

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives

January 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
25th Legislative Day
Thursday, March 14, 1996

The House met according to adjournment and was called to order by the Speaker.
Prayer by Reverend George B. Atkinson, Westport Baptist Church.

National Anthem by Bucksport High School Band.
Physician for the day, Sarah E. Prescott, D.O., Augusta.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 376)
Maine State Senate
State House Station 3
Augusta, Maine 04333

March 13, 1996

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

Please be advised that the Senate today Insisted on its former action whereby it Indefinitely Postponed Joint Order relative to directing the Revisor of Statutes to prepare, "Joint Resolution Memorializing Congress and the Department of Energy to Make Full Use of the Rate Funds That Have Already Been Collected to Store and Monitor High-level Nuclear Waste" (H.P. 1332).

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

COMMUNICATIONS

The following Communication: (S.P. 742)
117TH MAINE LEGISLATURE

March 12, 1996

Senator Philip E. Harriman
Representative G. Steven Rowe
Chairpersons
Joint Standing Committee on
Business and Economic Development
117th Legislature
Augusta, Maine 04333

Dear Senator Harriman and Representative Rowe:

Please be advised that Governor Angus S. King, Jr. has nominated the following:

Donald J. Plourde of Winslow for appointment as a member of the Maine State Housing Authority, pursuant to Title 30A MRSA, Section 4723, and David J. Ott of Cumberland for appointment as a member of the Finance Authority of Maine, pursuant to Title 10 MRSA, Section 965.

These nominations will require review by the Joint Standing Committee on Business and Economic Development and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

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

The following Communication: (S.P. 743)
117TH MAINE LEGISLATURE

March 12, 1996

Senator S. Peter Mills
Representative Sharon Treat
Chairpersons
Joint Standing Committee on Judiciary
117th Legislature
Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated James Varner of Old Town for appointment as a member of the Maine Human Rights Commission.

Pursuant to Title 5 MRSA, Section 4561, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

Came from the Senate, read and referred to the Committee on **Judiciary**.

Was read and referred to the Committee on **Judiciary** in concurrence.

The following Communication: (H.C. 373)
STATE OF MAINE

**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 13, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":
L.D. 1786

An Act to Transfer the
Agricultural Education
Consultant to the
Department of
Agriculture, Food and
Rural Resources

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Mary E. Small

Senate Chair

S/Rep. Wendy L. Ault

House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 374)
STATE OF MAINE

**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON HUMAN RESOURCES**

March 13, 1996

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

H-1718

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I was reminded again today by Representative O'Gara, who has been here a couple of terms longer than I have, that St. Patrick's Day has never fallen on a day that we are in session. This year, again, St. Patrick's Day is scheduled to occur this Sunday when we are not in session.

I wanted to take this opportunity before the festive occasion that we have this weekend to recognize the issue that is occurring in Northern Ireland. I have been impressed when I talk to various members in the House and Senate, how many different people in this chamber have relatives, spouses, uncles, aunts and grandparents that are of Irish descent. All of us in some ways, because of that, have been touched by the issues that have occurred in Northern Ireland.

Last year, at this time, all of us held high hopes of the peace initiative that was put into place in Northern Ireland, a cease fire was called for and had been in effect. We really believed that for the first time in two and a half decades, that there would be an opportunity to bring about a lasting peace in Northern Ireland. Unfortunately, in the last several months there has been a reoccurrence of violence. Those acts have at least temporarily put a damper on the peace initiative.

I don't for one minute believe by passing this resolution that we will be able to directly affect what is occurring in Northern Ireland, but I do think it is important to recognize in some small part, that we always continue to work for peace and to look for peace in Northern Ireland. We also have the fortune of having former U.S. Senator, George Mitchell, be part of that initiative. If there is some way that we can convey to him the importance of achieving a peace in Northern Ireland and continue to have him feel encouraged and supported, I think that he will receive this resolution from the chamber with much good will. I ask for your support.

I also want to wish everybody a happy St. Patrick's Day. Finally, I want to apologize to Representatives O'Gara, Driscoll, Saxl and O'Neal, who asked to be on this joint resolution and because of my inability to get all the papers in one place at one time, they were not on this resolution. They very strongly supported the resolution and asked to be on it. Thank you very much.

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

Representative DiPIETRO: Mr. Speaker, Men and Women of the House: You all know that I am of Italian descent and not Irish. Has this had a public hearing Mr. Speaker?

The SPEAKER: The Chair believes that the Representative from South Portland knows the answer to that question.

The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I, too, am pleased to be part of this resolution. It is certainly in our culture and our heritage. Part of what holidays do for us is give us an opportunity to remember where we come from and to get ourselves settled in where we are and where we need to be going. I think St. Patrick's Day has provided, certainly for this Legislature as well as

for the people of this state and country, an opportunity to truly reflect on the situation in Ireland. It has been a real breath of fresh air for a time, a very brief time, when there was an opportunity to think that maybe things were going to get better. This is an opportunity for us to send over our wishes and our support and any good feelings that we can, because peace is an important goal and peace may be difficult, but it is a goal that is worth pursuing. Thank you.

Was read and adopted and sent up for concurrence.

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 46)

ORDERED, that Representative Brenda Birney of Paris be excused February 26 to March 8 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph D. Driscoll of Calais be excused March 5 to 7 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Burchard A. Dunn of Gray be excused March 5 for the duration of his illness.

AND BE IT FURTHER ORDERED, that Representative Albert P. Gamache of Lewiston be excused March 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative F. Thomas Gieringer, Jr., of Portland be excused March 5 to 7 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Richard Kneeland of Easton be excused March 11 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Jack L. Libby of Kennebunk be excused March 8 and 14 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Debra Plowman of Hampden be excused March 7 for health reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Dr. George D. Snell, known as the "father of immunogenetics," who received the 1980 Nobel Prize in Physiology or Medicine for basic research with mice which led to better understanding of organ transplants and infectious diseases. Dr. Snell worked at the Jackson Laboratory for 35 years. He received the American Medical Association's Hektoen Silver Medal, the Bertner Foundation Award, a Career Award of the National Cancer Institute, the Gregor Mendel Medal of the Czechoslovak Academy of Sciences, the Gairdner Foundation Award and the Wolf Prize in Medicine. Dr. Snell is the founder and editor of the journal Immunogenetics and has written extensively on science, philosophy and ethics. We commend him on his excellent work in the fields of science and medicine; (HLS 982) by Representative JONES of Bar Harbor. (Cosponsors: Senator GOLDTHWAIT of Hancock, Senator O'DEA of Penobscot, Representative VOLENIK of Sedgwick, Representative STEVENS of Orono)

On objection of Representative JONES of Bar Harbor, was removed from the Special Sentiment Calendar.

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

Representative JONES: Mr. Speaker, Men and Women of the House: I am certainly deeply honored today to present a legislative sentiment on behalf of one of my neighbors growing up. Just one street away from me lived Dr. George Snell. Today he is 93 years old. He was unable to make it today.

In 1980, he wasn't recognized by this or any other body in the state for his Nobel Prize. I wanted to take this chance today to recognize him for that achievement. Dr. George Snell's research is the foundation for all organ transplants. It is the foundation for all of the research into infectious diseases. Growing up in Bar Harbor, I guess I was somewhat pampered. I guess I thought everyone had a Nobel Prize winner living on the next street over. All my friends and parents worked at the lab. They went on to Harvard and Yale and I went onto Maine, which I am proud of.

I just wanted to take this chance today to recognize Dr. Snell on his 93rd year. He is the father of immunogenetics and one of the very few Nobel Prize winners in the State of Maine. I would go on to mention just the caliber of students that went through our school system. Dr. Snell sent two kids to our school system, I believe one went on to MIT and while he was there started acoustic research, AR speakers. I am sure many of us here have seen those speakers. I would thank you for passing this particular sentiment.

Was read and passed and sent up for concurrence.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-771) on Bill "An Act to Establish a Higher Education Tax Credit for Middle-class Families" (H.P. 1171) (L.D. 1603)

Signed:

Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
BARTH of Bethel
GREEN of Monmouth
REED of Falmouth
DUNN of Gray
MURPHY of Berwick
POIRIER of Saco
DORE of Auburn

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (H-772) on same Bill.

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec

Was read.

Representative REED of Falmouth moved that the House accept the Majority **"Ought to Pass"** as amended Report.

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

Divided Report

Majority Report of the Committee on Judiciary reporting **"Ought Not to Pass"** on Bill "An Act

Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court" (H.P. 1264) (L.D. 1739)

Signed:

Senators: MILLS of Somerset
FAIRCLOTH of Penobscot
Representatives: TREAT of Gardiner
RICHARDSON of Portland
JONES of Bar Harbor
LaFOUNTAIN of Biddeford
WATSON of Farmingdale

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-770) on same Bill.

Signed:

Senator: PENDEXTER of Cumberland
Representatives: PLOWMAN of Hampden
HARTNETT of Freeport
MADORE of Augusta
NASS of Acton

Was read.

Representative TREAT of Gardiner moved that the House accept the Majority **"Ought Not to Pass"** Report.

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

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-764) on Bill "An Act Regarding Municipal Penalties for Late Filing under the Maine Tree Growth Tax Law" (H.P. 1271) (L.D. 1749)

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec
Representatives: TRIPP of Topsham
KEANE of Old Town
BARTH of Bethel
GREEN of Monmouth
REED of Falmouth
POIRIER of Saco
DUNN of Gray
DORE of Auburn

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (H-765) on same Bill.

Signed:

Representatives: TUTTLE of Sanford
MURPHY of Berwick

Was read.

Representative REED of Falmouth moved that the House accept the Majority **"Ought to Pass"** as amended Report.

