lot of us in this chamber have discomfort with the idea of bonding through the Maine Turnpike Authority. I have been thinking and talking about this bill with other members of the committee and members of the Appropriations Committee for a lot of the last week.

I think yesterday I came to the realization that there was no way we could accomplish that without some amount of bonding through the Maine Turnpike Authority, even though it is an option I dislike. In order to get something that I think can leave this chamber with a two-thirds vote, we need to be able to accomplish demonstration projects and we need to be able to not take any money from the general fund. That option clearly has been rejected by this chamber on several votes.

My amendment does not take any money from the general fund. It does accomplish a demonstration products. What it does is take the difference between those amounts that we have been talking about, and to reduce the amount of projects that the department presented to us in the original bill, the Majority Report. It reduces the projects that we would have to supply state match for to only the minimum amount of 30 million dollars, which would complete the three major demonstration projects. It eliminates some of the other optional projects, which were underground storage tank replacements and some other environmental needs that the department has identified, but were not in the original two-year budget that we passed in June.

What it does fund is 4.3 million dollars for collect-a-road maintenance paving, which will help us to achieve something that we have worked on with a lot of roads in the state that aren't state highways that need help. This does not add anymore money to state highway paving, but the original two-year budget had 4.6 million dollars in that. We have spent half of that and we have half of it left to spend for the rest of the biennium. It also has 2 million dollars for salt and sand storage reimbursement to towns that have already built salt and sand storage and are waiting for the state reimbursement.

To make it short and simple, I think it does everything that we need to do at this point in this small session. Anything else that people think is important can be dealt with after January through any number of means. We can leave here tonight doing the minimum necessary and forcing us to borrow only the minimum through the Maine Turnpike Authority. We would only be committing ourselves to five years of loss of the 4.7 million dollars we have talked about losing. I think it is a reasonable alternative. Those of us who have had a problem with the original bill, I think this will be the only option that has any reasonable expectation of passing. I would urge you to vote with me to accept this amendment to Committee Amendment "A."

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Very, very briefly, I just want to emphasize two major points that this amendment will affect.

It eliminates allocations in Part A of the bill for the state highway maintenance paving program, the underground fuel tank program, the underground floor drain program and the hazardous waste storage program. The State of Maine is becoming closer and closer to being penalized by the federal government. Massachusetts has just been docked very, very heavily. I expect and so do a lot of other people that the federal people are going to begin to say that they have given us enough time and we have put it off for too long. Other states have done it and you have to do it. There will be severe penalties if we don't.

Number two, it reduces allocations in Part A of the bill for sand, salt and storage by 1 million dollars. Both of those are issues, ladies and gentlemen of the House, that impact your constituents, your town selectmen, your town councilors, your city council people all over this state. I urge you to join me in defeating this amendment. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I had no intentions on speaking on this particular issue. I have to say a few words seeing I am quite effected. One of the bridges happens to be in my district. Twenty years ago, Ed Muskie sat in this seat right here and probably was the individual that caused most of these projects to come about. Through the years, George Mitchell continued and eventually led to what we now know as the Don Carter Bridge. Right now it is a combination of piles of dirt, pillars and a road that goes no where.

I ask you, ladies and gentlemen, if we don't go on with this bonding, I will have in my district, plus the other two projects, piles of dirt and roads that go no where for one, two or three years before the projects can be continued. I ask you to please oppose this motion and go on to pass the bonding issue as the Chairman of Transportation Committee requested. I thank you.

Representative JACQUES of Waterville requested a roll call on adoption of House Amendment "B" (H-678) to Committee Amendment "A" (H-671).

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 "B" (H-678) to Committee Amendment "A" (H-671). All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 287

YEA - Adams, Aikman, Ault, Barth, Benedikt, Birney, Buck, Carleton, Chartrand, Chase, Chizmar, Dunn, Gates, Gooley, Green, Guerrette, Hartnett, Hatch, Heesch, Jones, S.; Joy, Joyce, Joyner, LaFountain, Layton, Lemke, Marvin, Nass, Ott, Reed, G.; Savage, Shiah, Simoneau, Stedman, Taylor,

Thompson, Townsend, Treat, Volenik, Waterhouse, Watson, Winsor.

NAY - Ahearne, Bailey, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carr, Chick, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gould, Greenlaw, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Perkins, Pinkham, Poirier, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Stone, Strout, Tripp, True, Tufts, Tyler, Underwood, Vigue, Wheeler, Winglass, Winn.

ABSENT - Cloutier, Look, Plowman, Poulin, Truman, Tuttle, Whitcomb, The Speaker.

Yes, 42; No, 101; Absent, 8; Excused, 0.

