

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
33rd Legislative Day
Thursday, March 28, 1996

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

Prayer by Reverend Don Robins, State Street Baptist Church, Presque Isle.

National Anthem by Hermon High School Jazz Band.

Physician for the day, Michael Szela, M.D., Augusta.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 403)

Maine State Senate
State House Station 3
Augusta, Maine 04333

March 27, 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 Adhered to its former action whereby it Indefinitely Postponed Joint Order (H.P. 1370) relative to recalling Bill "An Act to Place Limited Rules on the Use of Personal Watercraft on Waters of the State" (H.P. 1365) (L.D. 1874), and all its accompanying papers, from the legislative files to the House.

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 404)

Maine State Senate
State House Station 3
Augusta, Maine 04333

March 27, 1996

The Honorable Dan A. Gwadosky

Speaker of the House

117th Legislature

Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Marine Resources:

Marshall E. Alexander of Biddeford for appointment as a member of the Marine Resources Advisory Council;

William L. Guptill of Addison for appointment as a member of the Marine Resources Advisory Council;

Robert J. Peacock, II of East Machias for reappointment as a member of the Marine Resources Advisory Council, and

J. Peter Angis of Scarborough for reappointment as a member of the Marine Resources Advisory Council.

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on **Human Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-533) on Bill "An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by Authorizing and Supervising Certain Hospital Mergers" (EMERGENCY) (S.P. 636) (L.D. 1644)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-533).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-533) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-533) in concurrence.

Ought to Pass as Amended

Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-531) on Bill "An Act to Establish a General Permit for Agricultural Irrigation Ponds" (EMERGENCY) (S.P. 748) (L.D. 1858)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-531).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-531) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-531) in concurrence.

Ought to Pass as Amended

Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-528) on Bill "An Act to Authorize the Disposition of Property Interests at the Pineland Center" (S.P. 749) (L.D. 1859)(Governor's Bill)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-528).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-528) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-528) in concurrence.

Non-Concurrent Matter

Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (EMERGENCY) (S.P. 622) (L.D. 1630) on which the Minority "**Ought to Pass**" as amended Report of the Committee on **Banking and Insurance** was read and accepted and the Bill passed to be engrossed as

amended by Committee Amendment "B" (S-473) in the House on March 26, 1996.

Came from the Senate with that Body having insisted on its former action whereby the Majority "Ought to Pass" as amended Report of the Committee on Banking and Insurance was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-472) and asked for a Committee of Conference in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Establish a High School for the Visual and Performing Arts" (S.P. 687) (L.D. 1756) on which the Minority "Ought Not to Pass" Report of the Committee on Education and Cultural Affairs was read and accepted in the House on March 25, 1996.

Came from the Senate with that Body having insisted on its former action whereby the Majority "Ought to Pass" as amended Report of the Committee on Education and Cultural Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-490) in non-concurrence.

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

Non-Concurrent Matter

An Act to Place Penobscot Land in Trust (H.P. 1306) (L.D. 1787)

- In House, passed to be enacted on March 13, 1996.
- In Senate, passed to be enacted on March 14, 1996, in concurrence.
- Recalled from the Governor's Desk pursuant to Joint Order (S.P. 765)

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-524) in non-concurrence.

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

Non-Concurrent Matter

An Act to Implement Performance Budgeting in State Government (EMERGENCY) (S.P. 700) (L.D. 1790) (C. "A" S-502) which was passed to be enacted in the House on March 27, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-502) as amended by Senate Amendment "A" (S-525) thereto in non-concurrence.

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

ORDERS

On motion of Representative MARTIN of Eagle Lake, the following Joint Resolution: (H.P. 1375) (Cosponsored by Representatives: ADAMS of Portland, AHEARNE of Madawaska, AIKMAN of Poland, AULT of Wayne, BAILEY of Township 27, BARTH of Bethel, BENEDIKT of Brunswick, BERRY of Livermore, BIGL of Bucksport, BIRNEY of Paris, BISULCA of the Penobscot Nation, BOUFFARD of Lewiston, BRENNAN of Portland,

BUCK of Yarmouth, BUNKER of Kossuth Township, CAMERON of Rumford, CAMPBELL of Holden, CARLETON of Wells, CARR of Hermon, CHARTRAND of Rockland, CHASE of China, CHICK of Lebanon, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUTIER of South Portland, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DAGGETT of Augusta, DAMREN of Belgrade, DAVIDSON of Brunswick, DESMOND of Mapleton, DEXTER of Kingfield, DiPIETRO of South Portland, DONNELLY of Presque Isle, DORE of Auburn, DRISCOLL of Calais, DUNN of Gray, ETNIER of Harpswell, FARNUM of South Berwick, FISHER of Brewer, FITZPATRICK of Durham, GAMACHE of Lewiston, GATES of Rockport, GERRY of Auburn, GIERINGER of Portland, GOOLEY of Farmington, GOULD of Greenville, GREEN of Monmouth, GREENLAW of Standish, GUERRETTE of Pittston, GWADOSKY of Fairfield, HARTNETT of Freeport, HATCH of Skowhegan, HEESCHEN of Wilton, HEINO of Boothbay, HICHBORN of Lagrange, JACQUES of Waterville, JOHNSON of South Portland, JONES of Bar Harbor, JONES of Pittsfield, JOSEPH of Waterville, JOY of Crystal, JOYCE of Biddeford, JOYNER of Hollis, KEANE of Old Town, KERR of Old Orchard Beach, KILKELLY of Wiscasset, KNEELAND of Easton, KONTOS of Windham, LABRECQUE of Gorham, LaFOUNTAIN of Biddeford, LANE of Enfield, LAYTON of Cherryfield, LEMAIRE of Lewiston, LEMKE of Westbrook, LEMONT of Kittery, LIBBY of Kennebunk, LIBBY of Buxton, LINDAHL of Northport, LOOK of Jonesboro, LOVETT of Scarborough, LUMBRA of Bangor, LUTHER of Mexico, MADORE of Augusta, MARSHALL of Eliot, MARVIN of Cape Elizabeth, MAYO of Bath, McALEVEY of Waterboro, McELROY of Unity, MERES of Norridgewock, MITCHELL of Vassalboro, MITCHELL of Portland, MOORE of the Passamaquoddy Tribe, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, NASS of Acton, NICKERSON of Turner, O'GARA of Westbrook, O'NEAL of Limestone, OTT of York, PAUL of Sanford, PEAVEY of Woolwich, PENDLETON of Scarborough, PERKINS of Penobscot, PINKHAM of Lamoine, PLOWMAN of Hampden, POIRIER of Saco, POULIN of Oakland, POULIOT of Lewiston, POVICH of Ellsworth, REED of Falmouth, REED of Dexter, RICE of South Bristol, RICHARD of Madison, RICHARDSON of Portland, RICKER of Lewiston, ROBICHAUD of Caribou, ROSEBUSH of East Millinocket, ROWE of Portland, SAMSON of Jay, SAVAGE of Union, SAXL of Bangor, SAXL of Portland, SHIAH of Bowdoinham, SIMONEAU of Thomaston, SIROIS of Caribou, SPEAR of Nobleboro, STEDMAN of Hartland, STEVENS of Orono, STONE of Bangor, STROUT of Corinth, TAYLOR of Cumberland, THOMPSON of Naples, TOWNSEND of Portland, TREAT of Gardiner, TRIPP of Topsham, TRUE of Fryeburg, TRUMAN of Biddeford, TUFTS of Stockton Springs, TUTTLE of Sanford, TYLER of Windham, UNDERWOOD of Oxford, VIGUE of Winslow, VOLENIK of Sedgwick, WATERHOUSE of Bridgton, WATSON of Farmingdale, WHEELER of Bridgewater, WHITCOMB of Waldo, WINGLASS of Auburn, WINN of Glenburn, WINSOR of Norway, Senators: ABROMSON of Cumberland, AMERO of Cumberland, BEGLEY of Lincoln, BENOIT of Franklin, BERUBE of Androscoggin, BUSTIN of Kennebec, BUTLAND of Cumberland, CAREY of Kennebec, CARPENTER of York, CASSIDY of Washington, CIANCHETTE of Somerset, CLEVELAND of Androscoggin, ESTY of Cumberland, FAIRCLOTH of Penobscot, FERGUSON of Oxford, GOLDSWORTHY of Hancock, HALL of Piscataquis, HANLEY of Oxford, HARRIMAN of Cumberland, HATHAWAY of York, KIEFFER of Aroostook, LAWRENCE of York, LONGLEY of Waldo, LORD of York, McCORMICK of Kennebec, MICHAUD of Penobscot, MILLS of Somerset, O'DEA of Penobscot, PARADIS of Aroostook, PENDEXTER of Cumberland,

PINGREE of Knox, RAND of Cumberland, RUHLIN of Penobscot, SMALL of Sagadahoc, STEVENS of Androscoggin)

JOINT RESOLUTION IN HONOR OF EDMUND S. MUSKIE

WHEREAS, Edmund S. Muskie was born in Rumford, Oxford County, Maine, on March 28, 1914, and died on March 26, 1996; and

WHEREAS, the State of Maine and the nation were faithfully served for decades by the Honorable Edmund S. Muskie, who held the offices of State Representative, Governor, United States Senator and United States Secretary of State during his extraordinary career in politics and government; and

WHEREAS, the illustrious career of our native son began with a law practice in Waterville and service in the United States Navy during World War II before his election to the Maine House of Representatives in 1946 where he served until 1951; and

WHEREAS, Edmund S. Muskie is credited with converting Maine into a 2-party state after nearly a century of single-party domination, as he worked effectively as a Democratic Governor of Maine with a Republican Legislature; and

WHEREAS, as a 4-term United States Senator, Edmund S. Muskie earned the respect and appreciation of the citizens of Maine and the nation for his diligence and hard work as chair of the Senate Budget Committee and by crafting such landmark federal legislation as the Clean Air Act and the Water Quality Act, a lasting legacy to the American people; and

WHEREAS, as a trusted and respected man of integrity, Edmund S. Muskie was many times in the center of national politics: as a candidate for Vice-President of the United States in 1968, as a candidate for President of the United States in 1972 and as United States Secretary of State in 1980; and

WHEREAS, Edmund S. Muskie best exemplified the ideal of public service, as he never forgot where he came from and what was important to the people of Maine and the nation, as he endeavored to work for the common good; and

WHEREAS, Edmund S. Muskie's outstanding record of public service is unparalleled and history will record that he placed the highest priorities on family, state and country, and this favorite son of Maine won the respect of the people and leaders of the nation and the world and, together with his wife Jane, won special affection from the citizens of his native State; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Seventeenth Legislature, now assembled in the Second Regular Session, take this opportunity to honor Edmund S. Muskie and to recognize his distinguished service to the people of the State of Maine and to the nation over many years, and respectfully request that when the Legislature adjourns this date, it do so in honor and lasting tribute to the memory of Edmund S. Muskie; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Jane Muskie and her family on behalf of the People of the State of Maine as a tangible token of our high esteem.

Was read.

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

Representative **MARTIN**: Mr. Speaker, Men and Women of the House: It is obviously with a sad heart that I present this resolution, but one also of many

memories. I would like to, for a moment, reminisce about my own involvement and then talk for a few moments about the man Ed Muskie.

I first met Ed Muskie when he was deciding to run for Governor and I was a twelve or thirteen year old kid running around the yard at my uncle's house in Eagle Lake. The Democratic State Committee met in my hometown. Little did I realize who he was or what he would become. To me he was simply a very tall man. In 1964, when I was doing graduate work at the university, like many college students, I decided to participate in a campaign. In 1964 I drove a truck full of signs throughout northern Maine for about three days without stopping. Upon graduation, became a member of this House and following the election of 1966 I went to work in Washington on his immediate staff. From that time, until 1972 I was either a member of his staff on the Hill, a member of the staff of the Intergovernmental Relations Committee, also in Washington, and subsequently became involved and was the comptroller of the Vice Presidential campaign in 1968, was treasurer of his political campaign for re-election to the Senate in 1970 and in 1972 worked on his presidential campaign. So, through those years I got to know Ed Muskie as a politician and Ed Muskie as a man. The amazing thing through all those years and all the times that I had known him, respected him, was the one thing that he always wanted everyone else to remember about him, and especially the people of Maine, because whenever he was asked by the press what is the one thing that you want as a legacy his answer was that the people of Maine trusted him. Throughout his political career that was what he tried to achieve.

For those of us who worked for him, and there is another member of the Legislature, as you know, at the present time, a member of the Senate, Senator Bustin also worked for him as a staff person here in this city. For those of us who worked for him and with him we always knew that we were going to perform to the best of our abilities and if we didn't we would certainly hear about it. He expected the best from all of us and I believe that he got it.

Ed Muskie was also a man of compassion. I can tell many stories, but one I will just relate to you briefly in part. As you may remember he was one of those United States Senators that turned against the President on the question of Vietnam. Many young men and young women who were then in the service chose, from time to time, to go AWOL, or chose not to enter the service and would flee to Canada. Members of the families would call him and he would then call me, at that point I was not even on his staff, I would get a call to go to Canada. He would ask if I would go and meet with the young people who were there. I don't remember the number, but it was about the number of 20, and it was always because he would say to me, "I want you to see if you can bring them back, to see if you can bring them back to serve this country." I can say that it was done because the parents trusted him, and as a result of what I would say to these young men, they trusted the fact that he would do what he could to keep the word that he was making to them, in fact to come back to serve their country. With only one exception do I recall that that did not occur. It was not because of me. It was because of the fact that they trusted Ed Muskie and they knew that if he gave his word that they would be taken care of. The commitment had been made in terms of what would take place when they came back and

re-entered the service that it would be followed through. Those were difficult times for them and difficult times for everyone else, especially every American, during this period.

One thing that always will remain in my mind, whenever we talked about service, whenever we talked about serving the people of Maine, he would always say, "Keep them in mind. They are the ones who put you where you are. They are the ones who make the difference." In my years serving with him, and seeing him in operation, after I left his staff that was always the bottom line with him.

I thought for a moment how I would close, because I knew how to begin but not how to end these comments. So, I decided I would go to his own comments that when he was here last, and spoke to the Joint Convention. Some of you who were here will remember. It was a prayer that he was asked to give at the Presidential prayer breakfast in Washington. He wrote his own that morning and gave it. I quote, "Our Father, we are gathered here this morning perplexed and deeply troubled. We are grateful for the many blessings You have bestowed upon us, the great resources of our land and our people, the freedom to apply them to uses of our own choosing, and the successes which have marked our efforts. We are perplexed that notwithstanding those blessings we have not succeeded in making possible a life of promise for all our people and the growing dissatisfaction, division and distrust threaten our unity and our progress towards peace and justice. We are deeply troubled that we may not be able to agree upon the common purposes and the basis for mutual trust which are essential if we are to overcome our difficulties. So, our Father, we turn to You for help. Teach us to listen to one another for the kind of attention which is receptive to other points of view, however different, and with a healthy skepticism as to our own infallibility. Teach us to understand one another with kindness and sensitivity which springs from deep-seeded sympathy and compassion. Teach us to trust one another beyond mere tolerance with a willingness to take a chance on the perfectability of our fellow man. Teach us to help one another beyond charity with the kind of mutual involvement which is essential if a free society is to work. We ask this in Jesus' name."

To me that speaks about Ed Muskie the man. As we put him to rest on Saturday the people of Maine will always remember him as he was.