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

Divided Report

Majority Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-766) on Bill "An Act to Exempt Farms from the Sales Tax on Electricity" (H.P. 1293) (L.D. 1775)

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
BARTH of Bethel
MURPHY of Berwick
GREEN of Monmouth
REED of Falmouth
POIRIER of Saco

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

Signed:

Representative: DORE of Auburn

Was read.

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

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

Divided Report

Majority Report of the Committee on Taxation
reporting "Ought to Pass" as amended by Committee
Amendment "A" (H-767) on Bill "An Act to Lessen the
Penalty for Withdrawal of Farms from the Farm and
Open Space Tax Law" (H.P. 1295) (L.D. 1777)

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
BARTH of Bethel
MURPHY of Berwick
GREEN of Monmouth
REED of Falmouth
POIRIER of Saco
DUNN of Gray

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

Signed:

Representative: DORE of Auburn

Was read.

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

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

CONSENT CALENDAR

First Day

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

(H.P. 1294) (L.D. 1776) Resolve, to Require
Additional Promotion of the Maine Quality Seal
(EMERGENCY) Committee on Agriculture, Conservation
and Forestry reporting "Ought to Pass"

(H.P. 1028) (L.D. 1443) Bill "An Act to Dismiss
Certain Federal Mandates" Committee on State and

Local Government reporting "Ought to Pass" as amended
by Committee Amendment "A" (H-775)

(H.P. 1304) (L.D. 1785) Bill "An Act Relating to
Payment of Tri-state Lotto Prizes" (Governor's
Bill) Committee on Legal and Veterans Affairs
reporting "Ought to Pass" as amended by Committee
Amendment "A" (H-773)

There being no objections, the above items were
ordered to appear on the Consent Calendar of Tuesday,
March 19, 1996 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 1230) (L.D. 1683) Bill "An Act to Establish
the Town Boundary between the Town of Canaan and the
Town of Cornville and between the Town of Canaan and
the Town of Skowhegan Located in the County of
Somerset"

(H.P. 1281) (L.D. 1760) Bill "An Act to Amend the
Definition of 'State Agency Client'"

(H.P. 1190) (L.D. 1631) Bill "An Act to Increase
the Borrowing Capacity of the Ashland Water and Sewer
District" (EMERGENCY) (C. "A" H-761)

(H.P. 1208) (L.D. 1658) Bill "An Act Regarding the
Cleanup of Uncontrolled Tire Stockpiles" (C. "A"
H-768)

(H.P. 1284) (L.D. 1764) Bill "An Act to Ensure the
Proper and Humane Care of Persons Requiring Mental
Health Services" (EMERGENCY) (C. "A" H-769)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Implement the Recommendations of
the Task Force to Study the Operations of the
Department of Inland Fisheries and Wildlife"
(EMERGENCY) (S.P. 666) (L.D. 1726) (C. "A" S-465)

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

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

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

SENATE PAPERS

The following Joint Order: (S.P. 746)

ORDERED, the House concurring, that when the House
and Senate adjourn, they do so until Tuesday, March
19, 1996, at 9:00 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

ENACTORS

Emergency Measure

An Act Regarding the Harvesting of Eels and Elvers (H.P. 137) (L.D. 185) (H. "B" H-763 to C. "A" H-759)

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

Representative LOOK of Jonesboro 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 Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative PINKHAM: Mr. Speaker, Men and Women of the House: I would like to talk a little bit about what we talked about yesterday on this bill. If this bill passes the way it is written, it is going to give the Department of Marine Resources dedicated revenue close to 1 million dollars. What they say the need to do the job with enforcement and research is \$314,000. We are giving them three times what they have asked for in this bill. They have already stated that because the season is one-third over in some of the areas of the state right now, by the time this bill is passed, the season will be half over. They have already said they are not going to do anything with enforcement this year because they don't have time to train the wardens that they are going to hire. The money that they get this year would be all free and clear.

Also, the charge was coming back to us by May 1, 1997 with what they really need for funds to do the job right. What we are doing is giving 1 million dollars for no purpose this year on this bill. The season is going to be half over before this thing ever gets out to the public. To me, for this money to go to a dedicated revenue for actually no purpose this year when we have a chance to kill this bill and bring it back next year before we get that report and do something with it so we will have something to work with, I just can't see why we would want to do something like that. All the conservation measures that we have in this bill won't affect anything this year because the season is half over before the bill is passed.

Yesterday we voted to lower the fees for out-of-state people, yet we are still charging the in-state people high fees, we voted that down. They will still be charged the high net fees and the out-of-state people on their \$1,000 license will be cut back to \$334.

I met yesterday, several times after the vote, with harvesters out in the hall that said, "We will go along with what you are saying and the lower fees so we can get something passed." The industry isn't behind these high fees. There are a few in the industry that are behind them, but they have their own reasons why they are there. It is actually to do the little person who is making a living harm in this industry. Whatever we do this year, if we kill this bill, it is not going to do a bit of damage this year. Next year, we will have plenty of time to bring the bill back. Something we can work with and something that is reasonable without putting high fees and pressure on the small guy in this industry. The guy that is in there that has the money doesn't

care what the fees are. It is the small guy that worries if he can put bread on the table and feed the family. We need to do something this year on it.

If we kill it this year, it will come back next year. This season is going to be over before the thing gets going anyway. Stick with the vote. Thanks.

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

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: You heard a lot of numbers and a lot of ways to go yesterday. I won't bring that to you, but I would like to bring to you I little different facet today. If you just consider, as I said earlier, this is a time line. It is one moment in time. Things happened before today and things are going to happen after today. One of the most serious things that happened before today is the perception of the coast of Maine. The perception that the people can't get together, because of that, we have had to try to bring all of our federal delegation into line in helping us out. We have had a lot of trouble getting the federal government to work with us. Perception is very important. You know that. You are in the business of perception. We have put together a version of that from people on the coast, what they want their coast to be. We have talked about some major things that have to happen.

One of the major things that has to happen is the national delegation, a state delegation in the federal government, and the federal government in the fisheries era have to realize we are together. If we don't put this one through, they will say, there, you couldn't do it. We are going to be put behind five years in trying to give our fishermen some clout. I am asking you, please, to pass this bill.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I just want to point out to you that these two amendments, the Committee Amendment, which we want for the bill, plus the amendment which I proposed yesterday, are a management plan. We are finding out there in the ocean that more and more of the food stock that has fed the people of the world is depleting. We are now going into the lesser species, the urchins and now the elvers. These are being shipped out. If we destroy the lesser species, we certainly are not going to be able to bring back the cod, haddock and all of the other species that you and I have used for years. This is an attempt to place a conservation plan in place so that it is not restricting anyone from fishing. They can still fish. Nobody is going to be denied the right to fish.

If this plan does not go through, those fishermen are not going to be limited to five nets. They are going to put in a multitude of nets and no control whatsoever, that is what has gone on in the past. That is why the elver bill came to this body. I ask you to support us and try to put this management plan into place. Any money that is generated will go to that plan and will not be used beyond the extent that is necessary. It will remain there to try to control and help protect this resource for a longer period of time. Please help us to do this. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I urge you to vote to enact this bill. Although Rockland is the lobster capital of the world, it doesn't do to badly in the eel category either. We export large amounts of the eels through some of the businesses in Rockland. In that process they deal with many, many of the harvesters. I can tell you that the information that I have had from all these sources, all the people that have called me and that have spent a lot of time in this building and with the Marine Resources Committee said, they support the bill in this form. They have urged us to pass it to help them preserve the resource. The fees as they are currently enacted or would be enacted with this vote are something they requested.

We don't have the liberty to just leave all our resources, I think, unregulated at this time. There aren't unlimited stocks of various marine organisms out there anymore. In order to preserve this business opportunity for Maine, I think we need to pass this bill and we will be voting for the people who are in this industry now, who have requested this bill as it is. I urge you to vote to pass it. Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: I rise to ask you to oppose this bill. I think we are in danger here of confusing conservation with a fee structure that is exorbitant and unjustified. All the conservation measures, it is my understanding, among all the parties in this activity are agreed upon. The problem is they are using conservation as an excuse to extract unreasonable amounts of money from the participants, thus driving out some of the fishermen who do this on a small scale. I urge you to vote against this measure.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: It is rather disturbing to listen to some of the statements that have been made and after two years working very diligently and very honestly and very fairly with both sides of this particular elver bill, we had the hallways last night full of elver fishermen saying we want this bill passed. The committee has worked two years on this bill. The industry wants it passed. There is nobody who has an objection to this bill, outside of a few people that might not know everything about the bill. If we don't move this piece of legislation today, what is going to happen is that there will be no law, there will be no conservation on this issue.

Why do the elver fishermen get \$350 to \$500 a pound for silver eels? It is because the Japanese have made their elver fishery extinct. They have none anymore. That is why they are paying our elver fishermen as much as they are. We have the opportunity right now to pass a piece of legislation that will conserve our elver industry in the State of Maine. If we do not pass this legislation today, there will be elver fishermen putting out 30 nets a piece, not limited to five as we have worked two years on. They will put out 30 or 40 nets. There will be no conservation. We will make the elver fishing industry in the State of Maine, as we know it, an extinct species.

I must reiterate again that the fishermen want it. The industry wants it. It provides a lot of

jobs here in the state. Let's do something that this committee has worked extremely hard on for the last two years and pass this piece of legislation, for not only the industry today, but for the industry tomorrow. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative PINKHAM: Mr. Speaker, Men and Women of the House: This net fee does nothing for conservation other than put some people out of business that need to make money in this. To say that the industry is behind this, part of the industry may be behind it, but if you are going to take the four people that were in the corridor yesterday, I talked to those four people late in the afternoon and they said they had no problem in the low fees. If you are going to take the industry input, you had better take everybody that is in the industry, every license holder in that industry. If you are going to take four or five and let them speak for the industry, you are not getting the true picture of the situation. I talked to those four people that were out there yesterday. They do want something done, but they are not the industry.