42 having voted in the affirmative and 101 having voted in the negative, with 8 being absent, House Amendment "B" (H-678) to Committee Amendment "A" (H-671) was not adopted.

Subsequently, Committee Amendment "A" (H-671) was adopted.

Representative STROUT of Corinth requested a roll call on passage to be engrossed as amended by Committee Amendment "A" (H-671).

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

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

The pending question before the House is passage to be engrossed as amended by Committee Amendment "A" (H-671). All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 288

YEA - Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Lemaire, Libby JD; Lindahl, Lumbr, Luther, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Stone, Strout, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Whitcomb, Winglass, The Speaker.

NAY - Adams, Ahearne, Aikman, Ault, Barth, Birney, Buck, Carleton, Chartrand, Chase, Donnelly, Dunn, Gates, Green, Guerrette, Hartnett, Heesch, Jones, S.; Joy, Joyce, Joyner, Kerr, Labrecque, Layton, Lemke, Lemont, Libby JL; Lovett, Madore, Marvin, Nass, Ott, Perkins, Pinkham, Poirier, Reed, G.;

Savage, Shiah, Simoneau, Stedman, Taylor, Thompson, Townsend, Treat, Underwood, Volenik, Waterhouse, Watson, Winn, Winsor.

ABSENT - Cloutier, Look, Plowman, Poulin, Truman, Tuttle.

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

95 having voted in the affirmative and 50 voted in the negative, with 6 being absent, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-671). Ordered sent forthwith.

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

#### ENACTORS

##### Emergency Measure

An Act to Implement the Recommendations of the Productivity Realization Task Force (H.P. 1150) (L.D. 1589) (H. "A" H-660, H. "B" H-663, H. "C" H-665, S. "E" S-410 and S. "F" S-411 to C. "A" H-657; H. "C" H-664; H. "E" H-668; H. "F" H-675; H. "G" H-676)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 23 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

#### ENACTORS

##### Emergency Measure

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State (S.P. 477) (L.D. 1301) (S. "A" S-414 to C. "A" S-331)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### ENACTORS

##### Emergency Measure

An Act to Correct an Error in the Hospital Assessment Program (H.P. 1151) (L.D. 1590) (Governor's Bill) (C. "A" H-679)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### ORDERS

On motion of Representative JACQUES of Waterville, the following Joint Order: (H.P. 1167)

ORDERED, the Senate concurring, that the following specified matters be held over to any special or regular session of the 117th Legislature:

Committee: Agriculture, Conservation and Forestry  
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)

Committee: Legal and Veterans Affairs

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)

Committee: Taxation

An Act to Reduce the State Tax Valuation for the Town of Hope (EMERGENCY) (H.P. 1164) (L.D. 1597)

Was read and passed and sent up for concurrence.

By unanimous consent, L.D. 1590 and Joint Order (H.P. 1167) were ordered sent forthwith.

(AFTER MIDNIGHT)  
DECEMBER 1, 1995

#### ENACTORS

##### Emergency Measure

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97 (H.P. 1148) (L.D. 1587) (Governor's Bill) (C. "A" H-671)

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

Representative O'GARA of Westbrook requested a roll call on passage to be enacted.

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

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

The pending question before the House is enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 289

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Carr, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Lemaire, Lindahl, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Stone, Strout, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Whitcomb, Winglass, Winn, The Speaker.

NAY - Adams, Aikman, Ault, Barth, Birney, Buck, Chartrand, Chase, Donnelly, Dunn, Gates, Green, Guerrette, Hartnett, Heeschen, Joy, Joyce, Joyner, Kerr, Labrecque, Layton, Lemke, Lemont, Libby JD; Lovett, Lumbr, Madore, Marvin, Nass, O'Gara,

Perkins, Pinkham, Poirier, Reed, G.; Savage, Shiah, Simoneau, Stedman, Taylor, Thompson, Townsend, Treat, Underwood, Volenik, Waterhouse, Watson, Winsor.

ABSENT - Cloutier, Libby JL; Look, Luther, Plowman, Poulin, Truman, Tuttle.

Yes, 96; No, 47; Absent, 8; Excused, 0.

96 having voted in the affirmative and 47 voted in the negative, with 8 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House necessary, the Bill failed of passage to be enacted.

On motion of Representative O'GARA of Westbrook the House reconsidered its action whereby L.D. 1587 failed of passage to be enacted.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I frankly did not think we would be here at this position at this time of the day. I apologize for any part that I might have had in bringing us to this late hour. As you know in the last vote, we were very, very close.