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

Representative CAMERON: Mr. Speaker, Men and Women of the House: I would just like to take an opportunity to add a couple of words to what has been said about Senator Muskie. While never having had the opportunity to meet the Senator, I grew up in the town that he grew up in and I will never forget the pride in people's eyes when something was said about Senator Muskie and they would say, "He grew up in Rumford." One of those people was my dad. My dad was in high school with Senator Muskie. They grew up together. While they weren't in the same class and everything, I think this is kind of ironic that I have the opportunity to recognize the man. My father used to speak about him fondly about helping him with his math. Way back then, in those times, he was always a man that his fellow citizens could go to for help. Again, I never met the man, never had the opportunity to work with him, but it was very

apparent growing up in the community that he was somebody that the community was very proud of and obviously the state was very proud of. Again, I want to emphasize that I will never forget the pride that I saw in people's eyes, not just my dad's, but other people who grew up in the community when they said, "Ed Muskie came from Rumford." Thank you.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Yes, it's true that Ed Muskie was born and grew up in Rumford, but he started his career in public service in the great City of Waterville. As a matter of fact, Senator Muskie was a constituent of mine for a while when his legal residence was indeed the City of Waterville in my legislative district. I think we would be remiss if we didn't talk about what I believe to be one of the greatest accomplishments that Senator Muskie accomplished while he was in our State Senate. As a kid that grew up on the banks of the Kennebec River, and used to go down and watch what the river looked like, smell what the river smelled like, I remember with not great fondness those days. I was also a kid that couldn't pass by a pool of water, even a little stream, without trying to catch a fish out of it. I think that's what kept me out of serious trouble as I was growing up, because every spare opportunity I had I went fishing. Senator Muskie told the corporations, the industries, the cities and towns of this nation that those rivers and streams did not belong to them. They were not their own private sewer, that those rivers and streams and lakes belonged to all the people, not only in the State of Maine, but in this country. You've got to admit that when he did that it was not in the best of times, because the corporations said that they could not afford to clean up our rivers and streams and lakes, that it would cost jobs, that it would cause industries to move out of state into states that didn't take care of their water. It took a lot of courage, certainly, to fight that battle when he fought it. He also talked about clean air, and fought that battle and got the same arguments then that we sometimes hear today. In my basic biology class I remember well my instructor saying there is no creature on the earth that cannot survive without clean air to breathe and clean water to drink. As a young man that spent an awful lot of time fishing I think we would be remiss not to recognize that often times the single handed battle that the Senator from Maine played in cleaning up those rivers and streams and returning them back to the people who they truly belonged to. He did that, and I think by doing that he gave corporations and industries a second chance, because they now realize that good corporate citizens do not do those kinds of things anymore. Today the industries themselves have become an integral part of returning those rivers, lakes and streams to our people and the people of this nation. They realize what an asset it is to do that for the people. It benefits them economically, businesswise and public relationswise. It was not an easy thing for them to do, but with the gentle prodding of the Senator from Maine, the big man from Rumford and Waterville, we have all come around to his way of thinking. Look at the economic development that has occurred because of that clean water and the clean air, especially in this state. That is what I will remember him the

most for. I would be remiss if I didn't add that he was one of the people that I tried to emulate in my own small way, in my service in public office, along with his colleague, the other great Senator from Maine, Senator Smith. I had the opportunity to spend some time with Senator Smith when she used to come to McGowan's Restaurant in West Pittsfield, Maine every Thursday night to have supper. If I would be doing some chores around the store and restaurant and Senator Smith would be alone, I would wait until she was done eating and then I would sneak over and ask her if she minded if I sat down and talked to her a little bit. I remember the first time I introduced myself to her, I told her I was a new Representative for the City of Waterville, and she laughed and said, "Yes, I know who you are. I have been paying attention and reading." We talked about Senator Muskie. She was very, very fond of the man and he was deeply fond of her. They truly showed that you can indeed keep your word, be a person of integrity and serve in public office. The fear I have today is with all of the strife and problems there are in public office, the lack of credibility of many of the people who not only run, but serve, and the appearance that we have lost that integrity and honesty, who will be the heroes of the young people who wish to head for politics today? Clearly, we lost another one of those heroes this past week, and it is indeed ironic that my two greatest heroes in politics we have lost within the same year. Who will young people strive to emulate in their service for public office? There is truly a big void and the void got bigger this past week. Thank you.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I frequently heard the Representative from Fairfield talk about the connection he and his family has had to Senator Muskie. It may strike you as a surprise that Senator Muskie was also an inspiration to my own political career. In 1966, as a freshman in high school, a group of us students in the rural area of Waldo County put together a small debate club. For four years we had the unique opportunity, with the inspiration of a teacher from Bates College, to travel to parts of Maine to participate in tournaments that required us to do something with our minds instead of just our hands. One of the first occasions in 1966 we had an opportunity both to go to Bates College and to Waterville and to hear from one of the national collegiate debate champions, then Senator Ed Muskie, about the opportunities that were available to any of us to serve the people of our state and our nation. This served as an inspiration, I believe, to understand that someone from a small town in Maine could achieve any height if you worked and used your abilities to the best of your ability. Bates College, and I heard it so frequently from our coach, was extremely proud to think that they had been a part of Senator Muskie's education and opportunities. He would come back, take time from his undoubtedly extremely busy schedule to talk to high school and college students about fine tuning their abilities to participate in public discussion. Those of you who maybe have been involved in debate activities, the one thing that surprises people is that you have to learn and understand both sides of the question and be prepared to debate with vigor both sides of the question. Senator Muskie leaves us

a legacy not only of clean rivers and clean air, he leaves, I believe, a legacy of inspiration to young people, and some of us not so young any more, about our opportunities to participate in public discussion, to understand issues thoroughly and to believe that we have the ability to solve problems that seem insurmountable.

I remember so well the declaration when he began the process of cleaning the rivers, which some would allege our party probably fought at times. When he said the Androscoggin River had so much filth behind its dams that perhaps it would be 100 years before a fish could live in those rivers. I think he was more effective than he thought he would be, and it will be far less time than that and those rivers will be clean.

Senator Muskie was an inspiration for everyone, particularly for Maine, particularly if you were from a small town in Maine, to understand that you, like he, can achieve great heights and you can be of tremendous public service to your citizens and the citizens of your state and your nation. He truly will be missed. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I have to bring in a little human element here that goes back quite a few years, just after the war. Ed Muskie and my father-in-law both purchased a small cape on Silver Mount. My father-in-law was at 19 Silver Mount. Ed Muskie was at 21 Silver Mount. I had the honor of babysitting Ed Muskie's kids whenever my wife was hired to babysit the kids, I would kind of help out. Ed probably didn't find out until after he moved away that we did co-babysit. Ed had decided that his house was a little bit small because he had two kids. He had Steve and then a second one came along and the four room house that both he and my father-in-law had purchased was a little bit too small, so Ed decided he was going to become a carpenter and finish the upstairs room. Ed started working up there to make a couple of rooms out of the upper portion of that cape cod. He wasn't that much of a carpenter and before you knew it he fell down the stairwell and broke his back and spent a great deal of time out on the lawn getting some sun to try to repair that broken back. The day before he became Governor he was having a cook-out with my father-in-law and promised to make him a deputy sheriff, which he did. My father-in-law, to his dying day had that little badge that Ed Muskie gave him.

Ed Muskie was a very, very colorful individual and I tell you the people of Maine will miss him. They will miss his color and they will miss his leadership. I was proud to have known him for those few short years. Thank you.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I remember and knew Ed Muskie. It always will be one of the great privileges of my life that I can always say that I knew Ed Muskie and I knew Margaret Chase Smith. They were truly legendary figures in Maine politics, and they were legendary figures in their own times. Not in their own minds, in their own time. What Paul just said about Senator Smith is absolutely true. I can remember a number of conversations up in Skowhegan with her about Ed

Muskie, and I wish I could remember them to be able to present them, and I wish you could have been there. It's absolutely true what he said. That is the best in politics that transcends all of this partisan crap and that we work together and respect each other, whatever our differences may be on the floor.

One personal note, when I was a kid I had a hero, much to the chagrin but never the regret of my Republican parents who, by the way, always voted for Ed Muskie, that was Jack Kennedy. Being a kid I tested them all the time, and when Jack Kennedy came to Orono in the fall of 1963 at the commencement up there I pestered them to take me up there. I'll never forget not only the eloquent words as always Jack Kennedy delivered, but I always will have the impression in my mind of that sight of those three helicopters as they left and they flew off over the library, over Stevens Hall, and kept watching them until you couldn't see them. They went right beyond the horizon and into eternity. When Jack Kennedy died I received a package in the mail, a manila envelope. It was an autographed photograph of Jack Kennedy. Unknown to myself, my mother had written to Ed Muskie to get it for me. She sent along one of these things you write in class about when I had seen Kennedy earlier at the Brunswick Naval Station. I found out later that Ed did this the day before the President left for Dallas. Ed Muskie did that for a kid in Warren, Maine and I will always thank him for that. I think the people of Maine will always thank him that he would do the little things as well as the big things that he will always be remembered in history for. Thank you.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I'm sure that most of us have a personal memory of Senator Muskie, perhaps an incident that occurred in their lifetime. I did have such an experience and I would like to relate it to you at this time. It was back in the '60's, at that time I was the Clerk in Jonesboro and had several experiences with elections. The incident happened at the college in Machias when there had been a proposal for that area which would have had tremendous impact on the area. The proponents of it had held an election, or shall I say a referendum voting of the people in that immediate area. At that time I was very disturbed by what took place at this referendum and later on Senator Muskie and another Senator from the United States Senate, I think it was from Louisiana, came to Machias and held a public hearing on the issue. I went to that hearing with no intentions of speaking out, only to listen, however, as the time went on, and lunchtime came, a break was taken and Senator Muskie asked how many others wanted to speak. I raised my hand and was recognized. At that time I was driving a school bus and I said, "I would like to speak, but I may not be here until later in the afternoon." He advised me that no matter how late it would be I would have a chance to speak. I did come back, it was after three o'clock, and I was immediately recognized. I went down front where each one went and I related what I saw as gross infractions of the privacy of ones vote. He was extremely interested because at that time that referendum required you to sign your ballot. Senator Muskie was extremely interested in that and he questioned me, as did the Senator from Louisiana,

about my feelings on the issue. I did speak extemporaneously, I had no notes in front of me, I just spoke from the heart. He impressed me very much with his interest of the right of privacy of ones vote. Ever since, at any time I have seen him, he recognized me from that particular incident. I have never forgotten that. I never will. To me it emphasized his true feelings for the common people of Maine, especially, and this country. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: It has occurred to me, listening to the remembrances of so many people, that it's so often the case that we don't know how we have affected people and we probably never will. I met Senator Muskie when I was a fifth grader. My aunt and uncle had taken a bunch of us cousins to Washington D.C. for April vacation. I will never forget being ushered into the office and shaking his hand and getting a pass to be in the gallery. It's such a minor thing, but it was so significant and made me feel so important and so much a part of the government of the country, that I had a value being there and that it was important that I was there and that he was taking the time to talk to us.

Representative Jacques mentioned that who are going to be the folks that our kids look up to. I think one of the things that may be the best way to remember Senator Muskie, and Senator Smith, is to remember that it isn't so much who we are interacting with but how we do it and that we probably never will know what the impact is going to be, but it can be some of the smallest, tiniest details, the most insignificant acts that we take the time to do that make a real difference in somebody's life. I know that the day that I walked into that office made a real difference for me in terms of my thoughts about what was interesting to me and I know that it ended up with part of my decision in terms of being here and I will always be grateful for that. I'm sure that it is so inconsequential in the great scheme of things. For me it's important and for others it is not. I think that as we go through our lives there are going to be those circumstances where the things that seem very inconsequential to us are going to be very important to others. Thank you.

The Joint Resolution was adopted and sent up for concurrence. Ordered sent forthwith.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Norman Gagne, who was named the Northern New England Hockey Coach of the Year; (HLS 1062) by Representative WHITCOMB of Waldo. (Cosponsors: Representative JACQUES of Waterville, Representative JOSEPH of Waterville, Senator CAREY of Kennebec)

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

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

In Memory of:

Rupert C. "Rick" Stevens, of Nobleboro, who was formerly the Lincoln County clerk and who was elected

to the County Commission for 8 years. Mr. Stevens had also lived in Rockport for many years, where he served on the Board of Selectmen from 1956-1969, including 4 terms as chairman. As county clerk, he organized the Maine County Clerks Association and was a member of numerous social and civic organizations. He will be greatly missed by his family and friends; (HLS 1061) by Representative SPEAR of Nobleboro. (Cosponsors: Senator BEGLEY of Lincoln, Representative HEINO of Boothbay, Representative RICE of South Bristol)

On objection of Representative SPEAR of Nobleboro was removed from the Special Sentiment Calendar.

Was read

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: The Town of Nobleboro and the County of Lincoln lost a man of great respect this past week. Rupert Stevens was a man devoted to great public service. He spent 13 years as a selectman in the Town of Rockport and also while he lived in the Town of Rockport he served in many civic and public organizations. Then he moved to Nobleboro in 1973 and became involved in county government. First of all he worked for them as manager of the CETA program, and during that period of time he helped organize the Maine CETA Administrators Association. After serving in that capacity he moved on to serve eight years as County Clerk. While he was County Clerk he also helped organize the Maine County Clerks Association. Then he went on to become County Commissioner, which he served the county for eight years as the Lincoln County Commissioner. During that period of time he was a man who really believed in county government and did a tremendous job for our county. Our county is one of the few counties that can say that we have no debt because of their approval and real love for the county to see that it was run right and efficiently. He was also very active in local Republican politics. I think that we can truly say that he will be remembered as a family man and I would like to say that he will be missed by all who ever had anything to do with him or knew him. Thank you.

Was adopted and sent up for concurrence.

REPORTS OF COMMITTEES Ought to Pass as Amended

Representative SAVAGE from the Committee on State and Local Government on Resolve, Regarding Legislative Computer Information Systems (EMERGENCY) (H.P. 1226) (L.D. 1679) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-866)

Report was read.

On motion of Representative CARLETON of Wells, tabled pending acceptance of the Committee Report and later today assigned.

Ought to Pass Pursuant to Joint Order (H.P. 1290)

Representative GERRY from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1996 (EMERGENCY) (H.P. 1374) (L.D. 1883) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1290)

Report was read and accepted. The Resolve read once.

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

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

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-863) on Bill "An Act to Implement the Recommendations of the Task Force on Alcoholic Beverage Sales" (EMERGENCY) (H.P. 1244) (L.D. 1706)

Signed:

Senator:

Representatives:

MICHAUD of Penobscot
LABRECQUE of Gorham
FISHER of Brewer
MURPHY of Berwick
LEMONT of Kittery
CHIZMAR of Lisbon
CARR of Hermon

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-864) on same Bill.

Signed:

Senators:

Representatives:

FERGUSON of Oxford
STEVENS of Androscoggin
TRUE of Fryeburg
NADEAU of Saco
GAMACHE of Lewiston
BUCK of Yarmouth

Was read.

Representative TRUE of Fryeburg moved that the House accept the Minority "Ought to Pass" as amended Report.