This bill, like you say, if it passes, nothing is going to happen this year other than it is going to cost a lot of money that is going to set in the dedicated revenue fund and get siphoned off for different things. Nothing is going to happen. There are already hundreds of nets in the water right now. The fishery has been going for two weeks and there is no law. Even if this law passes, you are only going to have two or three weeks that this law will be in effect and there is nothing that is going to happen. The department already said they are not going to do any enforcement on it because they haven't got time. The season will be half over and they don't have time to do anything this year.

The department is charged with coming back to us by May 1, 1997 with a plan. I say let's kill this bill and bring it back next spring when we have the plan, so we know exactly what they are going to do. I am not for giving somebody three times the money that they have asked for just to do it when it is going to amount to nothing this year. The season will be over in another month and this bill will be worthless. The season is now over half over. I say let's wait until next year and do something once we get a report so we know what they really need and what they plan on doing with the dedicated money. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: Anyone who thinks that the elver season is half over has a very poor handle on that fishery. I can tell you that right now. It hasn't started. Ask anyone who is in the elver industry and they will tell you that it won't really start until the middle of April and it will go through to probably the first of June.

Remember, ladies and gentlemen, this came out a 13-to-0 report from the committee. The good Representative from Lamoine, Representative Pinkham was one of the 13 that signed this bill out in a positive manner. It came out 13 to 0. Doesn't that mean anything to us? If you had a pound of elvers on your desk this morning, you could sell them for \$700. Is it unreasonable what they are asking for a license?

I

think not. We would appreciate your support. We need 101 votes. Thank you.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: I just have a couple of comments. I did sit in on a lot of those committee hearings. One comment on the fees. A lot of the fishermen wanted high fees and the only reason I heard for it was to keep other people out. To me, that is a very poor way to instigate a limited entry system. The other thing is in terms of the guise of conservation. I think it is terrible that we have lost our haddock, flounder and so forth.

Last year we passed a lobster bill in the name of conservation, the trap limit. I think down our way, at least, there are more traps going in the water because of that trap limit. The 1,200 trap limit that might have impacted southern Maine, up our way, more people are putting them in so they won't be cut back later. On the conservation side of the elver bill, you are limited to five nets, but the big guys, what is going to keep them from having all their cousins and friends having five nets each and still be involved to the same extent. Those are the only things I had to say.

The SPEAKER: The Chair recognizes the Representative from Lamoine, Representative Pinkham. 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 PINKHAM: Mr. Speaker, Men and Women of the House: Just one point here. This report did come out of committee as a unanimous report. I signed onto it. It was getting late in the season and the department was putting pressure on us that they needed time to do things. You know, time was getting late and we needed time to put the enforcement people into training for this bill. I signed onto it on the way home last Thursday afternoon, a week ago.

It came to me what I actually had done as far as raising net fees. You can call it a net fee. It is no more than a tax on a small industry. I came back and tried to get my name put on the other side, but it was too late and that is why I put the House Amendment on. Also, it came out of the committee as a unanimous report for nonresidents to pay \$1,000. We changed that. We agreed that \$1,000 was what we would charge. It also came out in a report that we would have a closed area for a week before the season opened. We changed that. There have been changes. People do change their minds once they see actually what they have done. I urge you to vote against this. Thanks.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House: Last night we debated the issue of fees and licenses and I thought we had put that issue to rest. The fees, whether they are \$50, \$100 or \$200 are really a drop in the bucket, literally. It is a matter of two hours fishing time for a good fisherman. The real issue today is whether we pass the conservation measure. A measure that will limit the number of traps that will provide research funds, management funds and will help to preserve the species. It will also help to protect the fishermen. If we do not pass this bill, we will be

simply watching the demise of a valuable resource and the livelihood of several hundred fishermen.

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

ROLL CALL NO. 311

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Libby JL; Lindahl, Look, Luther, Madore, Marvin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Vigue, Volenik, Watson, Whitcomb, Winglass, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Birney, Clukey, Damren, Dexter, Donnelly, Fisher, Gieringer, Jones, S.; Joy, Joyce, Lane, Layton, Libby JD; Lovett, Lumbra, Marshall, McElroy, Murphy, Nass, Perkins, Pinkham, Robichaud, Stedman, Tuttle, Underwood, Waterhouse, Wheeler, Winsor.

ABSENT - Daggett, Dunn, Heeschen, Martin, Nickerson, Stevens, Truman.

Yes, 112; No, 32; Absent, 7; Excused, 0.

112 having voted in the affirmative and 32 voted in the negative, with 7 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

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

House Divided Report - Committee on Taxation - (11) Members "Ought to Pass" as amended by Committee Amendment "A" (H-766) - (1) Member "Ought Not to Pass" on Bill "An Act to Exempt Farms from the Sales Tax on Electricity" (H.P. 1293) (L.D. 1775) which was tabled by Representative REED of Falmouth pending his motion to accept the Majority "Ought to Pass" as amended Report.

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

The Bill was read once. Committee Amendment "A" (H-766) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

House Divided Report - Committee on Taxation - (12) Members "Ought to Pass" as amended by Committee Amendment "A" (H-767) - (1) Member "Ought Not to Pass" on Bill "An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law" (H.P. 1295) (L.D. 1777) which was tabled by Representative REED of Falmouth pending his motion to accept the Majority "Ought to Pass" as amended Report.

Subsequently, the Majority **"Ought to Pass"** as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-767) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

House Divided Report - Committee on Taxation - (10) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-771) - (3) Members **"Ought to Pass"** as amended by Committee Amendment "B" (H-772) on Bill "An Act to Establish a Higher Education Tax Credit for Middle-class Families" (H.P. 1171) (L.D. 1603) which was tabled by Representative REED of Falmouth pending his motion to accept the Majority **"Ought to Pass"** as amended Report.

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

Representative KERR: Mr. Speaker, Men and Women of the House: I know through the newspaper and media there is supposed to be a surplus of funds. I am looking at the calendar and I am a little baffled with all the reports from the Taxation Committee recommending these bills that have a long tail or a substantial fiscal note on them. I feel an obligation to at least express my opinion as a member of the Appropriations Committee in looking at these bills, especially this one. I think the bill is probably a good bill at some point in time.

I am not sure that \$500 is going to make or break somebody that is paying \$20,000 or \$25,000 to get into college. Just looking at it from the perspective of the fiscal note on it, I think we must decide what is the prudent thing to do here. In reading both reports, you are looking at anywhere between a 9 million dollar fiscal note over the biennium for what would be the Majority Report and I believe almost a 12 million dollar fiscal note over the biennium for the Minority Report. There is an appropriation for auditors, which is not even factored into that fiscal note. I would urge this body to rethink your position.

I know that it is an election year. Everyone wants to get reelected, but I think if it means for us to do something that is not fiscally responsible in supporting some of these bills out of Taxation without knowing where the money is going to come from is only going to make our jobs that much more difficult later on. I know that committee has had some dialogue on eliminating the gross receipt tax, which is another issue that will be coming up. Maybe I will be supporting that issue or maybe other issues, but this one in particular along with some others, I have to stand up and at least present both sides of the argument. I will not be supporting this because, truly, the dollars are not there to support the Majority Report.

I would urge this body, although it is nice to run an election and have this on your record that you voted to reduce this or increase this tax or because of the cause you reduced another tax, but the money is not there. If it is something for you to vote and make you feel good, go right ahead. I will not be supporting this. Thank you.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative REED of Falmouth to accept the Majority **"Ought to Pass"** as amended Report and later today assigned.

On motion of Representative JACQUES of Waterville, the House recessed until 4:00 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

The following Joint Order: (S.P. 750)

ORDERED, the House concurring, that the Joint Standing Committee on Banking and Insurance report out, to the Senate, legislation on incremental health insurance reform.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-468) on Bill "An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self-insurance" (S.P. 688) (L.D. 1757)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-468).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-468) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 19, 1996.

Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** Pursuant to Resolve 1995, chapter 39 on Bill "An Act to Clarify the Early Retirement Incentives Law" (EMERGENCY) (S.P. 745) (L.D. 1856)

Signed:

Senators:

BEGLEY of Lincoln
MILLS of Somerset
HATCH of Skowhegan
CHASE of China
JOY of Crystal
WINSOR of Norway
JOYCE of Biddeford
STEDMAN of Hartland

Representatives:

Minority Report of the same Committee reporting **"Ought to Pass"** Pursuant to Resolve 1995, chapter 39 on Bill "An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives" (EMERGENCY) (S.P. 744) (L.D. 1855).

Signed:

Senator:

Representatives:

RAND of Cumberland
SAMSON of Jay
LEMAIRE of Lewiston
TUTTLE of Sanford
PENDLETON of Scarborough

Came from the Senate with the Majority **"Ought to Pass"** Pursuant to Resolve 1995, chapter 39 Report read and accepted and the Bill "An Act to Clarify the

Early Retirement Incentives Law" (EMERGENCY) (S.P. 745) (L.D. 1856) passed to be engrossed.

Was read.

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

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I am not exactly sure how many of you know exactly why this bill has come along and why it is an emergency. I would just like to take a brief time and explain a little bit to you.

As you can see, this is a split report out of our committee. It was not something that we liked to do. It was something that had to be done. We met many times in subcommittee as a hold-over bill from last session. We had asked the retirement system to get us some information in regards to how many schools were going to be impacted and try to do a little background information for us. We met as a committee over a period of about two and a half to three weeks probably five or six times with people who were involved in this, the subcommittee was four members of this House body. We met with the retirement system.