I simply am appealing to you in this one last division that we have been asked for reconsideration of repealing the emergency clause. I talked to members of my committee and we cannot bring ourselves to do that. We have been standing before you for these last many hours telling you what we really believe is in the best interest of your constituents and of this state. Now I stand before you, which has been done on many occasions, and the veterans here know that stripping an emergency is not an unusual thing.

Those of you in the room that may be anticipating that I would be doing that, I want you to understand why I cannot do that. I have a very high regard for my committee as you have heard me say before. I know that my committee members would not want me to do that. I don't want to lose their support down the road. I don't want them to be in a spot of having to vote for that or against that. We are not going to do that. We are going to vote one more time. I don't really know in my heart of hearts why certain people in this body whose citizens are going to be deeply impacted by what can happen if these measures are not allowed to go forward.

Can it wait until next year? Sure it can. We will lose 1.8 million dollars in federal funds. We have a whole construction season that will be delayed once again. In my judgment the voters of the State of Maine expect us, like we have said and I have heard others say on this House floor, to come up here and make reasonable rational decisions. There are those of you who have told me as we have been talking that for the most part reasonably kind to each other. We think there are other ways that we might do this. I submit to you that we have tried desperately.

One of the people who presented one of the amendments, even told you on this House floor that the Transportation Committee has made a sincere effort of hearing everybody's proposal. We have done that. I have on many occasions been on an opposite side of you until after I have heard all of the discussion. I have never hesitated to change my vote if I heard something that really I saw no reason not to change my vote. Some of you here have said on this floor that you will not vote for this. I know

it makes it very difficult, but I am asking you to reconsider very carefully.

I have talked to some people and I still don't know why they are not voting for it other than to say there hasn't been a compromise. We worked on trying to establish a compromise in our committee. We listened to many proposals of a compromise. In our judgment and in the judgment of a lot of people, while they didn't accept the whole plan as it was, they felt that any compromise was not as good as the original proposal. I thought that was also part. Maybe I am wrong. I guess I just always thought that was part of a compromise. You listen. You attempt to compromise and you attempt to go to one side or the other and if you don't, then you drop back to what was the original plan. The original plan is what is before you now.

I am not going to talk any longer. I don't know how else to say it. I worried about this for three days. Realizing that the words that I was using would be good enough or not good enough. I have to survive with that. I urge you to support the motion to pass this proposal. Thank you.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I concur wholeheartedly with the previous speaker. I know the hour is late and I have to tell you that this morning that he is absolutely right, I think the Transportation Committee did everything they could in the last few days. I really believe that this is the right way to go. There are a lot of projects out there that I am concerned about that should go down that will be maybe not just deferred, but maybe curtailed. If there is any of you in this body at this hour that were voting against this previously, can see your way clear to come around and give us support, I know, for one, I would really appreciate it.

I have looked at this hard and long and where we tried to make the movement, it just never happened. I was one of the members of the Transportation Committee that told the Chairperson that if they took the emergency off, I, too, would vote against it. I don't want to leave this chamber and go home without passing this transportation issue. I don't know what more we can say. We have done our part. I guess the rest is up to you.

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

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

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

The pending question before the House is enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 290

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Carr, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques,



Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Lemaire, Lindahl, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Stevens, Stone, Strout, Thompson, Townsend, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Winglass, Winn, The Speaker.

**NAY** - Adams, Aikman, Ault, Birney, Buck, Chartrand, Chase, Donnelly, Gates, Green, Guerrette, Hartnett, Heesch, Jones, S.; Joy, Joyce, Joyner, Kerr, Labrecque, Layton, Lemke, Lemont, Libby JD; Lovett, Lumbr, Madore, Marvin, Nass, Perkins, Pinkham, Poirier, Reed, G.; Rice, Savage, Shiah, Simoneau, Spear, Stedman, Taylor, Treat, Underwood, Vollenik, Waterhouse, Watson, Winsor.

**ABSENT** - Barth, Cloutier, Libby JL; Look, Luther, Marshall, Plowman, Poulin, Truman, Tuttle, Whitcomb.

Yes, 95; No, 45; Absent, 11; Excused, 0.

95 having voted in the affirmative and 45 voted in the negative, with 11 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House necessary, the Bill failed of passage to be enacted. Ordered sent forthwith.

#### SENATE PAPERS

##### Non-Concurrent Matter

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) which was passed to be enacted in the House on November 30, 1995.

Came from the Senate failing of passage to be enacted in non-concurrence.

The House voted to Adhere. Ordered sent forthwith.

The following matter from the Senate was taken up by unanimous consent without the printed matter before the House:

#### SENATE PAPERS

##### Non-Concurrent Matter

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97 (EMERGENCY) (H.P. 1148) (L.D. 1587) (Governor's Bill) (C. "A" H-671) which failed of passage to be enacted in the House on December 1, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-671) and Senate Amendment "A" (S-416) in non-concurrence.