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

CONSENT CALENDAR

First Day

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

(S.P. 739) (L.D. 1847) Bill "An Act to Amend the Freedom of Access Laws to Include Policy-influencing and Fact-finding Advisory Boards and Commissions in the Definition of Public Proceedings" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-529)

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

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

ENACTORS

Emergency Measure

An Act to Provide Consistent Retirement Plan Options for Game Wardens, Marine Patrol Officers, Forest Rangers and Baxter State Park Authority Rangers (H.P. 1177) (L.D. 1609) (C. "A" H-817)

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. 107 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Promote the Health of Newborns and Their Mothers (S.P. 670) (L.D. 1732) (S. "A" S-521 to C. "A" S-511)

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

Emergency Measure

An Act to Clarify the Definition of Commercial Whitewater Outfitter (S.P. 727) (L.D. 1833) (C. "A" S-513)

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

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1996-97 (H.P. 1342) (L.D. 1837) (C. "A" H-831)

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. 119 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Ensure That Employees Are Compensated for Accrued Vacation Time in the Event of the Sale of a Business (H.P. 1357) (L.D. 1862) (C. "A" H-840)

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. 116 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1996, to Clarify the Maine Turnpike Authority's Budget Process and to Facilitate the Evaluation of Automated Toll Collection (S.P. 759) (L.D. 1871) (S. "A" S-523 to C. "A" S-519)

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. 118 voted in favor of the same and 0

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

Emergency Measure

An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program (H.P. 1366) (L.D. 1875)

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. 118 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning the Salmon Aquaculture Monitoring and Research Fund (S.P. 764) (L.D. 1876) (S. "A" S-515)

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.

Emergency Measure

Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities (S.P. 647) (L.D. 1689) (C. "A" S-514)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Require the Study of the Medical Liability Prelitigation Screening Panels (H.P. 1257) (L.D. 1729) (C. "A" H-821)

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. 113 voted in favor of the same and 4 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Name a Portion of Highway in Millinocket in Honor of Prisoners of War and Those Designated as Missing in Action and to Name Portions of Roads That Follow the St. George River (H.P. 1335) (L.D. 1829) (H. "A" H-851 to C. "A" H-788)

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

Emergency Measure

Resolve, to Amend the 1995 Kennebec County Budget (H.P. 1369) (L.D. 1878)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Mandate

An Act to Make Comprehensive Changes to the Sex Offender Laws (S.P. 551) (L.D. 1510) (C. "A" S-516)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

Mandate

An Act to Implement the Recommendations of the Task Force on Tax Increment Financing (H.P. 1313) (L.D. 1797) (C. "A" H-808)

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

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

An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government (H.P. 212) (L.D. 271) (C. "A" H-842)

An Act to Require That Diabetes Supplies and Self-management Training be Covered by Health Insurance Policies (H.P. 1242) (L.D. 1702) (C. "A" H-827)

An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs (H.P. 1311) (L.D. 1795) (C. "A" H-841)

An Act to Combine Certain Reporting Requirements for Employees (S.P. 738) (L.D. 1846) (Governor's Bill) (C. "A" S-520)

An Act to Amend the Petroleum Market Share Act (H.P. 1355) (L.D. 1860) (Governor's Bill) (C. "A" H-839)

An Act to Authorize Casco Bay College to Grant Degrees (S.P. 758) (L.D. 1870)

Resolve, Directing the Land and Water Resources Council to Take Steps Needed to Ensure Successful Implementation of State Land Use Law Reforms (H.P. 1310) (L.D. 1794)

Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts (H.P. 1316) (L.D. 1800) (C. "A" H-794)

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

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

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

(After Recess)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse" (H.P. 942) (L.D. 1331)

Signed:

Senator:

Representatives:

PENDEXTER of Cumberland
JONES of Bar Harbor
LaFOUNTAIN of Biddeford
PLOWMAN of Hampden
HARTNETT of Freeport
MADORE of Augusta
NASS of Acton
TREAT of Gardiner
WATSON of Farmingdale

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-869) on same Bill.

Signed:

Senators:

Representative:

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.

CONSENT CALENDAR

First Day

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

(H.P. 1327) (L.D. 1818) Bill "An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs" Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-871)

(H.P. 1344) (L.D. 1839) Bill "An Act to Broaden the Municipal Service Charge" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-870)

(H.P. 1349) (L.D. 1850) Bill "An Act to Clarify the Retirement Status of Certain Employees of the Child Development Services System" (EMERGENCY) Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-875)

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

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

ENACTORS

Emergency Measure

An Act to Clarify the Distribution of Funding for the Maine School of Science and Mathematics (H.P. 1255) (L.D. 1724)

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. 110 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Laws Regarding Employee Leasing Companies (S.P. 689) (L.D. 1761) (C. "A" S-464)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Make Supplemental Allocations from the Highway Fund, Allocations from Other Funds and a General Fund Appropriation and to Amend Certain Transportation Laws (H.P. 1336) (L.D. 1830) (Governor's Bill) (C. "A" H-848)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies (H.P. 976) (L.D. 1385) (H. "D" H-822 to C. "A" H-707)

An Act to Ensure Proper Withholding of State Income Tax (H.P. 1249) (L.D. 1711) (C. "A" H-735)

An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1997 (H.P. 1325) (L.D. 1815) (C. "A" H-846)

An Act to Increase the Debt Limit of the Madawaska Water District (H.P. 1361) (L.D. 1869) (C. "A" H-845)

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

An Act to Repeal the Gross Receipts Tax (H.P. 1025) (L.D. 1440) (C. "A" H-837)

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

On motion of Representative JACQUES of Waterville was set aside.

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

An Act Regarding Municipal Penalties for Late Filing under the Maine Tree Growth Tax Law (H.P. 1271) (L.D. 1749) (C. "A" H-764)

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

On motion of Representative JACQUES of Waterville was set aside.

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

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

SENATE PAPERS

Refer to Committee on Banking and Insurance Pursuant to Joint Order (S.P. 750)

Report of the Committee on Banking and Insurance on Bill "An Act to Create the Maine Health Care Reform Act of 1996" (S.P. 769) (L.D. 1882) reporting that it be referred to the Committee on Banking and Insurance pursuant to Joint Order (S.P. 750)

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Banking and Insurance.

Report was read and accepted and the Bill referred to the Committee on Banking and Insurance in concurrence.

Ought to Pass Pursuant to Joint Order (S.P. 767)

Report of the Committee on State and Local Government reporting "Ought to Pass" pursuant to Joint Order (S.P. 767) on Bill "An Act to Reduce Costs for Municipalities" (EMERGENCY) (S.P. 770) (L.D. 1884)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

Report was read and accepted, the Bill read once.

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

Under further suspension of the rules, the Bill was passed to be engrossed in concurrence.

Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-536) on Resolve, to Secure a Release of Property from the State (S.P. 760) (L.D. 1872)

Came from the Senate with the Report read and accepted and the Resolve passed to be engrossed as amended by Committee Amendment "A" (S-536).

Report was read and accepted. The Resolve read once. Committee Amendment "A" (S-536) was read by the Clerk and adopted.

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

On further suspension of the rules, the Resolve was passed to be engrossed as amended by Committee Amendment "A" (S-536) in concurrence.

Divided Report

Majority Report of the Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-534) on Bill "An Act to Improve the Child Development Services System" (S.P. 753) (L.D. 1866)

Signed:

Senators:

SMALL of Sagadahoc
ESTY of Cumberland
ABROMSON of Cumberland
AULT of Wayne
BARTH of Bethel
CLOUTIER of South

Representatives:

Portland

DESMOND of Mapleton
STEVENS of Orono
LIBBY of Buxton
McELROY of Unity
BRENNAN of Portland
WINN of Glenburn

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

Signed:

Representative:

MARTIN of Eagle Lake

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-534)

Was read.

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

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

Non-Concurrent Matter

Bill "An Act to Improve Tribal and State Relations by Strengthening the Maine Indian Tribal-State Commission" (H.P. 1217) (L.D. 1667) which was passed to be engrossed as amended by Committee Amendment "A" (H-856) in the House on March 27, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-856) as amended by Senate Amendment "A" (S-537) thereto in non-concurrence.

The House voted to Recede and Concur.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act Regarding the State Government Computer System" (EMERGENCY) (H.P. 1377) (L.D. 1885) (Presented by Speaker GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on State and Local Government suggested.

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

Bill "An Act to Reduce the Notice and Hearing Requirements Imposed on Quasi-municipal Corporations

and Districts" (H.P. 1378) (L.D. 1886) (Presented by Representative MURPHY of Berwick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on State and Local Government suggested.

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

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

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

An Act Regarding Municipal Penalties for Late Filing under the Maine Tree Growth Tax Law (H.P. 1271) (L.D. 1749) (C. "A" H-764) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: Item 10-7, An Act Regarding Municipal Penalties for Late Filing Under the Maine Tree Growth Tax Law, is one of those bills that is just extremely ironic. I just want to explain it for a minute if I could. This is a bill that reduces the penalty for late filers for the tree growth reimbursement. The way I understand it it reduces reimbursement for all towns down to about 35 percent of the value, I believe, and the law says that we must reimburse the towns at 90 percent. In other words, we are breaking our own law and we are trying to fix it anyway. That's basically what we are saying here. We are trying to reduce the penalty for late filers of the tree growth law down to about 25 percent of the reimbursement. So, if the Town of Buxton, which is my town, which is a late filer by the way, files late they now will only lose 25 percent of that 35 percent of the reimbursement. They should be losing 25 percent of the 90 percent of reimbursement. Let's face it, I was brought up I guess to try to hold the law. What I am saying here is that we as a Legislature are not upholding the law. When we try to fix something that is broken because we are breaking the law, that's not right. There is a right and a wrong and you've got to feel it in your gut and the thing about this is that we are taking care of reimbursement for tree growth at two point something million and we should be at six million and I realize that we don't have the money in this state, but the law says that we reimburse at 90 percent. We have got to fully fund this reimbursement. We are breaking the law. So my question is to the members of Taxation, and I may be all wet on this, or to the members of the Appropriations Committee who are not here, can we please obey our own laws before we start changing them so that we can fix the ones we're not obeying? I pose this question through the chair to anyone on Taxation or on Appropriations. Why are we not obeying the law in tree growth reimbursement?

The SPEAKER: The Representative from Buxton, Representative Libby has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Men and Women of the House: As a member of Taxation I can only speak for myself on this. The question the Representative from Buxton has asked is something that has happened over the past few years. We have never funded fully reimbursement back to the towns for tree growth as was suggested by that Representative. I think that is a political decision. I would ask for a division on this Mr. Speaker, and I think when you vote on this just remember that if you allow this to pass you are going to fund at a lower rate all of the towns in your district, if you have towns in your districts that have tree growth. I understand a lot of you represent larger municipalities where tree growth is the elm tree that you have on your street if you have an elm tree left. This really affects the smaller towns and areas in western Maine and in northern Maine. Thank you.

Representative BARTH of Bethel requested a division on passage to be enacted.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Libby is very accurate, we are breaking our own law, but the only problem is if we don't pass this one we have nothing else before us and these communities will get nothing because the minority amendment did not pass. I believe I am right, am I not Mr. Speaker, that is this isn't passed these communities will get nothing? There is no other bill before us that we can work on. May I pose a question to the Chair?

The SPEAKER: The Representative may pose a question through the Chair to anybody who may care to respond.

Representative MURPHY: I want you to answer it. If we do not pass this one here, is there anything else before us that can be passed?

The SPEAKER: To answer the question, certainly a new bill could be introduced to accomplish the stated goals. The Representative may proceed.

Representative MURPHY: Thank you. Representative Libby is very accurate. We have broken our own law, but the only instrument we have before us that you can vote on is this one. If we vote this down these small communities will get nothing. If we pass this they will be penalized 25 percent of what they would actually get. So, I have to support it, even though I don't like it, because it is better than nothing. I do not want them to get nothing. I do think it's bad. I think it's a terrible thing, but we didn't vote my amendment in. So, please, if we do have a division, please vote to support this.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: The previous speaker speaks of the small towns. I come from a small town and I still serve as a selectman, I have for the last 15 years. Every summer we get a report that has to be filled out. We know it, we have to do it. It's very specific it has to be filed by November 1 or you do not receive funds. Every year this comes about and we talk about it, but you have to have deadlines. It isn't only small towns. If you look at the list there are even big towns. I think Farmington was on that list. Large towns or small towns, when the townspeople elect town officials they assume a responsibility and that responsibility is to get that

report in on time or they do not receive those funds. I think it is as clear as that. We talk about these poor small towns, well, I come from one of those towns but I think we have a responsibility and I think we should take that responsibility and get those reports in on time. I would encourage you to vote against the pending motion.

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

Representative SAVAGE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to add to what Representative Spear just said. In addition to the report coming with the notification that this has to be filed by November 1, you also get a reminder that it has to be filed, that yours has not been filed and you have a reminder. Thank you.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: This is rather a complicated issue. I think the answer to the first question that Representative Libby asked is that there is a little loophole in that law that says you will get your 90 percent reimbursement but as I recall it there is a contingency clause there that says if the funds are available. That is where we have fallen down on that. We went out and promised the people that if they would join the tree growth program they would get their 90 percent, but when they wrote the law they didn't make it a positive promise that you would get the money. However, they are reimbursing on a partial basis. There are people who would penalize the taxpayers in these towns that do not file early. There is nothing that is more reasonable than what the good Representative from Nobleboro just said. The town officials are responsible for answering this request for the information, but they don't do it year after year. The people who ought to be penalized are the town officials who don't tend to the business. I would wager if you go into these towns that are going to be penalized for not getting the reimbursement you will find that probably 90 percent of them don't even know they are not going to get that because the town officials don't tell them that. When you say that you are going to penalize the town you are penalizing taxpayers, the little fellow who pays the bill, and who's penalized additionally if we withhold his payment, rather than the ones who are to blame for it. If you could amend that law to say that the loss would be taken out of the pockets of the town officials who don't tend to their business then it would do some good.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I agree with lots of what the good Representative Hichborn had to say and I'm glad to learn, and I apologize for not knowing, about the clause that says if the funds are not available then we don't fund it at 90 percent. However, I want to point out that if we could take the funds out of the pockets of the town officials, which I agree in theory I guess with that, the town officials should file these reports on time, but if we could I would like to point out that the Town of Limington, for example, which is on the list, that poor town official would be paying over \$11,000. I just bring this up because I want to talk a little bit about the magnitude of this bill. In fact I think this is a good bill because maybe we should not be penalizing

these towns that are heavy in tree growth, like the Town of Limington. Maybe we should not be penalizing them 100 percent. So I think the good Representative from Berwick, Representative Murphy, brings up a good point, but there is still the problem remains that we should keep our obligations here. The law says funded at 90 percent. I would ask the members of Appropriations to please fund the tree growth law to the letter of the law. That's the first thing. The second thing is I think we have to start publicizing back home the fact that some of our town officials are not getting paperwork in that is very easy to file. Again I will use my own town as an example. There probably were hardly any new tree growth applications this year. I bet they could have taken last years and just about xeroxed the thing and passed it right up here to the state, but they didn't. They didn't do it on time. There's really no excuse and I think the people of Maine have to know this because your local property tax payer, if you are in a town that did not file on time, it is coming directly out of their pocket and I appreciate the comment of Representative Hichborn. So, again, I would ask that you pass this law but don't feel very good about it because I certainly don't. Thank you.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: This is a bill that I put in for a neighboring town that I represent, even though it's beside mine and deals with another Representative. The scenario is played out very well by Representative Hichborn on the tree growth. It's very, very complicated, from 90 percent to 40 percent, now to 25 percent. I said earlier if this bill does not pass the towns will not get anything. So, I hope when you vote you vote to pass this bill. I would rather give them a little bit than nothing. Thank you.