The problem being in 1993, when this was passed, in a budget bill in the middle of the night. We didn't have a clear definition of what retirement incentives were and that was the problem. The retirement system had to promulgate some rules in regard to retirement incentives having no idea what actually was meant by the Legislature. What happened after we had started meeting, we ran into all sorts of little technical things. We tried to work them out. We came up with the opinion that we had to get a definition in law. The major thing is we have to get a definition in law. Along the way we found out that there were definitely seven schools who owed some money to the retirement system because of this incentive. Some of them were very large amounts for the size of the schools.

A couple of the people that you will see on this Majority "Ought to Pass" Report have schools in their own districts. It is a sad thing. We went around and around in regards to who knew what and when and who was informed. To me, that actually goes nowhere. There are a number of House members who are seated here today who were on the retirement committee in 1993 when this was happening. We were trying to find some way so the state would not be responsible for all these retirement benefits. There was a balloon issue, a cap issue and this was the final piece. This was piece that was put in the budget in the middle of the night on the last night before we passed the budget. A lot of people here didn't even know that this was in there.

Anyway, we came out with this Majority Report and I was Chair of that subcommittee. Believe me, I have taken a lot of hard looks. Representative Lemaire will be talking to you about the Minority Report. I will let her do that. I want you to know this is an emergency bill. We put a moratorium on last year to forgive those schools who owed money, at least the interest rates where we gathered all the information that we needed. The moratorium is over March 15. If we don't do something, those schools will owe that, plus the interest, plus they won't have a payment plan. We did try to work with the retirement system to give them a 10-year plan to pay into the

retirement system, which would reduce their costs, but they would also be charged interest in that time.

It is a terrible thing to happen to schools. The way that I look at it is, yes, they made a mistake and maybe some of them didn't know. Maybe with the other report there wouldn't be an unfunded liability. I don't really know. I really looked for the other report to have a big fiscal note on it. The problem being is we have to get something out of here. We have to get it by a two-thirds emergency. In all honesty, not all the other 200 and something schools did the same thing. I think it is wrong to ask them to chip in on somebody else's debt. Thank you very much.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I understand that there are eight towns that are not going to be eligible and there are some towns that are. I do not understand the line of demarcation between the two groups. Would the gentle lady from Skowhegan explain to me the difference so that I can understand why one town is approved and the other is not. Knowing that the number of dollars involved and the effect on some of these towns is large, I would like to know for sure what the line of demarcation is.

The SPEAKER PRO TEM: The Representative from Lagrange, Representative Hichborn has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: I am not quite sure what you mean by line of demarcation, but these were the schools that picked up and that definitely did incentives during that time period when they shouldn't have. What that did was because the state pays the whole cost on retirement for school teachers, the districts were liable for that. It was put in statute in 1993. One of those schools, which was on a B list did not submit and said that they gave retirement, but the retirement system picked up this eighth school which was in Turner. They felt it had all the earmarks of every other retirement incentive that these other districts have given. It is really difficult because in a time when we were cutting back on funding for schools and schools were trying to downsize, we slapped them with this. They couldn't take and give retirement incentives to get their older teachers to retire early in order to save some money. It was sort of a double whammy that we handed them that year. Those towns that are listed on that sheet definitely came right out and said they gave retirement incentives to have people retire.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I am urging you not to support the Majority Report and to support the Minority Report. If I could, I am going to give you a little chronology of the history of this bill. In 1992, there was a bill that came out of Aging, Retirement and Veterans, that bill failed. In 1993, a study committee was put together to look at early retirement incentives and other things in the retirement system. At the end of the session, a letter was sent to the Appropriations Committee recommending that early retirement incentives be put into the budget. This would become a bill and no

longer could people have early retirement incentives. There was no question that it was commendable what this committee did.

We all recognize the unfunded liability problem. We all recognize that this has been going on for years. We all recognize, as of last year, when we passed this in referendum that it was important to all of us. It was the aftermath of this that created a problem. If I may, after 1993 when this bill came into being, no one knew about it. There was this little squib in the MSRS, unless you were an actuary sitting next to a superintendent, you had absolutely no knowledge of the impact. The Maine State Retirement System did not know the impact. The superintendents didn't know the impact. Maine School Management and MEA, no one understood it, including the law firm that worked on it would have to look through a 600 page document in order to find this piece.

I think what is important is the school union did not receive notice of the law before they agreed to retirement incentives. Maine State Retirement failed to provide effective notice of the law after it was enacted. Maine State Retirement failed to provide notice of the scope of the potential liabilities until more than 18 months and at this point almost two years after the law was enacted. Maine State Retirement did not adopt the rules until March 19, 1995 when it came to us. The law is broad. Those people who are retiring in a given district, who knows the intent of their retirement. Are they retiring because they are retiring? Are they retiring because of the incentives? No one will understand that, ever. They are gone and this has happened. What has happened is retroactive back to 1993.

Men and women of the House, I want you to listen to these eight little towns with the impact, Jay \$307,156, Lisbon \$144,145, Mechanic Falls \$37,105, Scarborough \$491,506, York \$576,607, Sherman Station, I have to stop here for a moment. The superintendent from Sherman Station was there, I don't know where all these little places are, I only know this is a little-bitty blip in the map of Maine. He is running his school system on a shoestring. He does not have art. He does not have music. He does not have gym. He is a superintendent and he does guidance counseling. Ladies and gentlemen, that is how bad it is. We did that when we started fooling around with the funding formula. S.A.D. 52 Turner \$197,506, Searsport \$106,122, as much as I am concerned about the superintendents' plight and I am certainly am concerned about the impact on property tax, what I am really concerned about is the kids in these towns. You know full well when these budgets, if it is a town budget, it goes to a town meeting. These superintendents have to say, "excuse me, but by the way, over the next 10 years you are not only just paying this, you are paying the interest on this." That is now part of their budget.

The children are the ones that are hurt by this. We cut teachers, programs, such as art and music, new textbooks, computers and resources. We are looking at learning results. We are trying to improve education in the State of Maine. All of these things are impacted in these eight schools. I think it is important to understand that they just happened to have bad luck those years to put in early retirement incentives. Every single year prior to that, it was considered good business practice. Private business does it all the time, to give early retirement

incentives in order to cut costs in the school system. I think it is important for all of us to realize we have taken these eight towns and separated them from Group 3, who may or may not be guilty and we are charging them the full amount.

If we don't pass this during this period, they have to pay up in 30 days the full amount. This will allow them to stretch it out. I am saying forgive them all. We made a mistake. The state pays up no matter what. I got a ruling from the Attorney General and went to Grant Pennoyer to have it filled up. I am just going to read a little bit of it. "As long as this bill becomes effective by March 15, 1996 absolving eight administrative units of certain early retirement incentive costs, will not result in an increase in the unfunded liability of the Maine State Retirement System. The forgiveness of these contributions to the system, however, will result in the loss of an experienced gain to the Maine State Retirement System and may increase future general fund appropriation requests for the employer contributions for teachers if this impact is not offset by the net effect of other experienced gains and losses, which means on an annual basis, their gains or losses will determine the impact on the general fund."

I think that it is important for us to say, as a body, why should these eight who acted in good faith, who had no knowledge of the impact, had no cost implications, had no rules and had no definition be punished? That is exactly what we are doing, not only to the district, but to the kids. Thank you Mr. Speaker.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I stand in a rather difficult position today because one of the school districts that is greatly impacted here happens to be within my district. In testimony that we heard before our committee, we usually have those that are proponents, opponents and neither for or against. Unfortunately today I have to go to a fourth category and give my position where I have to speak both for and against. I am on the Majority Report and I think it is very critical for this body to know that either one or the other of these reports has to come out of here with a two-thirds majority and it has to be signed into law by tomorrow.

The history behind this particular situation, Representative Hatch gave a very good sketch of what took place and many of you who were here two years ago in 1993 when it came time to pass the budget probably realized that about 1:30 or 2:30 or whatever it was in the morning, I think we had all forgotten the time. Many members of this body had gone home. We were kind of at an impasse on the budget at that particular point in time. Seven of us who were seated right in this particular area changed our votes over so that there were 100 votes at that point in time and Representative Clark from Millinocket happened to be waiting in the wings and came in and passed the 101st vote and we had a budget. Included in it happened to be this problem that we are faced with now about early retirement incentives.

I have done a little further research with regard to the presentation that was made by Representative Lemaire from Lewiston. She is right that this will not create a new unfunded liability. The unfunded liability already exists within the retirement

system. If the towns are faced with having to pay this off, then, of course, it would reduce the unfunded liability. If they are excused and forgiven, that means the unfunded liability would remain where it is. As she has indicated that future benefits or losses to the system would result in either higher or lower contributions to the Maine State Retirement System. I told you that I would have to speak both for and against and I can see merit in both sides of the bill. The school districts, some of them were made aware of this last year that they had an unfunded liability. I will give you a little thumb nail sketch of what took place in my own school district. I met with the Superintendent and I discussed the matter with him. I discussed the matter with several school board members and they really didn't have a clue as to what I was talking about. Later on they began to get serious about it.

At that point in time, their share of the unfunded liability was \$236,000. In their contract they still had that clause in there which allowed for early retirement incentives. I talked to the Chair of the association and they expressed a great deal of concern about reopening their contracts. They did not have a zipper clause in it and did not feel that the board would limit itself to just negotiating on that item, if they opened the contract. Here we were faced with a catch 22 situation. Unfortunately since that time three more people have retired under their early incentive retirement program and the cost is now as was indicated by the good Representative from Lewiston. I don't believe that there is any way that those four small towns in northern Penobscot and southern Aroostook could ever come up with \$421,000 and there lies the predicament.

Do we run the risk of leaving the unfunded liability where it is or do we make the school districts come up with a payment that is going to reduce the unfunded liability? The alternative is to do nothing with this bill. If we do nothing with this bill, the moratorium ends tomorrow. The Maine State Retirement System will have no choice but to issue those school districts bills and they will have to be paid in full within 30 days. I don't know what the answer is. Actually we have two alternatives. I hope that this body in its wisdom can come up with the right answer.