The House voted to Recede and Concur.

Representative LIBBY of Buxton moved that the House reconsider its action whereby the House voted to Recede and Concur.

Representative MITCHELL of Vassalboro requested a division on the motion to reconsider.

The Chair ordered a division on the motion to reconsider.

A vote of the House was taken. 48 voted in favor of the same and 65 against, subsequently, the motion to reconsider did not prevail.

Ordered sent forthwith.

The following matter was taken up by unanimous consent without the printed matter before the House:

#### ENACTORS

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97 (H.P. 1148) (L.D. 1587) (Governor's Bill) (C. "A" H-671; S. "A" S-416)

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

Representative LIBBY of Buxton requested a roll call on passage to be enacted.

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

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 291

**YEA** - Ahearne, Benedikt, Berry, Bigl, Brennan, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Clukey, Daggett, Damren, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gerry, Gooley, Gould, Greenlaw, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, Lane, Lemaire, Lemont, Lindahl, Marshall, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Pouliot, Poirier, Povich, Rice, Richard, Rosebush, Rowe, Samson, Saxl, M.; Sirois, Spear, Stevens, Strout, Thompson, Tripp, Tufts, Tyler, Vigue, Wheeler, Winglass, Winn, The Speaker.

**NAY** - Adams, Ault, Birney, Buck, Chartrand, Chase, Cross, Donnelly, Dunn, Gates, Green, Guerrette, Hartnett, Heesch, Joy, Joyce, Kerr, Labrecque, Layton, Libby JD; Lumbr, Madore, Marvin, McAlevey, Nass, Ott, Perkins, Pinkham, Reed, G.; Robichaud, Savage, Shiah, Simoneau, Stedman, Taylor, Treat, Underwood, Vollenik, Waterhouse, Watson, Winsor.

**ABSENT** - Aikman, Bailey, Barth, Bouffard, Carr, Cloutier, Dexter, Gamache, Gieringer, Heino, Jones, S.; Joyner, LaFountain, Lemke, Libby JL; Look, Lovett, Luther, McElroy, Morrison, Plowman, Poulin, Reed, W.; Richardson, Ricker, Saxl, J.; Stone, Townsend, True, Truman, Tuttle, Whitcomb.

Yes, 78; No, 41; Absent, 32; Excused, 0.

78 having voted in the affirmative and 41 voted in the negative, with 32 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

The following matter from the Senate was taken up by unanimous consent without the printed matter before the House:

#### SENATE PAPERS

##### Non-Concurrent Matter

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State



(EMERGENCY) (S.P. 477) (L.D. 1301) (S. "A" S-414 to C. "A" S-331) which was passed to be enacted in the House on November 30, 1995.

Came from the Senate failing of passage to be enacted in non-concurrence.

The House voted to Adhere. Ordered sent forthwith.

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The following Communication: (H.C. 280)

Maine State Senate  
State House Station 3  
Augusta, Maine 04333

December 1, 1995

The Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333  
Dear Clerk Mayo:

Please be advised that the Senate today again Failed to Enact 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).

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

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At this point, a message came from the Senate borne by Senator AMERO informing the House that the Senate had transacted all business before it and is ready to adjourn without day.

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The Speaker appointed Representative JACQUES of Waterville on the part of the House to inform the Senate that the House had transacted all business before it and is ready to adjourn without day.

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Subsequently, Representative JACQUES reported that he had delivered the message with which he was charged.

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The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor Angus S. King, Jr., and inform him that the House has transacted all business before it and is ready to receive any communication that he may be pleased to make.

Representative O'GARA of Westbrook

Representative DRISCOLL of Calais

Representative FARNUM of South Berwick

Representative KILKELLY of Wiscasset

Representative JACQUES of Waterville

Representative GERRY of Auburn

---

Subsequently, the Committee reported that they had delivered the message with which they were charged.

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At this point, Governor Angus S. King, Jr. entered the Hall of the House amid prolonged applause, the audience rising.

Governor Angus S. King then addressed the House as follows:

Thank you all very much and for the work that you have done these three days. We have done something historic in connection with the productivity task force. This has been a difficult day and we have all worked hard. I think we have all earned our pay on behalf of the State of Maine. I wish you all a happy holiday season and look forward to seeing you in January. Thank you.

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At the conclusion of his address, Governor Angus S. King withdrew amid the applause of the House, the audience rising.

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On motion of Representative HICHBORN of Lagrange the House adjourned without Day at 4:05 a.m., December 1, 1995, in honor and lasting tribute to the memory of Representative Robert E. Yackobitz of Hermon.