The Chair ordered a division on passage to be enacted.

A vote of the House was taken. 86 having voted in favor of the same and 21 against, subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

An Act to Place Penobscot Land in Trust (H.P. 1306) (L.D. 1787) which was tabled by Representative JACQUES of Waterville pending further consideration.

- In House, passed to be enacted on March 13, 1996.

- In Senate, passed to be enacted on March 14, 1996, in concurrence.

- Recalled from the Governor's Desk pursuant to Joint Order (S.P. 765)

- Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-524) in non-concurrence.

Subsequently, the House voted to Recede and Concur.

An Act to Implement Performance Budgeting in State Government (EMERGENCY) (S.P. 700) (L.D. 1790) (C. "A" S-502) which was tabled by Representative JACQUES of Waterville pending further consideration.

- Passed to be enacted in the House on March 27, 1996.

- Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-502) as amended

by Senate Amendment "A" (S-525) thereto in non-concurrence.

The House voted to Recede and Concur.

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative RICHARD from the Committee on Business and Economic Development on Bill "An Act to Revise the Sunrise Review Process for Occupational and Professional Regulation" (H.P. 1287) (L.D. 1767) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-877)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-877) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-877) and sent up for concurrence.

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

Bill "An Act to Establish a High School for the Visual and Performing Arts" (S.P. 687) (L.D. 1756) which was tabled by Representative JACQUES of Waterville pending further consideration.

- In House, Minority "Ought Not to Pass" Report of the Committee on Education and Cultural Affairs was accepted on March 25, 1996.

- In Senate, with that Body having insisted on its former action whereby the Majority "Ought to Pass" as amended Report of the Committee on Education and Cultural Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-490).

Representative AULT of Wayne moved that the House Recede and Concur.

The same Representative requested a roll call on her motion to Recede and Concur.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I hope that you will oppose the pending motion. As I spoke to you the other day I feel very strongly that a Minority Report would have been preferable on this issue. As you know I work in the arts. I care deeply about the arts. I do not feel that a magnet school for the arts is the appropriate way to be spending money at a time when we face a structural gap of \$250 million in our budget next year. I have a deep fear that if we insist on all we will receive nothing. So I would sincerely request that you would oppose the pending motion so that we may go on to insist and request a committee of conference because I do feel that a compromise could be reached on this issue. However, I don't believe that that compromise can be reached if we recede and concur. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: I respectfully disagree with the Representative from Portland and I would remind you that this is a Majority Report and the Education

Committee worked long and hard on this issue and all of the facts that were on the table we discussed. One of the points that I think was left out in the debate the other night is the fact that 40 percent of the high school students in this state live within an hour of Portland. The possibilities for education in the area of the arts for students in Maine is endless with having the Maine Center for the Arts located in Portland.

I am a strong proponent, as you all know, of this school and I feel very strongly about it. I would like to talk to you about the outreach services that would be available for all schools in the state. These outreach services would come in the form of seminars on teaching and curriculum for all teachers. There would be short-term art workshops for students and travelling performances and exhibitions for schools and communities. Thus, in a time when resources are somewhat limited, the arts education would be at the forefront with having a magnet school in this area in Portland. I urge you to support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative MARVIN: Mr. Speaker, Ladies and Gentlemen of the House: Today you will again be asked to decide if all children deserve an appropriate public education or whether just certain groups are entitled to this right. I believe that all children are special and in order for them to become all that they are capable of they need to know that they are special. Today's school structure does not allow for this. We take good care of the middle of the road. We are working hard to meet the needs of our special ed students. We have technical schools for those who need them. But our gifted and our talented, we just allow them to sit in the back of the room and watch the world go by. Magnet schools can help with this problem. Magnet schools can be the carrot out front that is going to keep our best and our brightest moving forward. Magnet schools are for all the talented children of the state. Many believe our gifted and talented should go to private schools. If every parent had the ability to pay for private schools this would be fine. Regretfully that is not reality. Beyond that, magnet schools are only for the junior and senior years of high school. Private schools can go for all thirteen years. I have heard in the halls that teachers don't like magnet schools. Nothing could be further from the truth. The Maine Arts Educators Association, the Maine Alliance of Arts in Education, the Maine Teacher of the Year, and the Arts for the Heart, a Bangor art teachers group, have all endorsed this project. The principal at Cape Elizabeth High School told me that if the art school were to open tomorrow he would send 20 children over whose needs are not being met in Cape Elizabeth.

In closing I would ask you to look deep inside and ask yourselves if you believe that children are our future. Ask yourselves if you believe that all kids deserve the opportunity to excel. If the answer to both of these questions is yes, then the answer to whether or not we need an arts magnet school is an easy one. The answer is yes. The gifted and talented of this state have been left out for too long. Don't tell them yet again that they are not important. Please support the measure. Thank you.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I just want to tell you that it is wonderful for us to have all the education for our kids that we can. We have a nice bill before us that is coming up later on about further education, further us teaching our teachers how to teach our students. Ladies and gentlemen, let's just use a little common sense. All I ask you to do is think about it. What I am asking you to think about is how are we going to pay for it. I never thought that I would be so aware of so many things going on, but being on Appropriations has opened my eyes that if you want these things you've got to find a way to fund them. Has anybody talked to the City of Portland to find out if they want to take some more of their property off the tax rolls? Has anybody done this? Has anybody on the committee thought about how the City of Portland may feel about it? They may want it, I don't know that, but, I'm just saying to you, please, before you vote, stop and think about who is going to pay the bill. That's all I ask. Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: Having read the fiscal note on this that asks for \$285,000 in the first year for planning and development, with an undetermined amount for the future, it certainly sounds like an annuity to me. I think, as the good Representative DiPietro mentioned, folks we've got to get real. We haven't got the money for this. We didn't have the money for the four to six million dollar tax credit that we voted on for the \$500 credit for the students at the university. I guess if I had \$10 and I was looking at a starving child over here, and a child who wanted to further his education over here, I've got to get this kid out of the gutter first so he will have a chance. There is only so many dollars to go around and with a limited amount of funds I don't think this is the place to spend it. It might feel good to do it, but the day of reckoning is here. Thank you.

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

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I know I have talked a little bit on this subject. I just want the members of this body to take a peek at the Legislative Bulletin that is out today. This body, last session, we passed a bunch of tax cuts, roughly 300 million dollars. It states in here cuts to school funding are possible. A cut of 21 million dollars in GPA for fiscal year '98 would amount to approximately a 4.5 percent loss to public schools. Now I know I have talked many times about a couple of schools in my district losing quite a bit of money, and it is going to happen again no doubt. In my opinion, I don't have anything wrong with the magnet schools. I think they are a great idea. It's just not the time. We want to make tax cuts, but we have to pay the consequences down the road, and with 21 million dollars more possible coming from the GPA and all of a sudden in 1996 we want to add another school that we are going to be taking away from the basic schools that we have now. I just don't feel that is right.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I have spoken on this before and I have told you how strongly I feel. This gives an opportunity to our talented young people to excel, an opportunity that is far too rare. I beg to differ with some of the previous speakers that we can't afford this. We somehow are able to afford a tax cut to hospitals. We were able to afford a tax cut to businesses. We were able to afford a tax cut for an income tax cap, but we can't come up with a little bit of money to fund a planning grant for these talented students. I just want to make one more point. This is a center. It is not just a school. It is a center. We will be able to provide teachers to go out to other schools to teach in all grade levels. We will be able to have students come and learn at this school from other schools. This will reach more than just a few. It makes art accessible because it is a public school. People can come, not on the basis of income, but on the basis of talent and desire. I urge you to support the motion. Thank you.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I would like to put this a little more in perspective about all this money. I wonder how many of you people know how many high schools we have, how many junior high schools we have, how many elementary schools we have? If you add them together it is somewhere around 500. Divide that into \$285,000 and see what you come out as as to what you are providing to these students and it's a small amount. Thank you.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I'm sure that the principal in Portland could find 20 people to go. I understand that 40 percent of them live within an hours ride of Portland, but I have to think of some of the people who live two hours, three hours, four hours away and what are they going to get out of this. I believe in equal opportunities for all young citizens and there is nothing wrong with an arts program, but I'm wondering if we are going to raise taxes and support a school that serves only a part of the school population of the State of Maine. Thank you.

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. Does the \$4,000 follow the students that may end up at this magnet school?

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 Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Yes, Representative Vigue, it does. If I might continue, this is just the point that I was going to make men and women of the House. The education funding formula, one of the criteria in the equation is the population in your school.

Currently, in the City of Auburn, five students attend a magnet school. That actually has an effect on your general purpose aid school subsidy, so as you vote for this it doesn't mean that you support or don't support fine arts in this state. I want to go on record of supporting fine arts in this state. I also have to tell you I have an arts educator in my family. She graduated Magna Cum Laude of fine arts, and is very supportive of this, but I believe that this is something that we cannot afford. To me it is segregating the best and the brightest from the average students. How are we going to inspire others? I believe that imagination and creativity goes a long way. Thank you.

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I don't think any of us are opposed to education. I don't think any of us are opposed to fine arts. I question, for one thing, the location of this school, and I concur with the good Representative Hichborn that if this truly is about equal opportunity for all students in the State of Maine, I would presume it should be located in a place where all students from the State of Maine would have equal access. I would even suggest a town like Bangor. Thank you.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: Just to answer the former Speaker, the magnet school for science and mathematics is located in Limestone. That's pretty remote in talking with people in my area. In fact I'm not sure how many people from my area have ever been to Limestone. Has that prevented students from going there? Absolutely not. So the location is immaterial. The school can be located anywhere, and if it is attractive enough, and provides the education that the students who want to go there are seeking they will go there. Another question was brought up that how could we fund this when last year, I think one of the Representatives said yesterday, that their school district lost \$300,000 or something like that, a significant amount of money? Keep in mind that the funding last year went up from the year before for general purpose aid to education. However, it didn't go up for all school districts and all school units because the funding formula is based on valuation. If your valuation goes up you lose in terms of general purpose aid, and it's also based on the number of students. If the number of students you have in your school goes down you get less state aid. The superintendent of the magnet school in Limestone spoke to the Education Committee and said when they were about to accept the first class there were eight students who had applied from Mt. Blue High School in Farmington. Obviously the superintendent was concerned, so he called the superintendent in SAD 9 and said, "Look, we've got eight of your students who want to come to the magnet school in Limestone." That superintendent, as far as I'm concerned, gave the right answer. He said, "Are they qualified?" The superintendent in Limestone said, "Absolutely, yes." So he said, "Take them. Take all eight, because it's what is best for them." That, ladies and gentlemen, in my mind is what we have to consider, what is best for the students. We are never, ever going to have enough money to put into general purpose aid to fund outstanding art and

music programs in all of our schools. So let's give some of our best and brightest, regardless of their family income, the ability to attend a school where they can excel.

Finally, the superintendent at the magnet school said that two of the students who are graduating this year, one has a four-year scholarship at an excellent college, \$84,000, another one a four-year scholarship for \$64,000. Both of these students come from, in one case a single parent family, and both of them come from what he described as "not very affluent" in terms of their family income. So this is an opportunity to put, again, education first. Please vote to recede and concur. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: How soon we forget. It wasn't too long ago that we were here at the House, and we were saying, "Oh no. If we start a magnet school up in Limestone it will take the best and the brightest away from us." But we did it. Some stood up and said, "It will remove money from our local school departments. It will cost the state much more money." But we did it. Some of us argued that it was too far away, Limestone, way up there. It was a four hour ride for over half of the student population in the state. But we did it. Only a few people are going to go to the school, it's not worth it. We could take that same amount of money and do it locally. That argument didn't hold water, because we passed the magnet school up north. Are we going to sit here today, ladies and gentlemen of the House, and say that students who excel in math and science are more deserving of our attention than those students who excel in literature, and other forms of art, maybe playing the trumpet or the violin. We may have some virtuosos here in the State of Maine, I'm sure we do. Ladies and gentlemen, with a clear conscience, I voted against that school up in Limestone, but today I have to vote in favor of this one to live with myself. Thank you.

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 Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I would just like to respond to a couple of the statements made. I was in a hurry to speak after Representative Barth because I thought he made some very good points. I thought he made some very good points from my point of view. I just want to point out, once again, that the \$285,000 is only the starting point. That is a study year to establish a magnet school for the arts. In the out years it will be more like 4 million dollars. I want to point out that the structural gap in the next biennium of 250 million dollars includes no growth whatsoever for general purpose aid to education. So, when you lose \$4,000 plus per student who travels to an arts magnet school, I think your schools will feel it. I want to make very clear to you, I think I probably have made very clear to you, that my

commitment to the arts is deep. This is my living. This is what I do. However, I view the magnet school and the arts differently than some other members of the body. I want to point out to you that this is a school which, as you have just heard, serves only juniors and seniors in high school. I personally cannot fathom, and we have heard a lot of talk about the gifted and talented, I cannot fathom how we can expect a junior and senior to be gifted, to be talented, to have a commitment to the arts, if they are not sufficiently exposed to the arts in the elementary school years. Furthermore, I view the arts perhaps differently than other members. I feel that the arts are so fundamentally a part of our life, so fundamentally important and valuable to education, that we need to make them available to everyone. I do believe that we can do that for a great deal less money than 4 million dollars. I believe that if we were to move to a committee of conference we could search for solutions which would make the arts available to all students in Maine, not just a few who, through luck, through circumstance, have been exposed to enough to have a passion and a talent for it in their high school years. Please join with me in opposing the pending motion so that we may go on to insist. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: I agree that the arts are, and should be, part of every day life. But for young people with motivation and ability enough, and there are many, there are simply not enough adequate opportunities to learn music, painting, sculpture, et cetera, at their ability level in Maine high schools. I believe it is important to recognize that there is, in fact, a nonprofit group, Friends of the Maine Center for Arts Education, that has been incorporated and is committed to making this a public/private partnership. In fact, it has already received grants from the Davis Family Foundation and the Payson Foundation. They are currently waiting to receive notification about another grant. I urge you to allow students in this state to have the same opportunities in the arts that we have given them in the area of math and science. I would remind you also that there is a residential component to this school, which means that students would have the opportunity to board in Portland as well. I urge you to recede and concur. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Representative True, I believe, pointed out that when you divide up how much money is going to be per school that might be lost, I would like to tell you a little bit about SAD 22, where in our last meeting district-wide, we determined that the Strings Program was a very important program that we wanted to save that was on the chopping block. We voted \$23,000 back into the budget for the Strings Program. As you know, you can't tell the superintendent what to do with that money. We never got our Strings Program back. So as much as you think at the local level that you will be able to provide for the kids who are truly gifted and talented, even when you direct your superintendent and the school board as to how you want your monies for the arts spent, or money spent to the arts, it doesn't happen. I know there are some very talented

children in SAD 22 who don't have a Strings Program now. Those \$23,000 we made a commitment, the commitment wasn't kept. We can at least make a commitment to some kids that they will be able to do their best and to be exposed to the best and not have to languish in the back row thinking, "I had a Strings Program a couple of years ago." We are not cheap in what we send to our Strings and Arts Program, and visual arts program and music programs in Hampden. We try, \$23,000 is quite a bit of money. So, I would like to see the money go to supporting the school, and for those of you who object to the distance, we are talking about something in Bangor so hold on to your hats. Thank you.