Mr. Speaker, I would ask that when the vote is taken because of my conflicting points and the fact that one of these school districts are mine, I would like to be excused from voting.

The SPEAKER: The Representative may make that request during that vote.

Representative JOY: Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CLUKEY: Thank you. I have a good understanding of what the problem is, but I don't think I have heard an explanation of what this bill does about the problem. Another question that I have is if one of them is to absolve these schools from this payment, is this going to continue on or have all the schools done away with their early retirement incentives?

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: As of this point on, there will be no incentives. They will have to get them out of the contract or take the consequences. There is criteria in the new definition that allows superintendents to look at the language because there is language that you can have in your contract generally speaking on sick leave. It is not an incentive. Any language that is specific to the language, say in a contract, if you get out this year you will get so much money, that is specifically an early retirement incentive. If it is language that has been in a contract lapse time and it really did not induce people to leave the system, then it is not. There is criteria they will have to fulfill in order to have it accepted by the Maine State Retirement System.

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

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

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you. To anyone who may be able to answer it. Are there only eight districts involved in this? Are we going to find more? Are we setting precedence here?

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: To our knowledge, the eight used obvious early retirement incentives. There were 24 others that were in a group that dealt with sick leave. We really don't know what other groups are out there that may not have reported or that their contracts may not have been looked at. In the 24, we asked the Maine State Retirement System to go back and look at those because sometimes you have language in the contract which is reversed, like if you are 55, you get \$10,000 etc. It goes backwards and then if you are 60, you get nothing. That is an early retirement incentive. To my knowledge, those eight are the ones that are more obvious or perhaps the most honest or the ones who got caught.

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

Representative TRUE: Mr. Speaker, I would like to pose a question to anyone that could answer it. Is there any difference between incentives and ballooning?

The SPEAKER: The Representative from Fryeburg, Representative True has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Thank you Mr. Speaker. Ballooning is a process where some school districts in the past have changed certain payments into a salary situation and have inflated the salary of teachers and administrators in the last three years to give them a better average to earn a retirement on. That is what ballooning is all about. This is

not ballooning because any money that was paid to a teacher as a retirement incentive was not allowed to be counted as salary. That very clearly distinguishes between these two amounts.

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

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

The SPEAKER: The Representative may pose his question.

Representative KEANE: Does anybody know what the actual fiscal note is on this bill?

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

Representative JOY: Thank you Mr. Speaker. The question as to whether there will be a fiscal note on this bill was explained by Representative Lemaire, an opinion through the Attorney General's Office. There is no fiscal note to the general fund. The only deviation there will be is in the experience rating within the Maine State Retirement System. There will be no general fund fiscal note to this bill. Thank you.

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

Representative HICHBORN: Mr. Speaker, Men and Women of the House: The impact on the general fund doesn't seem to be the question. It seems to me the important question is this, what is the impact on these eight towns or districts? I understand the figure approaches 1.9 million dollars. It seems to me that we ought to be thinking about these eight towns as well. As I understand it, the impact is not on the general fund, it is going to be on the retirement fund itself. Thank you.

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

Representative PENDLETON: Mr. Speaker, Men and Women of the House: My town is impacted on this to the point of, as Representative Lemaire said, \$491,000. This is a major, major impact for our town. As I look at this from the very beginning, I don't feel that our towns have done anything wrong. We gave an incentive. Yes, we gave an incentive. We didn't balloon the individuals wages. We gave them incentives to retire early. These individuals took a penalty for doing that on their retirement, which will carry out for the rest of their lives. I know, I have a lot of friends that are school teachers. I know 20 or more that I was friendly with during my college days. At this point, we are all about the same age, 56 or 57. I don't know any of them that are still teaching. They have all taken early retirements. None of them had incentives offered to them, that I know of, but they have all taken early retirements. Teachers tend to take early retirements.

I feel that we are being penalized by the law that set up a system that created an arena that said if you give an incentive to somebody to retire, which took away a superintendents ability to adjust his salary, I think we have done them a big, big injustice. I am on the minority side of this bill and I happen to agree very strongly with the minority side that we should not be penalizing these districts or any districts if we have an offer because people in this field of work tend to take retirements earlier than

others. I took an early retirement, myself, from state government because I had burnt out. I couldn't take it anymore. I didn't feel my department should have been penalized. I took a six year penalty. I also took a larger penalty because my wife is younger. I feel that for this bill, we should be on the minority side, not the majority side. Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I urge you to listen to the good Representative from Crystal, Representative Joy's words when he said we must do something before tomorrow for the towns in the State of Maine who are affected or who are in this situation. While I am on the Majority "Ought to Pass" Report, I would urge you all if that report does not pass, to fully support, as I will, the Minority Report, so that one or the other of these bills passes. Either the one that allows the districts 10 years to repay that debt or the one that forgives the districts. In no situation should we be allowing the districts to receive that bill from the retirement system and have it paid within 30 days. I urge you to vote your conscience or whatever else, but if one report fails, please support the other. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to go just one step farther and point out that this is one of the problems that so often occurs anytime changes are made in the retirement system. This is a problem which arose because changes were made in the retirement system in 1993. We have not yet begun to address the changes that were made in the early retirement incentive that was tacked onto the Productivity Task Force Bill in December. The impact of that is not truly going to be felt until 1997, 1998 and 1999. I won't clutter up the issue, but what is happening with that incentive is that there is a payroll push attached. Three months pay for every individual that takes advantage of that retirement will be pushed into the next fiscal year. This is why it is very, very important that very thorough public hearings be had on all of these things that have to do with retirement issues. I would just like to thank the good Representative, Representative Chase for supporting this position and that something has to be done. If it goes beyond tomorrow, there is no further room for negotiations. Thank you.

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

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

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

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

Representative TRUE: Thank you Mr. Speaker. I guess I am still mixed up so I have to ask a couple more questions before I vote. I thank Representative Joy for giving me the difference and it was very well

explained, but I had thought that Representative Lemaire had said that some schools gave incentives for \$6,000 or something of that nature. Why is that not similar to ballooning? The second question is it seems to me that this came up in 1993 and then something else came up in 1995. Are we saying that the superintendents then just didn't pay attention that there was going to be a gray area and went ahead and took care of the people for early retirement during those two years without realizing that the situation had not been resolved?

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I am not sure I understand the first question, but I will get back to that. In 1993, when this was done in the wee hours of the morning, it was put into a 600-page budget bill. No one saw it. There was a very short paragraph put in the Maine State Retirement System that was not highlighted. Nothing was sent out to the employers of the district to allow them some information. In 1994, it went by and nothing was done. In 1995, is when they set the rules. The first cost we got was incorrect. It wasn't until this year that we got the correct one. The superintendents did not know. Believe me, there are some very sophisticated school systems out there that walk around hand and hand with a manager. They would normally know this. There are no small districts that would ever vote to give early retirement incentives in this day and age when they are cutting back on funding formula. I hope that answers that question. They did not have knowledge of this.

In relationship to the early retirement incentives and ballooning. I guess that is half of the problem that we have with the unfunded liability all along. Rather early retirement incentives, which have always been paid by the state and were perfectly legal, that did not create the unfunded liability.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I just wanted to say having retired from state government myself in 1993 at the age of 59 that state employees have never been given any special incentives for early retirement other than the mini-one that was just given here. Representative Pendleton made remarks along those lines that he retired early. I retired early. I think that if special incentives are going to be given to teachers, that we need to incorporate state employees into some type of an early retirement program. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative LINDAHL: Thank you. Does the referendum we passed last November affect this at all? The question was, do you favor amending the Constitution to require funding of the Maine State Retirement System and prohibit unfunded liability?

The SPEAKER: The Representative from Northport, Representative Lindahl has posed a question through

the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lewiston, Representative Lemaire.

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: In approaching the Attorney General on this when he came down to the hearing on Friday when the superintendents were there he said, "As long we did this by March 15, 1996, it would not be an unfunded liability." That is why this bill has to go through today and be signed by the Governor tomorrow.

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

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

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you. Am I to understand the 220 of the school districts knew and understood what the law was and followed it and people advised them that they were not to go ahead with this and they still went ahead with it or am I getting that information right?

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

Representative LEMAIRE: Thank you. Those eight happened to be caught up in a year when they decided to do it. Prior to 1993, there were many school systems that did it, but there was no bill prohibiting it. These eight school systems that got caught had no knowledge of the law and did not realize that there was going to be an impact. If you read the language in the Maine State Retirement System newsletter that came out, they wouldn't have understood what it meant. They actually thought it was only affected by, if you left the system and you were 51 years old and you took that 2.25 percent for each year. They thought that penalty took care of it. The only reason there were eight and not 144 others is because they just didn't happen to do that year. It has been done in the past by many, many school systems.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: I certainly agree with the Representative from Crystal and the Representative from Lewiston. This is a very troubling and complex problem. I guess this was one of those times that I was fortunate not to have this problem in my district. I think the real question we should look at is there was a bill created by people who were retiring early. It is either going to be paid over a 30-year period by all of us or it is going to be paid by the school districts that benefited by the reduction of salary costs by encouraging senior employees to retire early over a ten-year period. That is really the only difference.

Whenever anybody retires early you create an experienced loss to the system. When a lot of people retire, the experienced loss goes up because you traditionally have not funded that retirement system adequately to pay for people who retire early. In my case, I feel that you can make a reasonable argument that the school districts in question will experience some savings in salary, if you compute it backwards, would very much come close to their actuarial savings

or the cost of paying the retirement benefit back over the period of 10 years, which is why I am on the Majority Report. I don't think it is fair to expect the state to carry those eight school districts and really reduce the money available for other programs. Thank you.