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

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I just want to remind members, I have toured one of my high schools over in Milo, and I have gone through the art classes, and there are some very talented people over there. The problem I have is the program has been cut, so if they don't have art in the high school, and people can draw, how can they be able to qualify to even go to this school even if they are talented. How are they going to qualify if they don't have art as even a course in the school? Can somebody answer that question for me?

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

Representative HEINO: Mr. Speaker, Men and Women of the House: Some youngsters have a natural talent. We don't do all of our teaching in the public schools, a lot of it is done at home, some through private lessons. I would ask the good gentleman, Representative Rosebush, if he votes against this will this put the art program back in Milo High School? Thank you.

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

ROLL CALL NO. 341

YEA - Ahearne, Aikman, Ault, Barth, Benedikt, Birney, Bouffard, Buck, Bunker, Carleton, Carr, Chase, Chick, Clukey, Daggett, Damren, Davidson, Desmond, Dexter, Donnelly, Dore, Driscoll, Etnier, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jacques, Johnson, Jones, S.; Joy, Joyce, Kerr, Kneeland, Labrecque, Look, Lovett, Madore, Marvin, Mayo, McAlevey, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Plowman, Poirier, Reed, G.; Richardson, Robichaud, Rowe, Savage, Saxl, M.; Shiah, Sirois, Spear, Stevens, Taylor, Thompson, True, Tufts, Volenik, Wheeler, Winglass, Winsor.

NAY - Adams, Bailey, Berry, Bigl, Brennan, Cameron, Chartrand, Chizmar, Clark, Cross, DiPietro, Fisher, Gamache, Gates, Gould, Green, Hatch, Heeschen, Hichborn, Jones, K.; Joseph, Joyner, Keane, Kilkelly, Kontos, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Lumbra, Luther, Marshall, McElroy, Meres, Nadeau, Nass, Pinkham, Poulin, Pouliot, Povich, Reed, W.; Rice, Richard, Rosebush, Samson, Saxl, J.; Simoneau, Stedman, Stone, Strout, Townsend, Treat, Tripp, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Whitcomb, Winn, The Speaker.

ABSENT - Campbell, Cloutier, Dunn, Fitzpatrick, Libby JL; Martin, Nickerson, Ricker, Truman.

Yes, 76; No, 66; Absent, 9; Excused, 0.

76 having voted in the affirmative and 66 voted in the negative, with 9 being absent, the motion to Recede and Concur did prevail.

House Divided Report - Committee on Judiciary - (9) Members "Ought Not to Pass" (3) Members "Ought to Pass" as amended by Committee Amendment "A" (H-869) on Bill "An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse" (H.P. 942) (L.D. 1331) 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 Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I do request a division on this matter and urge members of the House to vote no on the pending motion. The reason I requested a division is because I am not interested in putting people on the record on this. I am interested in those members of the House who are in the House now, and who hear the debate, deciding which side of the human judgment and difficult side of this issue they choose to cast their ballot. You have two fact sheets in front of you. One from MSMA, which supports the Minority Report, which I am representing. One from myself, a canary colored fact sheet. The problem is simply this in our system. In our schools when a hiring authority hears a rumor about the possible inappropriate behavior, sexual abuse or something like that, of a person who wants to work with kids, that hiring authority either has to investigate it him or herself or basically do nothing about it. The agency in the State of Maine that is charged with investigating that kind of thing is the Department of Human Services. If the hiring authority goes to the Department of Human Services, no matter what the record is, no matter how much a prosecuting attorney has chosen not to prosecute, and there can be very many legitimate reasons for not doing that even when there is a severe case, to protect children obviously, the Department of Human Services says nothing. Ironically, by law, they must report that if there is a certification matter to the Department of Education, which puts it into a black hole. The superintendent, or hiring authority, goes to the Department of Education and asks, rumors are there, is there a record on this person. The Department of Education can't tell. There is a wall in an area of vital and difficult human judgment in this area. We have created a wall between the one agency that is charged by law to investigate this matter, to probe it, to find out, and, if warranted, to bring it to a prosecuting attorney and the people who actually engage in hiring. There is a wall.

Originally, in the unamended L.D. 1331, a rather far-reaching bill, the Civil Liberties Union and other entities objected to it. That bill has been greatly pared down before you today. In fact, the Civil Liberties Union has now signed off on the bill. They don't find it objectionable. Support on the bill has come from the Department of Education, the Department of Human Services, the Maine School Management Association, the amended version, and I

say frankly has not come from the Maine Education Association and you will hear some of those reasons, I am sure, articulated later. The problem is that the people who are charged with hiring the people who work with children cannot find out from the one agency that is to engage in those investigations whether or not there is a track record. It is, to me, an insanity in our system that there is no capacity for the people who are responsible for hiring to deal with it. When I served on the Portland School Committee for one term we had three incidents that to everyone's frustration posed major problems in this area. One employee in a school, rumors circulated, the person was supposedly well-connected in the political educational elite of this state, was untouchable. What to do? It came to school committee members. It came to staffers. The question couldn't be asked whether there was a track record and the result was a child was abused and school committee members, like myself, and superintendents and responsible people in the system had no capacity to deal with it. That case did not surface publicly, but an innocent child was abused. As a matter of fact, the innocent child was housed with the individual on school business, irony, bitter irony. Discussion of this with the school attorney in the City of Portland, the genesis of the beginning of this bill, began to work up several years ago. A second case, which did surface in the press, a person was hired, rumors circulated, no capacity to ask and so the decision was made to keep an eye on the person and the end result was another child was abused. The simple reality was there was no capacity for the people who were in a position to make those judgments. Therefore, what they usually do, I would assert, is to blackball potential applicants. What would you do if you were the hiring authority and the rumors came forward? You would say, "I can't investigate it. I can't go to the entity that can investigate it. I guess I will just decide not to hire." In fact that was the third incident that occurred when I was on the school committee. There is an employee in the Portland school system whose career came to a halt, no advancement. I was a member of the school committee. I heard the rumors. There was no capacity to verify it. Here is where another protection comes in, almost by the back door in this bill. Under this bill, if the Department of Human Services does notify, or prepares to notify, a hiring authority of a school system that they are going to forward information, a record, that's because, if you look at the bill, a child is endangered, it is substantiated and verified. It has gone through the hoops of serious judgment before it's going to be forwarded. If that information is going to be forwarded the affected professional, teacher, or person who works in the school is notified. To me it was incredulous that there was opposition from the Teachers' Union in that this was a new form of notification for a potential victim of rumors, a potential victim of blackballing. The result was, in the case that I saw, that the person, there was no way to deal with the rumors, there was no notification, for all I know that person is still in the Portland school system unknowing of why their career has come to a halt, because the rumors circulated. The reality in this area is that there are rumors. We are a small state and a lot of school systems with a lot of people involved in it. These conversations emerge and people's lives are affected,

particularly of course children who are in situations in which those who want to abuse them seek to find them. Classically the pedophile seeks a school setting because that's where the kids are.

This bill provides notification that a record is forthcoming. When I said, incredulously, to the representative of the MEA why that was not a gain for protection of the teachers the answer was there will be no hearing. There cannot be a hearing. That is part of the reason why prosecutors wrestle with these things so hard. Children must be protected and there are many reasons why you cannot go public in these things, but at least the affected teacher now knows that there is something there, and if they are aggressive about it they can start to address it privately. Ladies and gentlemen, I sat on the school committee, children were abused, careers were affected because the responsible people in our system could not ask the very professionals in our state government whether or not there was a record, whether or not there was something wrong here. We put in stipulations, in the Minority Report, to join with Senators Mills and Faircloth of the other body, put in language about substantiated. A child must be in danger. It cannot be merely academic, and notification must go to the affected teacher and, finally, the hiring authority who receives the information is under the same penalties of law that the DHS is itself to keep it confidential. Right now if the DHS worker allows information out they pay the price legally, and the superintendent is swept in this and will also pay that price. Of course DHS individuals may make mistakes in judgments. Of course there may be errors that occur. Although with all of these demands for substantiation and verification that are there, one hopes that in the human system that's the best. In any case they are the only professionals that we have and the hiring authority who are responsible for institutions where kids are need that information, not on a broad scale, general passing of it out, and with all of the protections of the law that now surround DHS and this information.

Ladies and gentlemen, I brought the bill to you. It is a Minority Report. I know there are reservations. I hope you will consider the debate and I hope you will press the red button so that the Minority Report can be adopted. Thank you.

Representative RICHARDSON of Portland requested a division on the motion to accept the Majority "Ought Not to Pass" Report.

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

Representative McALEVEY: Mr. Speaker, Ladies and Gentlemen of the House: My school district, which I served as a school board member for six years, actually seven years, went through the exact same thing five years ago. Just before school started in August, the rumor made the town that one of our teachers had allegedly abused his biological children. We met as a school board in executive session, protecting the teacher's rights, and found out from our superintendent we couldn't confirm this. I sat there as a police officer knowing what was going on. It was still under investigation, hadn't been made public, no indictments had been made. It hadn't even been to the grand jury, and I couldn't comment on it. Fortunately I wasn't the investigating officer. We talked with DHS. We

talked with the Department of Education. They couldn't say a word, but we made a decision with our superintendent to protect our children, and through the advice of our attorney we went to superior court and asked that the court allow us access to these records. The Justice agreed and allowed our superintendent access to the records with one stipulation, he could not reveal what he read, but he could make a recommendation back to the board based on what he read whether our children would be in jeopardy or not. Based on that process, the superintendent reported back and advised us what to do. We ended up placing this person on paid leave until the item was resolved. One year later the person was indicted to have allegedly sexually abused his children. Two years after that the individual plea bargained to three or four counts of gross sexual assault. During this period of time we paid over \$100,000 in salaries and benefits because the individual was on paid leave. That's only fair, but during that period of time, had the court not allowed us, which by the way we spent thousands and thousands of dollars taking this to trial, as far as a hearing was concerned, that person would have been in our school system teaching children for those three years and dozens and dozens and dozens of children would have been exposed to a potential risk. Yes, we got the desired results, but it cost us hundreds of thousands of dollars. Had it been different, and with this proposed legislation in the Minority Report, one phone call. I know superintendents, by nature and by training, are very, very conservative people. They are not going to expose their school district, their children, their boards, to any bit of liability if they can help it. I don't see these people, who are trained professionals, abusing this information or using this information for anything but legal purposes protecting our children. So, I would strongly urge that we defeat this motion and go on and consider the Minority Report. Thank you.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: Of all the reports out of Judiciary this is perhaps the one that has the fewest volunteers to argue for the Majority Report. We are, after all, talking about the safety and well-being of children. All of us care about that. I have three children in school and one on the way. I simply want to believe that the teachers they encounter on a day-to-day basis are not perpetrators of one of the most heinous and violent crimes that we know of. I am also a believer in the Constitution of the United States of America which says that there is something called due process. If you are going to be denied employment because of something they believe you did, you have a right to challenge that accusation, to say, "Prove it. Let me show that I am innocent." Unfortunately, in our system of child welfare and protection we don't have due process and there is good reason for that. We certainly want to protect kids. The Department of Human Services, when testifying on this bill, admitted on at least one occasion, perhaps more, that the only area of allegations of child abuse that they deal with are in the home situations, in the custodial situations, the guardian of the child or the parent of the child. They do not investigate other allegations of misconduct with children. So, let us say a parent has a daughter who comes home one day and says Mr. So

and So the teacher fondled me. The parent calls DHS. They can't touch that one. They turn it over to the State Police and they will investigate the charge if they think it is warranted. DHS does not handle allegations of abuse outside the home situation. We all know a lot of the controversy, even that home situation, with regards to confront the accuser, to due process. In this situation I don't think the rumor mill, which Representative Richardson talked about, is stopped. If anything I think it is almost enhanced. More than half of the allegations of child abuse that the Department of Human Services receives each year, more than half, prove to have no merit. They are often allegations made during the process of a heated divorce. They are used as a weapon by one parent against another, and that's a whole other tragedy we could deal with on another day. More than half of the allegations aren't even true.

I'm not sure that I want to prevent an individual from receiving a job because the rumor mill called allegation. It's a difficult subject here, as I said, there are not a lot of people willing to debate this, and I probably haven't done the best job possible, but let me tell you, we looked at this bill for such a long time in committee. We entertained Representative Richardson's arguments. We have worked with him in trying to craft amendments that would make it work and at one point the divided report was a lot more evenly split, but I think something happened with some of the people who signed on with it in the coming days that began to gnaw at them and said that there was maybe something unfair about what this does to applicants for jobs. It is my hope, ladies and gentlemen, that you will accept the Majority "Ought Not to Pass." Before I sit I should add that there is one other thing. I saved a House Calendar from March 11. I don't know if you save your House calendars, but under enactors item 10-3 was An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants. This bill was heard by the Education Committee and is going to be creating a task force studying how we deal with background checks on teachers. It's a very important issue, but it's one that I think is even more important that we advance slowly all the while guaranteeing the right these people have under the Constitution of the United States. Item 4 of the topics this allegation committee is supposed to cover, by the way you passed this already, is whether allegation information concerning employees or applicants for employment may be shared and by whom. It's my hope that this Education Committee's task force will deal with this very difficult subject in a more thorough and reasonable manner. Not that we weren't reasonable, but we are a committee rushing through lots and lots of bills. I hope that item 10-3 on the March 11 calendar will cover this. Again I would ask you to support the Majority "Ought Not to Pass." Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: As is the case with Representative Hartnett from Freeport, I reluctantly have to address this issue. It's a very difficult one. Nobody wants to be perceived as being in favor of child sexual abuse. That is not the case here. It's my opinion, having heard all of the testimony, that there are things worse than that. I know that's hard to

believe. If you listen to the debate carefully from the two proponents, you have heard the word "rumors." That's what this is all about, rumors. The first proponent mentioned it three times. The second proponent mentioned it once. There are worse things than child sexual abuse. We have a history of trying to deal with this. The Salem witch trials were all about rumors and people being punished severely as a result of them. I would urge you in this case to support the Majority "Ought Not to Pass" Report. There is an ongoing study proposed, Representative Hartnett mentioned that, in another bill that has been passed that will begin to address this at some length. It's my opinion that we are in this situation as a result of other rules. We have set up a kind of a box for ourselves. We protect people's privacy rights to an extent that does not allow superintendents and other people to, between themselves, deal with the issues that need to be dealt with, so now we are in a box. I urge you to let the study committee work on this issue, hopefully craft something that has more meaning. This is about rumors. It's not about proven facts. We cannot prosecute people on that. We should not prosecute people on that basis. I urge you to support the Majority "Ought Not to Pass" Report. Thank you.