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

Representative HICHBORN: Mr. Speaker, Men and Women of the House: It seems to me that confusion reigns supreme here this afternoon. The good gentleman from Crystal has indicated that the superintendent and the districts in that area were also confused. It seems to me that the responsibility for this lack of knowledge for what is going on out there is perhaps, in large part, our responsibility. It is our fault, perhaps, that we haven't made sure this information got out to these towns. I am sure that no town would have incurred this type of a liability had they had any idea what was happening, because of what they did or did not do. I think to impose a 1.9 million dollar penalty on eight towns because of this confusion that we ourselves perhaps are not understanding even today would be distinctly unfair. I hope that when we vote that we vote to accept the bill with the Minority Report amendment. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I do not wish to rise again, but I feel that a couple of points need to be made. As I indicated earlier, I will have to speak in favor of both sides of this bill. The comment was made that state employees had never received retirement incentives and I think that needs to be corrected. There was a retirement incentive in there a few years ago that allowed state employees to retire, get their benefits and then continue to work for somewhere in the neighborhood of a one to a three year period and receive 70 percent of their pay. That came before the Retirement Committee two or three years ago and that was still continued on in effect except, excuse me the first time was 80 percent of the pay and the second time was reduced to 70 percent of their pay. The retirement incentives have been given not only in the teaching field, but also in the field of state employees. The state because of its particular role in giving these early retirement incentives had to pick up the cost of the unfunded liability at that particular time.

With regard to the question as to why only eight school districts out of the "so called" 290 or whatever we have in the state, many school districts did not have retirement incentives and as a result it would not come under this heading at all. I think that is wherein lies the problem. Had it been a universal problem, so that every school district out there was giving retirement incentives, I think that certainly adequate information would have been given to all of the school districts. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House: In response to Representative Joy's remarks, the incentives for retirement were for 60 and up, but not for under age 60.

The SPEAKER: A roll call has been ordered. The pending question before the House is to accept the

Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 312

YEA - Ault, Barth, Benedikt, Birney, Brennan, Carr, Chase, Chick, Clukey, Damren, Desmond, Etnier, Fitzpatrick, Gates, Gieringer, Greenlaw, Hartnett, Hatch, Heino, Jacques, Jones, S.; Joseph, Joyner, Keeland, Layton, Libby JD; Lindahl, Madore, Mayo, Morrison, Murphy, Nass, Poirier, Poulin, Reed, G.; Reed, W.; Rice, Robichaud, Rowe, Savage, Simoneau, Sirois, Spear, Stedman, Taylor, Thompson, Townsend, True, Tufts, Vigue, Waterhouse, Whitcomb, Winn, Winsor, The Speaker.

NAY - Adams, Ahearne, Aikman, Berry, Bigl, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chizmar, Clark, Cloutier, Cross, Davidson, Dexter, DiPietro, Donnelly, Dore, Driscoll, Farnum, Fisher, Gamache, Gerry, Gooley, Gould, Green, Guerrette, Heeschen, Hichborn, Johnson, Joy, Keane, Kerr, Kil Kelly, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemke, Lemont, Look, Lovett, Lumbr, Marshall, McElroy, Meres, Mitchell EH; Mitchell JE; Nadeau, O'Gara, O'Neal, Ott, Paul, Pendleton, Perkins, Pinkham, Plowman, Pouliot, Povich, Richardson, Ricker, Rosebush, Samson, Saxl, J.; Saxl, M.; Shiah, Strout, Treat, Tripp, Tuttle, Tyler, Underwood, Volenik, Watson, Wheeler, Winglass.

ABSENT - Bailey, Daggett, Dunn, Jones, K.; Joyce, Libby JL; Luther, Martin, Marvin, McAlevy, Nickerson, Peavey, Richard, Stevens, Stone, Truman.

Yes, 55; No, 80; Absent, 16; Excused, 0.

55 having voted in the affirmative and 80 voted in the negative, with 16 being absent, the Majority "Ought to Pass" as amended Report was not accepted.

Subsequently, the Minority "Ought to Pass" Report (L.D. 1855) was accepted in non-concurrence.

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

Under further suspension of the rules, the Bill was passed to be engrossed in non-concurrence and sent up for concurrence. Ordered sent forthwith.

COMMUNICATIONS

The following Communication: (H.C. 378)

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE COMMITTEE ON TRANSPORTATION

March 14, 1996

Honorable Jeffrey H. Butland, President of the Senate

Honorable Dan A. Gwadosky, Speaker of the House

117th Maine Legislature

State House

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1826

An Act to Allow a Change in
the Speed Limit on Certain
Highways

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Albert G. Stevens, Jr.
Senate Chair

S/Rep. Donald A. Strout
House Chair

Was read and ordered placed on file.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative DAVIDSON from the Committee on Business and Economic Development on Bill "An Act to Make Pet Dealers Liable for the Sale of Dogs and Cats That Have Health Problems" (H.P. 53) (L.D. 47) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-779)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-779) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 19, 1996.

Ought to Pass as Amended

Representative GOULD from the Committee on Natural Resources on Bill "An Act to Enhance Used Oil Recycling Capabilities" (H.P. 1178) (L.D. 1610) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-777)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-777) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 19, 1996.

CONSENT CALENDAR

First Day

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

(S.P. 679) (L.D. 1745) Bill "An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens" Committee on State and Local Government reporting "Ought to Pass"

(S.P. 682) (L.D. 1747) Bill "An Act to Authorize the Maine Photographic Workshops to Grant Degrees" Committee on Education and Cultural Affairs reporting "Ought to Pass" (Representative LIBBY of Buxton - of the House - abstaining)

(S.P. 628) (L.D. 1635) Bill "An Act to Amend the Law Concerning Tobacco Use by Juveniles" Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-471)

(H.P. 1312) (L.D. 1796) Bill "An Act to Facilitate the Lawful Detention of Juveniles" (EMERGENCY) (Governor's Bill) Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (H-776)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 19, 1996 under the listing of Second Day.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Exempt Farms from the Sales Tax on Electricity" (H.P. 1293) (L.D. 1775) (C. "A" H-766)

Bill "An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law" (H.P. 1295) (L.D. 1777) (C. "A" H-767)

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

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

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

House Divided Report - Committee on Taxation - (1) Members "Ought to Pass" as amended by Committee Amendment "A" (H-764) - (2) Members "Ought to Pass" as amended by Committee Amendment "B" (H-765) on Bill "An Act Regarding Municipal Penalties for Late Filing under the Maine Tree Growth Tax Law" (H.P. 1271) (L.D. 1749) which was tabled by Representative REED of Falmouth pending his motion to accept the Majority "Ought to Pass" as amended Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This is not a new bill. We have had it every year since I have been on Taxation or maybe every two years since I have been on Taxation. What happens is some of these small communities will get a notice from the Bureau of Taxation saying that they have to get in certain forms filled out to get the money back on their tree growth. Well you know some of our communities who have everything on computer and have a hired tax assessor full time and are paying them good wages, they get these in on time. Every once in a while some of these small towns, they elect their tax assessor or they elect their tax collector or whomever happens to do this or there is a whole new board of selectmen elected and they get a little behind.

First, I want to make it very clear there is no town in my district that is on this list, neither Berwick or South Berwick is on it. I can remember back a couple of years ago when the Town of Lebanon was on the list for \$20,000. For that little community, that was a lot of money for those taxpayers to make up. It would have added to their tax. The State of Maine says that you must give reduced taxes on tree growth. If a person in your town wants to put 10 acres or more in tree growth, you have to allow them to do it under certain conditions. Many people have done that.

The state also voted that they would reimburse these communities 90 percent of that tree growth. We all know that we have never ever funded that 90 percent. I remember when we passed that, I sat in the middle row here near the good gentleman from Lagrange and it was his bill who passed that. We have never ever funded it. The most they have ever got back is around 60 percent. This year the Appropriations Committee chose to raise 2.1 million dollars for tree growth. It no where near funded the 90 percent. In fact, all it funded actually, if everybody got their money back was 35 percent. However, these communities will get 40 percent if these 53 little communities don't get anything. There will be another 5 percent going to the communities who did file on time.

I have a list here of what these little communities would get. Most of them, I don't even know where they are. Here is the little Town of Alexander with 486 people, actually under the 35 percent which everybody would get is \$6,356. In my opinion, for that number of people it has to be a lot

of money on their tax rates in order to turn around and repay the town that money. The town has to have the money because, I am assuming, it is in their budget and it is already spent. There is another little Town of Alton, \$9,527. Then you go down here and actually there are some even worse off than that. You get down here to Woodville. I have no idea where Woodville is. They have 215 people, population, \$6,606. The Town of Whitneyville, 243 people, \$1,341; the Town of Springfield, 420 people, \$10,900; the little Town of Roxbury, 432 people, \$18,413, I could go on and on and on because here is a list of 53 towns. I am sure you don't have to listen to them to get the message.

The message is the State of Maine owes those people for this tree growth. If they don't pay it, the rest of the people in that community have to pay that money. It has to be paid by somebody. We are already penalizing our people over 50 percent of tree growth by not giving them what the statutes tell us to give them. What Committee Amendment "A" will do is it will give them that money, but it is going to penalize them 25 percent of that money. We have a 50 something percent on them by not giving them what they are due and we are going to add another 25 percent. I think it is unfair to the property tax payers in these communities. The state actually owes them much more. Instead of paying our dues, we are going to penalize them. I say that is wrong.

Another Representative and myself came out with Committee Amendment "B." What this does for a one time only, it gives them a chance to get that money back. These towns, I have found since I have been on Taxation, that once they have filed late and they get the money back, they do not file late again. Maybe they are being educated. I do understand that the Bureau of Taxation does send them a letter, but you know as well as I know in some of these small towns, if the person who was the assessor or the board of selectman a year ago was on the board and his name still happened to be in the Bureau of Taxation and they changed selectmen or chairmen, sometimes these letters are ignored. People don't get them. That is just one reason why they might file late. Another reason is they may not understand if somebody has just been elected or just taken over the job. I feel as though we owe it to these people and that we should pay it to them.