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

Representative McALEVEY of Waterboro requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

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

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

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I, too, was on the Majority "Ought Not to Pass" Report and I want to rise to support the argument put forth by my fellow committee members. I also would like to remind you that these must be substantiated reports, not rumors. Every situation described so far where the school board became aware of a rumor, and when the allegations were substantiated well into the investigation and the following court action, then they would be made available and only then would they be made available to DHS. They still have a considerable amount of time from the time a "rumor" starts. Now that doesn't make it okay. It doesn't make it all right, but if you think this is going to be the end-all protector and the safety net that saves children it's not, unfortunately, because we still have employers who dismiss for these reasons and these teachers are given recommendations so that they can go on to another school. It's not going to be the safety net. I urge you to accept this report and let the task force work out the recommendations that we need to have in order to make good judgment calls on the information we need, when it is substantiated, and when it will be effective. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: As several members of the Judiciary Committee have already stated, this was a very difficult issue for our committee, and we worked it very, very hard. Two of us were on the Minority Report, and changed our position on it, partly as a result of seeing what the Education Committee had done with a related but very different bill. I want to talk about that. The Education Committee bill, which did come out through this House and the Senate, the other body, and I believe it is enacted at this time, deals with criminal records, instances where someone's behavior has gone through, has been deemed important enough to take to a court, to a grand jury, to deal with it in a criminal way. This bill deals with information, information that is in the files of the Department of Human Services, information that hopefully is "substantiated," a word that I tried very hard to get into this amendment, but we really don't know what that means. It's not information that resulted in any criminal charges, so it's something less than that. It's information that would then go to a superintendent and there is very little control over what that superintendent does with that information. One of the discomforts that I had ultimately with this amended version of the bill, although it is far better than the original, is that once it goes to the superintendent there is very little ability to control what happens to it then. It goes out to the whole school board. It goes out to their spouses. It goes out to the entire community and you have a situation where information which may be false is all over town. This is a problem and Representative Richardson outlined it very well. After listening to Representative Richardson I said, yes, I know why I was on that report for a while, he's right, but there's problems with what we have done and it's not ready to be enacted into law. I think that what the Education Committee did, which is to take this piece of the problem, and say this needs more study and more work, is a good thing to do and is something that you can be comfortable with and say you can vote for the Majority Report, "Ought Not to Pass," here and feel confident that this issue is going to be looked at some more, because as hard as we worked on this amendment, which is the Minority Report, there's a lot of concern that it really doesn't solve the problems. There certainly isn't any due process there. There certainly is tremendous potential for rumor mills to go out there and destroy people's lives. Yes, it's a problem. We need to figure out a way to solve it, but this bill is not the ultimate answer and I hope that you will vote for the Majority "Ought Not to Pass" Report. Thank you.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: Not because I felt there was any reluctance to go on the record on this, but I had hoped that the initial vote might be by division so that those who heard the debate which you have heard here would see that parameter. The information that is available in those files may not be more, or may not be less than what a prosecutor proceeds with in a court of law. Many times a prosecutor does not proceed for very important and legitimate reasons, even when they have a lot on the record. It is not as if the information heads out into the great

unknown. It goes to a superintendent who is immediately under the penalty of law if they disclose it, but a school committee member can say, "Have you pushed this as far as the law allows you to deal with these rumors?" The superintendent can answer, "Yes." That will speak a lot of volumes in terms of helping to verify rumors, reduce rumors, and of course to protect kids from people who seek to work in schools. I believe it will protect teachers by giving them notice. I believe it will protect superintendents by giving them access under child-must-be-in-danger kinds of stipulations to do their job. I believe it will protect school committee members who will hear rumors and who will not want to allow rumors to dictate a hiring result. Bottom line, I believe it will protect kids without violating anybody's rights.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Just one point I would like to make. Before reunification can take place in most DHS cases, a parent, the parent who has been charged or been accused, must sign a statement saying that their child is in danger, in most cases before the reunification can start. I personally know of one case that went through incredible litigation, years and years of litigation, the gentleman was relieved of his job during that whole period, because he signed a statement saying, "Yes, my child is in danger from me." He wanted to get on with the process. Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: I just want to respond to the last statement by the proponents of this thing. We have courts to deal with accusations and rumors and turn those into indictments, and under the right conditions penalize people. We do not have superintendents and school boards around to duplicate that process. They are not set up. They are not trained. They cannot deal with the process. I urge you to vote with the Majority "Ought Not to Pass" on this. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 342

YEA - Aikman, Ault, Bailey, Barth, Benedikt, Bigl, Birney, Bouffard, Buck, Carleton, Chase, Chick, Cross, Daggett, Damren, Davidson, Donnelly, Gamache, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Heeschen, Heino, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Lovett, Lumbra, Madore, Marshall, Marvin, Meres, Murphy, Nadeau, Nass, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Stevens, Taylor, Townsend, Treat, Tripp, True, Tufts, Underwood, Volenik, Waterhouse, Watson, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Berry, Brennan, Bunker, Cameron, Carr, Chartrand, Chizmar, Clark, Clukey, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Hatch, Hichborn, Jacques, Johnson, Joseph, Labrecque, Look,

Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, O'Neal, Paul, Povich, Richard, Richardson, Rosebush, Rowe, Samson, Shiah, Sirois, Stone, Strout, Thompson, Tuttle, Tyler, Vigue, Wheeler, Winn.

ABSENT - Campbell, Cloutier, Dunn, Libby JL; Luther, Martin, Nickerson, Ricker, Truman, The Speaker.

Yes, 88; No, 53; Absent, 10; Excused, 0.

88 having voted in the affirmative and 53 voted in the negative, with 10 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

By unanimous consent, all matters having been acted upon, with the exception of matters held, were ordered sent forthwith.

On motion of Representative WHITCOMB of Waldo the House recessed until 6:45 p.m.

(After Recess)

The House was called to order by the Speaker.

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

House Divided Report - Committee on Legal and Veterans Affairs - (7) Members "Ought to Pass" as amended by Committee Amendment "A" (H-863) - (6) Members "Ought to Pass" as amended by Committee Amendment "B" (H-864) on Bill "An Act to Implement the Recommendations of the Task Force on Alcoholic Beverage Sales" (EMERGENCY) (H.P. 1244) (L.D. 1706) which was tabled by Representative TRUE of Fryeburg pending his motion to accept the Minority "Ought to Pass" as amended Report.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House: I want to speak just a moment about this bill. I'm sure many of you realize that this has been discussed for many, many hours and we arrived at a Minority and Majority Report, pretty much split in the committee. As you well know we face many challenges going forward, not the least of which is strengthening the balance sheet of every level, personal business and state government. We are making progress and picking up the pieces and we must develop a plan for the future and lay a sound foundation for long-term economic prosperity. The Minority feels strongly that the "Ought to Pass" as Amended by Committee Amendment "B" will do that. In essence this is what it will do, and I must admit first of all that I feel a little bit in remembering when I was about age 17 and my father asked me to go hunting and I came down, I thought I was ready, and he said, "Young man, it's going to be cold and rainy, why don't you go back and put on your best woolen shirt." So I did and I went out, and sure enough I found quickly that he was right. It was cold, and then it rained. If any of you people have ever been hunting with a wet woolen shirt you know it's darned uncomfortable, and that's the way I feel in presenting some of these things on this particular

L.D. The highlights, first of all, is that the committee would be recommending closing the last 28 of the state liquor stores. The projected budget savings to the state of 2.4 million dollars in FY 1997 and 7.2 million dollars in FY 1998, the projected state general fund revenues of \$22,836,000 in 1997, and in 1995 the actual revenue transfer to the state general fund was 21.8 million dollars. Through this L.D. the state retains its control of alcoholic beverage sales and consumption. The state will rely on the full agent network for retail sales of alcoholic beverages. The opportunity to become an agency liquor store will open up to any legitimate Maine business that meets the licensing requirements. The state will continue to provide oversight of sales, but will contract with private service providers for warehousing and distribution. By reducing the cost of overhead the state may reduce the price of alcoholic beverages and employ other price strategies to recoup the sales lost to New Hampshire and therefore further enhance its revenue to the general fund without affecting consumption. Because we basically know that we need strict controls we add four liquor enforcement officers to ensure licensing compliance. With that in mind, I ask you to accept the Minority "Ought to Pass" as Amended. Thank you.

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

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to tell you how we got here so you can understand where we are coming from. There was a task force convened last year to look at the issue of privatizing the last of our 28 liquor stores. I would have been more comfortable with this task force if we had had someone from industry, at least one person, serve on this task force. We had none. Another observation concerning the task force, it was four legislators that served on this task force, I find it very interesting now that two of them oppose the Minority Report. The task force had two objectives, maintain revenue neutrality, which is currently 20 million dollars to 21 million dollars to the general fund, and also maintain adequate control to discourage illegal activity and maintain reasonable consumption. I believe this does neither.

I would like to talk to you about revenue neutrality. The plan is based on the loss of sales at Kittery of only 50 percent. This is certainly a wonderful stab in the dark. Kittery is unique. We are a border community. We have a discount liquor store. Living in Kittery, I can assure you, our liquor sales will be zero. I will just give you a few examples of industry and businesses that we no longer have in Kittery due to our policies here in the State of Maine. We no longer have automobile dealerships. We have just recently lost our last bicycle shop. We have no appliance stores. We have no large grocery stores. I have talked with all but a few of my constituents in the community, local businesses, about the possibility of selling liquor. They are all unanimously opposed to this proposal. They have a problem with 100 bar codes being mandated. They have a problem with a \$2,000 licensing fee from the state that also allows the federal and towns to license them at a fee. They have a problem with a mandated \$5,000 consumable inventory. They have a problem with the price that is going to be set by the state. They have a problem

having to maintain a \$10,000 inventory. I'm not concerned with Kittery. Kittery will survive if we don't sell liquor. I'm concerned for the State of Maine. The Kittery liquor store generates 1.2 million dollars to the general fund.

We have also heard from the department. In order for the Minority Report to work it must maintain a four-percent increase in sales statewide. The national average in sales currently has a two-percent decline in spirits. Maine alone in the last six years has experienced a four-percent decline in sales. Based on a 57 to 67 percent markup that will be controlled by the State of Maine in the Minority Report, this allows the Bureau of Alcoholic Beverages and Lottery Operations to increase the tax on liquor, and at any time, in order to maintain revenues. I feel this is dangerous policy having the state set the price. I would like to share with you now a report from the State of New Hampshire on state control versus privatization put out by the Liquor commission. They looked at Iowa. Iowa is the only state in the union that is a controlled state that privatized the retail end of things. In 1987 they had total sales of 103 million dollars and they had a net revenue to the general fund of 32 million dollars. In 1990, when retail in the State of Iowa was fully privatized, they had total sales of 78 million dollars and that had a net revenue of only 29.9 million dollars. I would like to quote for you from the article. This is New Hampshire speaking, observing Iowa's policies. "It should be mentioned that Iowa reduced its markup from 76 to 50 percent in order to remain revenue neutral. It gave the operating expense reduction to the private retailer. However, the private retailer has caused legislation to be introduced to reduce the Iowa state markup to 40 percent. Obviously we will not be able to maintain revenue neutral with this type of policy. Their argument for relief from unfair state markups that drive customers across the border, so much for revenue neutrality in state revenues." They go on to say in summary, "If you privatize our retail stores, the commission believes revenues will fail drastically, increasing the tax burden on our citizens. Prices will rise drastically, causing reverse cross border traffic. Selection for our citizens will suffer. Availability and accessibility will increase. At least in highly populated areas already burdened with social problems, social abuses and their inherent consequences will increase. Finally, regulatory control will be hampered resulting in an increased society cost in welfare, health care, enforcement and in our courts. Please understand that we are not criticizing Iowa for their decision and actions. Their actual purpose and intent for converting is unknown to us."

I know I have thrown a lot of figures at you today, and there are a great deal of figures. This is what we heard in committee. None of them seem to bear out that this proposal would be revenue neutral. The department also told me that free price competition would be recaptured. There is nothing in this bill that leads me to indicate in any way we would be able to recapture our sales lost to New Hampshire, currently 6 to 20 million dollars. New Hampshire has a markup of 40 percent, Maine is currently at 68 percent, looking at a possible 57 percent.

The other objective the task force looked at was control. Controlled states versus licensed states,

in a licensed state per capita consumption of distilled spirits is 22 percent higher. Control states have moderate consumption and the number of retail outlets is lower. Incentives to violate laws are greatly reduced. One more piece of this bill that greatly distresses me is, think about your agency stores. We created an environment by which they had to bid and they had to play by the rules. Since 1992 the average bid for an agency store is \$7,600. We have created these rules that they have to live by, I don't think it's right for us to change in midstream and not have some kind of recourse for them. I truly believe the reason we don't have real privatization in front of us is we can't afford to put forward something right now that is not revenue neutral. It is rare that government does something well, right now they are doing this well. I'm not willing to take the risk when we have shrinking revenues and rising costs to put this plan in place. Once it's gone, it's gone. I am a Republican. I truly believe in downsizing government. I truly believe in privatization. This is not it. I hope you will join me in voting against the prevailing motion and Mr. Speaker, when the vote is taken, I request the yeas and nays. Thank you.

Representative LEMONT of Kittery requested a roll call on the motion to accept the Minority **"Ought to Pass"** as amended Report.

At this point the Speaker appointed Representative REED of Falmouth to serve as Speaker Pro Tem.

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

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

House Divided Report - Committee on Legal and Veterans Affairs - (7) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-863) - (6) Members **"Ought to Pass"** as amended by Committee Amendment "B" (H-864) on Bill "An Act to Implement the Recommendations of the Task Force on Alcoholic Beverage Sales" (EMERGENCY) (H.P. 1244) (L.D. 1706) which was tabled by Representative TRUE of Fryeburg pending his motion to accept the Minority **"Ought to Pass"** as amended Report. (Roll Call Requested)

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

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

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

Representative TRUE: If I understood him correctly, he did say that the sales at the Kittery store in 1995 were \$5,400,000, and that if we closed the Kittery store that there would be absolutely no sales forthcoming. I wish he could explain that to me. Unless he has a secret to stop people from drinking.

The SPEAKER PRO TEM: 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 Kittery, Representative Lemont.

Representative LEMONT: Mr. Speaker, Men and Women of the House: I think I said that. You are absolutely right Representative True. I do not think that we will have any outlets to sell spirits in the

Town of Kittery. That was what my understanding was. I certainly did not think that we would become a dry town in Kittery. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The reference that was made concerning the license fee paid for agency stores was something that I formulated before the committee last year, and I feel somewhat responsible for what is presently being done, namely being offered a license for \$2,000. Last year in the 116th, while we were in the process of closing the least productive stores, so the better stores are now left, the 28 that we have left are the better stores, the higher profit stores, the proposal that I made to the committee was that we charge one percent of the volume for an agency store. Let me give you an example in Waterville what happened. Don't think that we are protecting people within a three mile range. There is no three mile range. We have got a license in the Concourse that cost \$14,800. There is another one that is within a driver away, anybody that plays golf knows how far a driver can hit a ball, and this one here was a \$13,000 license. A mile and a half away there is another one for \$14,500, which is in the neighborhood of \$45,000 for closing one liquor store. Now we are going to do it at the rate of \$2,000 apiece. I feel that in a sense I am responsible for this. Therefore should I put in legislation to return the money that my seatmate paid for an agency store? That's something to give some thought to. I think this is wrong. I spoke to the Governor about this. I said, Governor, we have the best 28 stores, and you are going to close them at \$2,000 each, when some of the worst stores provided \$45,000 in income and we are looking for money and we are going to throw this money away. Another thing, if we are going to do this, what happens to the small stores at the present time if there is no protection that small stores will be allowed to sell on premise liquor, so if a restaurant comes in, I have a small store in Winslow, it's the only store I have in Winslow as far as selling liquor, if there is no protection the big stores, we now have got licenses that have been requested by Wal-Mart, 15 Wal-Mart stores, if you don't have protection for the small stores you are going to lose, all the small stores will lose to Wal-Mart. Look what Wal-Mart has done in Waterville. They are just about closing the Main Street. They are not doing any good to Augusta. Every city has got a problem with these stores and that's exactly what is going to happen if we don't have protection for the small, independent agency store.

I tell you, I see many problems on this. I almost would recommend that the whole thing be put out and just forget it, whether it's the Minority Report or the Majority Report. I tell you I will hold this until I hear some more from some of the speakers. I thank you for your attention.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to try to walk you through some of this tonight. First of all, the Minority Report which has been moved here, there is a great deal of hypocrisy in it. In this report the contention is that it will get the state out of the liquor business. Ever since the Governor realized

how much money the state made from the liquor business he has backed away from privatization. Clearly, the Governor's efforts have been solely based upon maintaining a revenue stream that can only be generated in a state controlled liquor business. Although the administration continues to bill their plan as privatization, it is nothing more than a sham. Even worse, the administration claims that their plan will not only generate the same amount of money, but may even recoup lost sales to New Hampshire. Just let me tell you what happens to the sales to New Hampshire, and when I got this report I just couldn't believe it. First of all I would like to tell you what Cumberland County did for New Hampshire. This isn't York County, this is Cumberland County in the month of March in 1994, 4,107 people from Cumberland County went to New Hampshire to buy liquor. That isn't up and down the border. That's 35 miles away from the border for Scarborough. The total sales for the month of March in New Hampshire from Cumberland County alone was \$149,666. That's one month in the year, in March, and March is not a big top business for us down there. It's not the tourist that's doing it. The Portsmouth traffic circle, 1,386 of those people went through the Portsmouth traffic circle, 1,173 went to Hampden. Hampden happens to be 95 going into Boston on the southbound lane. Now we have one on the northbound lane coming in, so I'm sure that a lot more are going there. It goes on in Conway and Ossipee and Glen and little places which didn't have hardly any. The bulk of the people go right down to the Portsmouth traffic circle and Hampden.

Let me tell you what the lost sales to New Hampshire will be for York County, 6,458 people went over from York County to New Hampshire to buy liquor, 2,589 of them went to the Portsmouth traffic circle, 1,538 went across the bridge from my town of Berwick into Summersworth. The liquor store in Summersworth is less than a quarter of a mile from the bridge. I can see the bridge from my house so it's not far from me. York County people spent \$146,446. So, Cumberland County is spending more money in New Hampshire than York County, even though more York County people went over. I guess we don't drink as much, I don't know, but anyway those are some of the figures that are going across the river in one month, the month of March, and that is not the busy month down there. When he says they are going to recoup the sales to New Hampshire, I would like to know how they are going to recoup that.

The assumptions in their plan are disturbing. Nationally, spirit sales have an average decline of two percent. Here in the State of Maine over the last six years they have experienced a four percent decline. They are probably going across the river. In 1990 the state had gross sales of \$72,949,147 in liquor, 811,287 cases. In 1995 the State had gross sales of \$69,756,656, 655,100 cases. We declined all that in just five years. Under the Governor's plan the state will simply continue to increase prices in order to stabilize revenues. Take a look at the bill, on page 19 it says the amount of tax the Alcohol Bureau, which will be in the Governor's executive branch of government if this bill passes, shall determine the amount of markup and set a wholesale price for all spirits and fortified wine. Does the Alcohol Bureau determine what will produce an amount revenue to be transferred to general fund? The Alcohol Bureau may adjust the amount of markup

and wholesale price if necessary to produce the required revenue. If what the Governor has got in his budget, or in the Productivity Task Force, for savings on this, or where ever he put it, if it doesn't add up he is just going to raise the price. We all know the more we raise our taxes the less we get. I still say, and I know the Attorney General didn't agree with me but that doesn't bother me too much, in our Constitution it says the executive branch does not raise revenue. In my opinion when the Bureau of Alcohol is in the administration and financial services in the Governor's office, the Governor is raising, the executive branch is raising the price and raising tax. On page 19 of the bill, number one says the amount of tax, and that is exactly what he will be raising.

So, to go on to explain. Under the Governor's plan the state will soon be continued to increase prices. Since we can assume that sales will continue to decline, we can then also predict that the Governor, in order to maintain revenue, will just keep increasing prices, which he has told us right here in the bill that he will do that. Not only will we fail to recoup current lost sales to New Hampshire, but we will send even more Maine consumers across the border to New Hampshire, especially the Portsmouth area. You would think if the Governor is so desperate to maintain the state controlled revenue that he would advocate to maintain the status quo based upon the record of revenue produced under the current system. The plan produced by the executive branch completely guts the laws and regulations that currently apply to the agency stores in terms of wholesale and retail pricing. As a result there is absolutely no way to predict how much revenue will be generated under this system. In fact, it is obvious that the administration is concerned about the revenues, which is why they include the provision which allows the Bureau of Alcoholic Beverages and Lottery Operations to increase the tax on liquor at any time in order to maintain revenues. Until such time as the Governor is prepared to focus on a completely privatized system that maintains adequate control through a license system, similar to beer and wine, Maine should maintain the current system.

What is even more disturbing about the Governor's plan is the complete disregard for the impact on Maine's small businesses. Because the administration was so intent on retaining their involvement in the wholesaling of liquor, where the money is, the details for getting the state out of the retail business were given little or no thought by the administration. As a result, the consequences of the Governor's plan will be devastating to the small mom-and-pop stores which choose to apply for a state liquor license or currently hold a liquor license. The Governor's plan is devoid of any other controls that are normally in place to effectively regulate the distribution and retailing of alcohol. In other words, the little small mom-and-pop stores right now, they can have an eight percent mark up. That is in our law. In the Governor's bill, he wants to do away with that eight-percent markup. All of us who have ever been in any business, we know that the big supermarkets run on a one-percent profit right across the top. A little mom-and-pop store cannot run on a one-percent one. They cannot use it as a false leader, and the big stores will, and as soon as they put the little ones out they will have a monopoly on liquor in this state. I say that's wrong and I have

no problems with the big stores having licenses, but let's make it an even playing field out there. If we don't want to protect our little mom-and-pop stores, but when we need a quart of milk or a loaf of bread we can run to the corner and get it, we are going to have some problems. The Governor's plan removes the eight-percent minimum pricing. This will virtually establish market domination by the large retail chains.

Further under the current system all agency stores purchase their liquor at the same wholesale price. The Governor's plan will allow multiple tiers of wholesale pricing. If you are able to pick up your spirits in the warehouse your wholesale price will not include transportation costs, so an agency store in Caribou, which purchases their spirits from a warehouse will incur transportation costs. Under the current system the transportation costs are included within the wholesale price charged to all agency stores. An agency store who cannot afford to purchase spirits in full case lots to be delivered by the warehouse, or pay the price of the case fee assessed by the state's warehouse, will be forced to purchase spirits from another agency store which is licensed to serve as a wholesaler of the state. Under the current system, agency stores can purchase foot cases at wholesale from the state stores. Not only the wholesaling agency store is a competitor, but the wholesaling agent can charge whatever the market will bear for a wholesale price. In essence you could have four wholesaling agents charging different prices for the same bottle of spirits.

The bottom line is that if you charge a license fee to be an agent for the state, then you should guarantee access to the same wholesale price.

Let me tell you what the Majority Report will accomplish. The Majority Report closes five state liquor stores while retaining a network of state stores to allow small businesses having licenses to remain competitive regarding cost of transportation and splitting cases of product. It maintains the current eight percent discount price for agency stores, again to help small businesses remain competitive. It maintains the current law allowing only three new agency stores to replace state stores closed. It allows decisions on alcohol tax increases to remain with the Maine Legislature where it belongs. It maintains current law regarding Sunday sales of alcohol beginning at noon. The Minority Report allows you to sell it from nine a.m. on Sundays to one a.m. It will keep the Kittery liquor store open, thus protecting more than 1.2 million dollars of revenue in to the state. It directs the Bureau of Alcoholic Beverages to report to the next legislature legislation to accomplish several specific operational improvements to increase both efficiency and general fund revenues. The Minority Report will close the Kittery store and it will send between 6 and 20 million dollars annually right across that river and let me tell you, when we send 5.5 million dollars over there, the people who go over there, they don't just buy their liquor and turn around and come back. They do their grocery shopping and they go to the big mall. They eat over there and it's not only the 5.5 million dollars in liquor that we are sending over. We are sending over a lot more money. I'm not ready to do that as of yet.

Of the 28 stores that are still open, 29 total, the average amount of profit they make is 31.11 percent. I don't care what business you are in,

that's a pretty good markup. Kittery itself brings in 5.4 million dollars a year and puts 1.241 million dollars into the general fund. It's almost a 23 percent profit, and out of that, remember the Kittery store runs on the 32-percent markup, not 65 percent. It also does not charge the six percent sales tax and the 15 percent bottle fee. Out of this profit, before this 5.46 million dollars, that is all deducted from that. This is the bottom line and they have deducted the sales tax because they have to account for that. I went down to Kittery and went over this with the store manager down there. Let me tell you something else they did. Kittery probably would have done much better, but before Christmas the Productivity Task Force went in and took half a million dollars out of their operating costs, so therefore, the Kittery store had no promotions at Christmas time. I know because I was in there. When I asked them why, they said they didn't have any money that they would match it. When the salesman comes around what happens when they put a four-dollar discount, two dollars from the distillery and two dollars from the state, they didn't have any matching funds to do that. It didn't bother the salesman any. He said that's okay. He took it right over to New Hampshire and Vermont and Massachusetts and they just got a bigger amount that they could discount and we lost out. There isn't a business that you can take your operating money out of and continue to operate. That's something you can't do because if you don't have the things to sell you can't sell them. If you can't have a promotion like the other stores have, especially across the border, you can't stay in business. So we could have done much better down there and would have had they left some operating money in the fund where it belonged, instead of robbing it.

So, ladies and gentlemen, I hope that here tonight you realize that if we close those stores it is going to cost us money. This bill will not bring in two point something million dollars or seven million or whatever they are saying. The fact is we are going to lose money and we are going to lose more sales tax because when people go over there they are going to do it. Do you know what? When I was down there they even told me that when people came back, they called them snowbirds, when Mainers come back from Florida, they stop in Kittery and they say it is amusing to watch them fill up their car. Their car is loaded with clothes and they buy it by the case and they jam the bottles in here and there. They are Mainers, they buy it in Maine and they are coming north or east or where ever they happen to be going. They are going back home. So, this is what you are going to be losing if you do that, because I'm sure those same people will stop on the northbound 95 in New Hampshire and buy it cheaper. That's just human nature. So, I would hope that you would defeat the Minority Report so that we can go on to accept the Majority Report. Thank you.

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

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

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to address the bills that are before you and let you know that there is a lot of skepticism whether this plan can

actually work. This plan was built on one issue, whether or not we can continue to maintain the revenues that are generated through the liquor. This is not a bill about privatization. This is not privatization. The state would still be in the wholesale business so don't be sold a bill of goods on privatization. I did go down to the Kittery liquor store to get a price list on what their products are selling for, what our products in this state are selling for, so we could compare apples to apples, because it's the consumer that goes over the border to purchase his liquor because that's where he gets the best price. This bill is accurate in describing that there would be lost sales in Kittery if that store was closed, as high as 50 percent of the sales in Kittery would be lost to New Hampshire. As bad as the location of the Kittery store is, you need a search warrant to find it, you would still lose 50 percent of those sales. That's reality. In going over there I did get a price list and this morning I called my local liquor store to find out what is the difference in prices. In dealing with a bottle of Absolute, 1.75 liters, the Kittery price, sales tax and deposit included is \$22.59. In the State of Maine it's \$31.95, tax and deposit not included. In looking at another item, Amaretto, \$13.99 tax and deposit included in Kittery, the State of Maine, tax and deposit not included, \$19.95. A few more items just to get the message across, Economics 101. Canadian Club in Kittery \$16.99, tax and deposit included, State of Maine \$25.95, tax and deposit not included. When you are looking at this bill, and I think that revenues are important to this state, in order to maintain revenues this bill is predicated on raising the tax on liquor. Sales have declined and will continue to decline because liquor nationwide has declined about two percent each year. What we are trying to do, and this isn't going to do it because you don't have uniform pricing throughout the state and the state is still in the wholesale business. In order to accomplish what I think everyone wants to do to be competitive with New Hampshire in every way, shape and form, because we know that we are losing revenue, the only way to do that is to decrease the wholesale price. To do that then the retailers can sell it for less. This bill doesn't do that. There are no guarantees. There are an awful lot of assumptions, and if you look at page 6 in the Minority Report, the privatization of retail liquor sales represents a number of uncertainties in estimating the change in net transfers to the general fund. These are the uncertainties, you close the stores that you currently have in Kittery you are going to lose those sales. The reason why Kittery sells liquor cheaper is they take their top 40 items, those are the sale items. The State of Maine doesn't do that. When you say the top 40 items, well that's what people buy. I just so happened this Sunday, on the ride up to Augusta, I want to share this experience with you, I went over to my good friend Sam DiPietro's to pick him up at his store. I pulled in, walked into the store, looked next door and right in front of the store there was a car from Rhode Island, it had Rhode Island license plates. There were four cases of Canadian Club. I said, "Sam, these sales would have been yours, the only problem is the price is too high here. They bought it in New Hampshire." We don't know how to compete in this state. If anyone has driven down to New Hampshire, not only do they have one store on the southbound

lane, they just built another one on the northbound lane to get you coming and going. It isn't that consumption is going to increase in this state, it's lost sales will increase if we can get those sales back. This bill, the Majority or the Minority Report, does not do that. I have shown that to you just by telling you the prices. I thank you and I wish and hope you will support the indefinite postponement of this bill and all of its accompanying papers. Thank you.

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

Representative BUCK: Mr. Speaker, Men and Women of the House: A lot of figures have been thrown around here this evening and depending upon which report you read you can draw all sorts of assumptions. We have heard from several Representatives from York County who talk about the effect that it is going to have down in their area. I agree with them completely. If it were not for the fact that we have to have revenue neutrality in this bill I would be supporting what they are proposing and that is that we go head-to-head with New Hampshire, lower our prices, and we could more than recapture what we are losing in sales today. I am absolutely convinced from a study I read from the spirits industry that not only would we generate more than the \$20 million that is going into the general fund today, but in fact that figure would be somewhat higher. That isn't what we are debating here this evening. We are debating the question of should we privatize our liquor stores here in Maine? The Minority Report, the report of the task force, provides you with figures that shows that when all is said and done, the net effect on the general fund in 1996/97 is going to be an increase of \$900,000. The following year that increase is going to be 2.5 million dollars. That, ladies and gentlemen, is the bottom line. If we privatize the retail end of liquor stores we know that the general fund is going to increase by 2.5 million dollars in two years, almost a million dollars at the end of one year.

There were other comments made this evening concerning the effects that this is going to have on the small businessman, the existing agencies. Well, right now, those that have a liquor license in Maine have a monopoly and they have a very good monopoly because the state is their wholesaler. Obviously they don't want to give that up. I'm convinced if we open this business of selling alcohol to all retail stores, number one the state's going to increase its revenue and number two, its going to be fairer for all of the other small retail stores in the state. Some people have suggested that we are going to lose revenue. Those of us who are in the retail business know that when you lower the price you sell more product and what this proposal does, it lowers the markup that the state now charges those individual stores, which begins now at 67 or 68 percent and goes up as high as 90 percent, back down to somewhere around 60 or 62 percent. That in itself is going to ensure that the price of liquor, if this proposal goes through, is going to be lower for all of the citizens of Maine.