If we don't want to cut the other towns down from 40 percent to 35 percent, we should put in the supplemental budget, \$199,795 and pay these people the money we owe them. I would hope that you would not vote for the "Ought to Pass" with Committee Amendment "A," but you would vote that down so we can accept Committee Amendment "B" so we can at least go home and tell our people that we did not raise their property tax. We paid them what every other town got and it is their fair share. We know that we owe this to these taxpayers. This is not a law that they passed. This is a law that we passed and most of us agree with tree growth. I don't agree with not reimbursing the towns something, at least trying to be honest somewhere. Thank you.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I am a little misty eyed at the sad story that the good Representative from Berwick has just given you. I will give her credit. She has a big heart and she has no district in her

area that will benefit as a result of this bill. I would point out, however, that during the past 10 years I have voted every year for a bill like this and every year they have been saying that this will be the last time. I do note that there are two towns where I have served as a town official that got theirs in on time because I prodded them back home myself. There is also one town in that district to which I had made telephone calls almost without number during those years to get them to get their report in on time and they still haven't done it. If I were going to assess a penalty at all, I would say some town official ought to lose a months pay for not getting the report in.

I hope you will support the motion that has been made by the gentle lady from Berwick because if I don't, the people that will be penalized will be the taxpayers and not the people who didn't get the report in on time. I hope you will support the gentle lady. I thank her for her concern and consideration for the poor people of my area of the State of Maine. Thank you.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: A brief background, if you will indulge me. When this bill was first introduced, I think it is fair to say that there was considerable sentiment among a number of members to simply vote "Ought Not to Pass" on this bill. There were objections raised by a minority of members and a subcommittee was formed to offer a compromise, which is the Majority Report, Committee "A." Regrettably, that was not found acceptable. It has been said here and it is absolutely true that the tree growth funding has not been at the level that we would all like it to be in order to meet our commitments. It is absolutely true. It has also been said that this happens every year and that is absolutely true as well. It will continue to happen every year, in my view, unless we take some action.

It has been indicated that the towns who seek redress here are the small communities in Maine. Well, I must respectfully disagree with that. If you were to have the list before you, you would see a small community with a population of 9,600 who failed to file in a timely way. Another small community of 6,600, who failed to file in a timely way. There are 53 communities who failed to file.

It has been said that if a community fails to file timely one year, they will never do it again. That is not true. If you look at the list of late filers for 1995, you will find there are 14 from the list of late filers from 1994. The argument that they will only do it once, seems to me to be without merit. If you were to look at the list of 429 municipalities who filed in a timely way considering the argument that it is the small towns that make the error. Let me just call your attention to some towns who filed timely, the Town of Amity with 940 people, the Township of Cary Plantation with 240 people, the Town of Hersey with 69 people, the Town of Dallas Plantation with 165 people and the Town of Avon with 551. It is not the small towns. The small towns, by and large are doing what they are suppose to do.

It has been said to you that by passing the Majority Report you will be penalizing some towns. That is true to a degree. If you pass the Minority Report, you will be penalizing the 429 towns who filed timely because there is a fixed pot of money to

reimburse tree growth from and if you grant payment to those towns that did not comply, you will be taking every dollar that you grant from towns that did. You have to decide whether it is appropriate to reward tardiness or penalize timeliness. It is up to you.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I applaud Representative Murphy and Representative Tuttle for putting this bill forth. I was the sponsor of the original bill and I can tell you right now when I first put the bill in, it only had to do with the Town of Patten because, at that time, they were going through a change of managers and for some reason or other they messed up their papers and didn't file on time. In the meantime, we picked up some other towns that were filing late.

You know, this is their money as stated by Representative Murphy, yes, at one time it was supposed to be 90 percent reimbursement. We are down to 40 percent reimbursement from their own money from tree growth. This is money for your small towns. Yes, there are a few large towns with 9,000 people, but there are a lot of small towns that didn't get caught up in this that are going to lose some money. For these small towns, that is a lot of money. If you don't think so, go back home and ask the taxpayers who vote for you. If you take 200 or 300 people, that is a lot of people.

I hope when you vote this evening you vote with the Minority Report and at least give them the money back that we our state and elected people owe them.

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

Representative KERR: Mr. Speaker, Men and Women of the House: I rise on this particular bill because in my area we talk about sea growth, not tree growth. I think that the good Representative from Falmouth made a couple of good points and they were intriguing. The current laws are on the books are very clear that the filing date is November 1st. If those communities had filed by that time, they get to take advantage of that appropriation of 2.1 million dollars. What both of these bills do, the Majority Report and the Minority Report, once you file late from that pool of money, we are going to take from those people that filed on time. We are rewarding them for filing late. To me, that doesn't make sense and the Minority Report, which is similar. At this time, I move that this bill and all its accompanying papers be indefinitely postponed.

Representative KERR of Old Orchard Beach moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Kerr is absolutely right, it is going to take from the other communities. Remember one thing, the Bureau of Taxation knows somewhere near what they owe each and every community because they have records over there. Remember one thing, there are 53 towns on this little sheet here. I would ask when yeas and nays are done, it be by a roll call. Thank you.

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

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

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

The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I want you to remember when you vote for this indefinite postponement it kills the bill. These towns who will get at least 25 percent, won't get anything. When you vote, I hope you vote the right way. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I urge you to defeat the pending motion and to go on to accept the Majority Report. Twenty-five percent fee is excessive enough. One hundred percent late charge fee is incredibly cruel. I would urge you to defeat this motion. Thank you.

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

Representative DORE: Thank you Mr. Speaker. I have a point of inquiry.

The SPEAKER: The Representative may pose her inquiry.

Representative DORE: If we defeat the indefinite postponement measure, can we then go on to vote on the Majority Report?

The SPEAKER: The Chair would answer in the affirmative.

Representative DORE: Thank you.

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

ROLL CALL NO. 313

YEA - Barth, Benedikt, Kerr, True, Winsor.

NAY - Adams, Ahearne, Aikman, Ault, Berry, Bigl, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, S.; Joseph, Joy, Joyner, Keane, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Pendleton, Perkins, Plowman, Poulin, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Taylor, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Winglass, Winn.

ABSENT - Bailey, Daggett, Dunn, Jones, K.; Joyce, Libby JL; Luther, Martin, Marvin, Mayo, McAlevey, Nickerson, Peavey, Pinkham, Poirier, Pouliot, Richard, Richardson, Stevens, Stone, Strout, Truman, Whitcomb, The Speaker.

Yes, 5; No, 122; Absent, 24; Excused, 0.

5 having voted in the affirmative and 122 voted in the negative, with 24 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

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

Representative CLARK: Mr. Speaker, couldn't the motion be also to move the Minority "Ought to Pass" Report?

The SPEAKER: The pending motion prior to that motion was to accept the Majority "Ought to Pass" Report.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I think you have heard all the debate, it went on long enough. No matter what you do, we are all going to be winners by winning the vote. I hope you vote no. Thank you.

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

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

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

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

Representative KERR: Mr. Speaker, Men and Women of the House: I guess my argument wasn't convincing enough. If it is the law that on November 1st, that municipalities are to file for their valuation list, in turn, that 2.1 million dollars is going to be dispersed. What this bill does is say if you file late, we are going to penalize those communities that file on time. I also want you to be aware there is a fiscal note on this bill. This bill will go to the appropriations' table if this body passes it. I just want to relay that to you and you can vote either way.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: This is the first time that I have not voted for a no penalty. I wanted to reaffirm something Representative Reed said so that you know that this is bipartisan. It isn't easy to cast this first vote saying there has got to be a penalty. The problem is that for years people have been coming in saying that this is the first year for these eight towns. This is the first year for these 15 towns. Well, this year we are up to 51 towns. I have trouble going back to Auburn and telling them why they ought to file on time. There is absolutely no reason to file on time. It is every single year that we have done in every past year, which is to put in a bill and say no penalties if you didn't make it on time. This is a very minor penalty, it is 25 percent. The purpose is, it is not even shark teeth, it is baby teeth, is to say if you don't comply with the law, it is going to cost you a little something.

Just like we get elected to do our duty and show up here and research the answers when people get

elected to municipal office, they are not getting elected to have a good time. They are getting elected to do their duties. I think it is appropriate they get a small penalty this time and what they are going to say to themselves, if there is a bigger penalty next time, I am not going to get reelected, I guess I will get those papers in on time. That seems like a perfectly reasonable thing. I hope you go on with the Majority "Ought to Pass" Report. It is not easy to do this for small towns, I know they don't have the same staff, but you run for office and you are accountable and this is a very minimum penalty in the end. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the underwhelming minority that just recently voted for the indefinite postponement of this bill, I would just like to remind each and every one of us that if we accept either one of these reports, those towns who did file on time are going to get less. Thank you.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I think before we start penalizing our towns 25 percent because they are late, I think maybe we had better go back over the years and find out how many years we haven't paid them the 90 percent and maybe penalize ourselves. We haven't lived up to the letter of the law and we do know the law here. That is one thing we do know because we passed this law. We know we are supposed to pay 90 percent. Some of these little towns have slipped up. We are going to penalize them 25 percent. Boy, I think that is great. I would hope that you would vote no, so that we can go on and pass the Minority Report. Thank you.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to point out that when we penalize the town, we are penalizing the taxpayers when the ones who ought to be penalized are the town officials who do not get these reports in on time. We are punishing the wrong people. Thank you.

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

ROLL CALL NO. 314

YEA - Adams, Aikman, Benedikt, Berry, Bigl, Brennan, Buck, Campbell, Carleton, Carr, Chartrand, Chase, Cloutier, Clukey, Damren, Davidson, Desmond, DiPietro, Dore, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Green, Greenlaw, Guerrette, Hartnett, Heeschen, Heino, Jacques, Jones, S.; Joseph, Joyner, Keane, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemke, Lindahl, Lovett, Lumbra, Madore, Marshall, Meres, Mitchell EH; Mitchell JE; Nadeau, O'Gara, Ott, Paul, Perkins, Poulin, Povich, Reed, G.; Rice, Ricker, Robichaud, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Taylor, Thompson, Townsend, Treat, Tripp, Tufts, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Winglass, Winsor.

NAY - Ahearne, Ault, Barth, Birney, Bouffard, Bunker, Cameron, Chick, Chizmar, Clark, Cross, Dexter, Donnelly, Driscoll, Farnum, Gooley, Gould,

Hatch, Hichborn, Johnson, Joy, Kerr, Kilkelly, Lemaire, Lemont, Libby JD; Look, McElroy, Morrison, Murphy, Nass, O'Neal, Pendleton, Plowman, Reed, W.; Rosebush, True, Tuttle, Wheeler, Winn.

ABSENT - Bailey, Daggett, Dunn, Jones, K.; Joyce, Libby JL; Luther, Martin, Marvin, Mayo, McAlevey, Nickerson, Peavey, Pinkham, Poirier, Pouliot, Richard, Richardson, Stevens, Stone, Strout, Truman, Whitcomb, The Speaker.

Yes, 87; No, 40; Absent, 24; Excused, 0.

87 having voted in the affirmative and 40 voted in the negative, with 24 being absent, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-764) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, March 19, 1996.

House Divided Report - Committee on Judiciary - (7) Members **"Ought Not to Pass"** - (5) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-770) on Bill "An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court" (H.P. 1264) (L.D. 1739) which was tabled by Representative TREAT of Gardiner pending her motion to accept the Majority **"Ought Not to Pass"** Report.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I will urge you tonight to vote for the "Ought Not to Pass" Report. The Majority's opposition to this bill is not based necessarily on a disagreement with the general concept of the bill. The idea of the bill is to allow very closely held corporations, those with one or two shareholders, for them to represent themselves in court, basically through the one or two people who own those corporations. The majority was sympathetic to the concerns of the sponsor and the individual who brought this issue to the Legislature.

Rather, our concern is based on the dramatic increase in pro se litigation in the Maine courts. An increase that has made judges' jobs incredibly difficult and has delayed access to the court system for both businesses and individuals. This issue has been mentioned before to this Legislature by the Chief Justice, Daniel Wathen, when he spoke to the Legislature a few weeks ago in his address to the Legislature. Maine's court system is the most underfunded in the entire country. We are proud that it is as efficient as it is. However, the fact is that there are pretty substantial delays in many of the courthouses in this state. We have fewer judges per capita than any other state in the nation.

One of the duties of the Judiciary Committee, that we actually enjoy quite a bit, is bringing in judges to confirm and reconfirm them. We get to hear from them and we kind of use it as an opportunity to find out more about the court system and how things are going. Every single one of the judges that we have had an opportunity to question in a reconfirmation hearing have brought up, often on their own initiative, the very dramatic increase in pro se litigation that they are seeing. In fact, in the divorce area it runs from one-third to one-half of all of the cases are pro se. What this means is that basically a tremendous amount of court time is taken up with

people who simply don't know the rules. The judges have to take a lot of time to explain those rules and it actually puts judges in a difficult position in that they have to be very careful in terms of helping people who don't have lawyers, but also not going overboard and actually being biased in their presentation.

It was the judgment of the committee majority that this bill would increase the burden on the court system and on these judges who are working under extremely difficult circumstances already. I would note that right now the Appropriations Committee has been considering a proposal to close two of the district courts in the state because of lack of money. I think that this is an unfortunate time to be coming up with a proposal that would put an additional burden on the courts. Further, there is no guarantee that these cases will be simple cases just because the corporations are small. Indeed, the one case that was brought to our attention was a very complicated case that I think most people on the committee would agree would have benefited from the advice and representation of an attorney. In fact, if corporations do have small cases they can take those cases to small claims court and represent themselves there without an attorney, so that option is currently available. I urge your support of the Majority "Ought Not to Pass" Report.

This bill, while well intended to help small businesses, may, in fact, result in an increase in delays in the court room for these same small businesses in the future. We don't think that it is a very helpful measure. I would urge your opposition to the bill and your support of the Majority "Ought Not to Pass" Report. Thank you.

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

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the comments. It is, however, an effort to help small businesses. They are faced with higher costs and more difficulties in these businesses in maintaining and keeping the businesses open. I would ask you to defeat the motion. Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: I rise and ask you to vote against the Majority "Ought Not to Pass" Report. Small corporations, those who have two or fewer stockholders are most like sole proprietorship. Why they are incorporated and why they were ever advised to be incorporated over the years, there has been various reasons and suggestions perhaps based on the various benefits that they may have obtained.

Today, right now most of these small ma-and-pa corporations are very similar to a sole proprietorship. They get no benefits materially from being a corporation. My view is that these people ought to have the same rights to go to court to defend actions brought against them the same way that the sole proprietorship can represent his or her own interest without hiring an attorney if they so choose. These individuals may, in fact, be well advised to have an attorney. We feel that it is their right to, in fact, defend any action brought against them if they so choose. The amendment to this proposal put on by the minority essentially restricts this activity to defense actions. A small corporation or any corporation under the current law

cannot go into court in a proactive manner and bring suit against somebody else under the Minority Report provision.

Relative to divorce, the example that was used a few minutes ago, most of the pro se actions, at least to my recollections in testimony before the Judiciary Committee indicated that most pro se actions are actions brought without the help of an attorney are being brought in family matters or domestic disputes. It is highly unlikely that many pro se actions are going to result from the small corporations or by a small corporate stockholder as a result of trying to defend himself or herself against some action brought against them by somebody else.

Relative to the small claims court, this is a different matter, actions are used to settle monetary disputes. Small claims court is, in fact, available to both corporations and any individual. What we are talking about here is potentially other types of actions brought against small corporations, again, those with one or two shareholders enabling them to defend themselves against those kinds of suits. Thank you.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I will be very brief. This is a very brief bill and I hope you will look at it in your binders. It is half of one page. I thank the Representative from Herman, Representative Carr for bringing us to this and I thank the Maine Chamber of Commerce for supporting his effort.

Something I didn't know when I first came to the Judiciary Committee, I am going to share with you and if you did know it, good for you and I apologize for it. Pro se litigants are people representing themselves in court. Yes, there has been sort of an explosion of this particularly domestic and family law. I don't think you are going to see an explosion of it in cases of corporations because I still think most of them will probably hire an attorney. If these are good sound business people, that is what they will do. There may be cases where suits have been brought against them where the facts are clear to them and they feel that just going in and explaining the situation to the judge will clear the case. This would be very beneficial.

Keep in mind that they can only go in and represent themselves or the corporation in a defense posture. They can't initiate litigation so it is not like we are going to have a sudden flood of litigation coming into the courts. These are cases that were headed into the courts anyway because someone filed suit against the business person. I just finally urge you, if we do have this sort of increased pro se litigants because of high cost of bringing your cases to court and if we don't have enough judges in Maine because we haven't quite funded the court system the way we should, please don't blame the people of Maine for that. That burden or responsibility lays with us here in this room. Thank you.

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

A vote of the House was taken. 28 voted in favor of the same and 68 against, the motion to accept the Majority "Ought Not to Pass" Report was not accepted.

Subsequently, the Minority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-770) was read by

the Clerk and adopted. The Bill was assigned for second reading Tuesday, March 19, 1996.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives" (EMERGENCY) (S.P. 744) (L.D. 1855) on which the Minority "Ought to Pass" Pursuant to Resolve 1995, chapter 39 Report of the Committee on Labor on read and accepted and the Bill passed to be engrossed in the House on March 14, 1996.

Came from the Senate with that Body having adhered to its former action whereby the Majority "Ought to Pass" Pursuant to Resolve 1995, chapter 39 Report of the Committee on Labor was read and accepted and the Bill "An Act to Clarify the Early Retirement Incentives Law" (EMERGENCY) (S.P. 745) (L.D. 1856) passed to be engrossed in non-concurrence.

Representative HATCH of Skowhegan moved that the House Recede and Concur.

Representative LEMAIRE of Lewiston requested a roll call on the motion to Recede and Concur.

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

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

The pending question before the House is to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 315

YEA - Adams, Ahearne, Aikman, Ault, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Johnson, Jones, S.; Joy, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, McElroy, Meres, Mitchell EH; Morrison, Murphy, Nass, O'Gara, O'Neal, Ott, Paul, Pendleton, Plowman, Poulin, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stedman, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winn, Winsor.

ABSENT - Bailey, Barth, Buck, Campbell, Clark, Daggett, Dexter, Dunn, Green, Heeschen, Jacques, Jones, K.; Joseph, Joyce, Libby JL; Luther, Martin, Marvin, Mayo, McAlevey, Mitchell JE; Nadeau, Nickerson, Peavey, Perkins, Pinkham, Poirier, Pouliot, Richard, Richardson, Spear, Stevens, Stone, Strout, Truman, Vigue, Winglass, The Speaker.

Yes, 113; No, 0; Absent, 38; Excused, 0.

113 having voted in the affirmative and 0 voted in the negative, with 38 being absent, the motion to Recede and Concur did prevail.

The Bill was ordered sent forthwith to engrossing.

ENACTORS

Emergency Measure

An Act to Clarify the Early Retirement Incentives Law (S.P. 745) (L.D. 1856)

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. 111 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.

On motion of Representative TRUE of Fryeburg, the House adjourned at 6:50 p.m., pursuant to the Joint Order (S.P. 746).