Another misunderstanding that was stated here this evening is that the state is going to continue to be in the wholesaling end of this industry. The wholesaling operation that exists today is basically going to be the same wholesaling operation that will exist under any one of these new proposals. The

state does not have state employees working in the wholesale portion of this industry. It's all contracted out to private enterprise and it will be, under any one of these proposals that are before you here this evening.

The other concern that we talked about, the minimum mark up, some folks are afraid that some of the larger chains will move into the state and lower their prices and put the small stores out of business is a concern. It's a concern of mine, so I have offered an amendment that will reestablish the eight percent minimum for either one of these proposals that goes through, so that the small store will be protected and the threat of having a large chain moving into the state and taking over the liquor industry simply will not exist.

I guess the bottom line here is that we all understand that state government serves many functions. They serve functions that are unique and require state employees that you wouldn't find in the private sector. We have State Police. We have folks here who work in the Legislative offices, but when we talk about retailing a product, such as liquor, and when we can prove to you that that job can be done for less money getting more revenue generated to the state, to me there is no question in my mind at all that we should be supporting the Minority Report. Thank you.

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

Representative KERR: Mr. Speaker, Men and Women of the House: That comparison, just for the record, I believe I may have said Kittery, I meant New Hampshire, that was the difference in sales. Since I'm on my feet I would just like to address some of the other issues that were brought up by the good Representative Buck. Concerned, we should be concerned about the mom-and-pop stores in this state. As you know the administration has indicated that they would like everyone that has a small business to hire someone. If either one of these reports go through I can assure you that the mom-and-pop stores will close, simply because of basic Economics 101. The large stores will be able to purchase from the state stores, from the wholesale end, and sell that product as a loss leader. In doing that, as these mom-and-pop stores close, the price will go up again. I know that we can experience that with these larger stores that have been opening up. So, that "plus 1" approach will be losing one, not plus one.

The other factor I would like to address is we talk about retail sales, retail pricing, with the state in the wholesale business that means the retailers must buy from the state. If the wholesale price doesn't go down, the retailer can't drop his or her price. That's the problem. When you purchase a product from the state, who is the wholesaler. The private sector has to make a profit. The stores that you are closing are profitable. The reason why you can't compete with New Hampshire is because the state is too greedy. The profit is too high. That's why in the bill they allow the Bureau of Alcoholic Beverage to increase taxes, because they are going to have to do that because the sales aren't going to increase and the only way that they can increase revenues to the general fund or maintain it is by increasing the tax on liquor. That's the reality

people. If it wasn't, that wouldn't be in this legislation.

The other thing that bothers me, and I just came across it, they take the license fee of \$2,000. As you all know I have a Class A restaurant license and I pay \$1,500 a year and it's seasonal. In this bill the agency store will have a license fee of \$2,000 and upon renewal it will be \$300. They are treating us with Class A restaurants as second class citizens for goodness sake. I have to pay a \$1,500 renewal fee, and now to compound the problem of being in business and licensed by the state, I have to either travel to go to the state wholesale store to purchase my liquor or I have to pick up the newspaper and find out who's got the best deal on various products. I don't have just one or two items, I've got a multitude of items. So you can look at this bill as privatization, it's really not. Don't be fooled. Can this bill achieve the net savings to the general fund or maintain that price? Probably not, because if it could the tax issue wouldn't be there. Again, I urge you to support the indefinite postponement of this bill. Thank you.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I think my good friend down in the front row got a copy of my notes because he kind of told you everything I wanted to say. I just want to repeat just a couple of things. Privatization, the way the State of Maine is going and the way the Governor wants to go, is not privatization. My concern is that privatization is that I, as a liquor dealer, should be able to buy my liquor where ever I want. Right now I cannot do that, I have to buy my liquor from the State of Maine. The State of Maine marks their liquor up 60 percent. That means that I'm at a disadvantage with New Hampshire right off the bat. New Hampshire's markup is 30 percent. They can outsell us every day of the week and there is no reason why our people should stop off at Sam DiPietro's or ABC Liquor to buy their liquor in Maine when they can travel to New Hampshire and pay anywhere from \$10 to \$14 less on a half gallon. Ladies and gentlemen, I just want to say to you follow Representative Kerr's light because this is what is happening, we are getting, pardon the expression, taken advantage of. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Mr. Speaker, Men and Women of the House: I would like to share something with my fellow colleagues in the House. I served on the task force and to me it was similar to taking a multiple choice test where all of the answers were correct but only one answer was the best answer. This is a lengthy bill. It was filled with complex issues requiring a lot of thought and reasoning. Perhaps we need a crystal ball to view the future to see what it is going to bring. I cannot honestly create a system that possibly has only one year of revenue benefits with future out-year deficits. I think you all need to ask yourself this question, is the Legislature prepared to take the revenue risk in order to divest the state of its interest in the liquor business and privatize the industry once and for all? Thank you.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I would like to straighten out a few things because we seem to have kept most of our attention on Kittery and the border towns and worrying about New Hampshire. I live on the border too, and actually we don't worry those people too much. They have their act together. I do feel, however, there are some specific things, if you will bear with me, which I didn't give you before. Number one is that there seems to be a lot of worry about the fact that there will not be too many people begging to pay the price for the license to get into this business if the liquor stores are closed. Now I don't believe that the state had too much of a problem when we replaced the other liquor stores at the ratio of three to one. In Kittery, ladies and gentlemen, we are paying for rent on that building \$15.75 per square foot. I would say, and I have been down there, that maybe I wouldn't be too far off to say that they have probably 30,000 square feet. You multiply that and I think you get over \$450,000 for rent, which, if we close it, we will save. Nearly half a million dollars.

Secondly, if you look at the total sales, the 5 million dollars, ladies and gentlemen, \$943,000 of that is from premise license people, \$603,000 is to the agents. They must buy their liquor if they do it legally in the State of Maine. Therefore, it would seem to me that we would be able to get someone in that area, maybe more than one person, to open up and offer those sales. Therefore, it reduces down actually the amount of money that we lost from the store, or would be losing, to 2.3 million dollars.

Now let's talk about the money to the general fund. The general fund, as was quoted, we got from the Kittery store 1.2 million dollars. If we close the Kittery store we will lose \$640,000 of net revenues to New Hampshire. However, we will retain \$600,000 net revenue from sales to agent, sales to premise, licenses and other retail sales. Although I majored in history, perhaps because I wasn't good in math, when you subtract that that's only \$40,000 that we have got to pick up, which doesn't seem like too much to me. My good friend from Old Orchard Beach quoted Economics 101. I taught history for years and I tried to teach my students that the foundation of this country of which Maine is a part is free enterprise and always has been. I believe that if you talk to your people at home you will find that most of them will say why doesn't the state get out of the liquor business. That's what the state is trying to do. Yes, we are keeping part of it, and I believe that that has already been spoken to by Representative Buck.

When I first spoke, I would like to repeat number seven. By reducing the cost of overhead the state may reduce the price of alcoholic beverages and employ other price strategies to recapture sales lost to New Hampshire, and therefore further enhance its revenues to the general fund without affecting consumption. I believe that that is important and certainly I don't believe any of the people that have spoken in favor otherwise can predict anymore than what the task force did and certainly be more up front than what the Director of BABLO has said. There is no way that he can ascertain exactly what the prices are going to be until we do something and find out what we need to do and what is necessary to keep the revenue neutrality. That was a part of the function of the task force.

I believe still that the Minority bill is the best one to have. A couple of things that the majority does is they want to place more Megabucks machines in all the state liquor stores. That hasn't even been spoken on. I heard much criticism when we talk to people about the fact that we have these particular machines all over the state and even in the statehouse. So, I hope that you will vote to defeat the indefinite postponement and go ahead to vote on the Minority Report of L.D. 1706. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The 28 stores remaining right now are the highest possible profit stores that we had. We closed the poor ones, the ones that made the least profit we closed, and we ended up with upwards of \$16,000 times, in some cases, three times the money that came to the state. Do you think we have a responsibility to these people that paid \$16,000 for a license when we are now, under the Minority Report, saying we are going to charge them \$2,000? Personally, I feel if we change the rules then we owe the difference back to these people. Either we maintain the same method of providing licenses, or we do as we did this afternoon, we vote on refunding the sales tax to an individual that had overpaid their sales tax for the last six years. I fail to see a difference between the responsibility the state has to these people. One is my seatmate. I was responsible for that kind of a method, believe me, if this comes about in the 118th and I'm still here, we will have to look at refunding the money that has been overcharged to these people. Either we continue the same process or we have to look at the refunds to some of these people to the tune of \$14,000 each. Either that or we don't have a responsibility to these people. We can change in midstream and decide we can do anything we want, but these stores were paid for in good faith and they deserve at least that everybody else pay the same price. I will take these stores, ladies and gentlemen, and I will give them what they expect. They want \$56,000? I would be tickled pink to give them \$56,000. I would give them twice that and then let me close them and you will find there will be no cost at all. I can go to Florida and just enjoy the doggone temperature. I won't have to be here speaking. So that is something that we have to look at. Today is a good example of what would happen with the sales tax. I think we can probably look at that and it just may happen. Ladies and gentlemen, I urge you to support the indefinite postponement of both these pieces of legislation. Thank you.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I know the hour is late and we have talked on this issue for a long time. The gentleman that last spoke, the Representative from Winslow, made the point I wanted to make. He talked about some folks that paid \$10,000 or \$15,000 for an initial license and he wanted to know why anybody would do that. They do that because they know that there is a great deal of money to be made in the sale of liquor. If you would ask the gentleman from South Portland, Representative DiPietro, if he would either give his liquor license up tonight and have the state reimburse all of the money he spent on licenses in the last few years, or to keep it, I suspect he would

tell you that he will keep his liquor license. Bidding for a liquor license is private enterprise, is part of the risk of doing business. There are no guarantees. Those of us in business know that we make decisions like that all of the time. If we add a new line of products and spend \$10,000 or \$12,000 on that, that's a risk we take and we hope we make a profit on it. Sometimes we do and sometimes we don't. That's the same concept that the fellow that purchases the liquor license from the state uses when he purchases that license, or applies for that license. The bottom line still remains, if we privatize liquor stores the state makes more money than it is making today. The impression given here this evening that we are going to lose sales just doesn't exist. The example of the Representative from South Portland willing to pay such a high price for that liquor license means that many other people in the state are willing to do the same thing. Thank you.

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

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to clarify a few of the figures we have heard here this evening from the good Representative from Fryeburg. I have looked it up. We paid \$177,000 in rent on the Kittery liquor store, not the close to half a million dollars that we heard. I appreciate the good Representative from Yarmouth's figures, and this is all they are is figures and projections. The only state, I reiterate, the only state out of the 17 controlled states in the United States that privatized liquor was Iowa. They experienced a decline in sales, a decline in revenue. I'm sure the same thing is going to happen in the State of Maine. Liquor sales nationwide are declining. In the State of Maine they are declining. I honestly don't see how we are going to make that up. Also, one more thing, in defense of the agency stores, it was the climate that was recreated in which they would bid to replace state liquor stores. This bill before us changes the rules. How fair is it, for an agency store in Lincoln, Maine that paid \$35,100, to change the rules now? He did not, God bless you I'm sure he does make money, but he cannot recoup \$35,100 in three years, no matter what the market and the price is. I truly believe in the free market enterprise. So let's defeat this bill, come back in the 118th and do it correctly. Thank you.

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

Representative DIPIETRO: Mr. Speaker, Men and Women of the House: I hear my name being passed around so I thought maybe I should defend myself. First of all it isn't just a question of the bids that Representative Buck talked about. If he wanted to do so he could have done the same thing, but evidently he didn't want to spend the money. My second issue that it isn't just the money that was laid out for the license. It's my insurance is doubled. I had to put an alarm system in. I had to go out and buy more shelving. There are many, many issues and I don't want to bore you to death, the hour is late. My problem is that if everybody knows my business what am I doing up here? I should be home. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: Twelve years ago, when I became a member of the House of Representatives, I had the distinct pleasure of serving on what was then the Joint Standing Committee on Legal Affairs with the good Representative Murphy from Berwick. We heard in those eight years that I was on that committee a lot of liquor bills. I want to tell you that we have been holding, in regards to liquor problems, a box of puzzles for twelve years. No one, to my knowledge, has been able to come forward and put the pieces where they belong. Everyone has tried every session. I feel very uncomfortable in proceeding in the direction that we could go tonight. I am very nervous about when we talk about lowering the price of liquor. Are we creating another problem which is going to cost the state a lot of money? So, I would suggest this evening that we hold on to our pieces of this puzzle and be very sure when we make the move. Now is not the time. I would urge you to support the good Representative from Old Orchard to indefinitely postpone this bill and all its papers. Thank you.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

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

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

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

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

Representative DIPIETRO: Mr. Speaker, Men and Women of the House: I think I kind of have a conflict of interest here. So if my good Representative from Yarmouth will do the same as I, I will abstain from voting and due to House Rule 19, Joint Rule 10, I will not be voting if I have your permission.

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

Representative DIPIETRO of Portland was excused from voting pursuant to House Rule 19 and Joint Rule 10.

ROLL CALL NO. 343

YEA - Adams, Ahearne, Ault, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dexter, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Jones, S.; Joseph, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemke, Lemont, Lindahl, Look, Lumbr, Madore, Marshall, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, O'Neal, Ott, Paul, Pendleton, Poirier, Pouliot, Reed, W.; Rice, Richard,

Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Winglass, Winn.

NAY - Aikman, Barth, Birney, Buck, Chick, Clukey, Cross, Damren, Gamache, Hartnett, Heino, Jacques, Joy, Joyce, Layton, Lovett, Marvin, Nadeau, Nass, Peavey, Perkins, Pinkham, Plowman, Poulin, Povich, Reed, G.; Robichaud, Spear, Stedman, Stone, Taylor, True, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

ABSENT - Campbell, Dunn, Fitzpatrick, Libby JD; Libby JL; Luther, Martin, Nickerson, Ricker, Truman, The Speaker.

Yes, 102; No, 37; Absent, 11; Excused, 1.

102 having voted in the affirmative and 37 voted in the negative, with 11 being absent and 1 excused, the Bill and all accompanying papers were indefinitely postponed.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

UNFINISHED BUSINESS

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

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

HOUSE ORDER - Relative to propounding questions to the Justices of the Supreme Judicial Court (Relative to I.B. 5, L.D. 1823) (H.O. 50)

- In House, read on March 26, 1996.

TABLED - March 26, 1996 by NADEAU of Saco (Pursuant to House Rule #40)

PENDING - Passage.

Subsequently, was passed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-836) - Committee on Legal and Veterans Affairs on Bill "An Act to Reform Campaign Finance" (I.B. 5) (L.D. 1823)

TABLED - March 25, 1996 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative TRUE of Fryeburg to accept the Majority "Ought Not to Pass" Report.

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

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

SENATE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (S-476) - Committee on State and Local Government on Bill "An Act to Establish the Penobscot County Budget Committee" (S.P. 613) (L.D. 1617)

- In Senate, Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be

engrossed as amended by Committee Amendment "A" (S-476).

TABLED - March 21, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Motion of Representative AHEARNE of Madawaska to accept the Majority "Ought Not to Pass" Report. (Roll Call Requested)

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

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: Having spoken once before I would like to continue to address the problem or impasse that apparently this bill has caused. Some of the facts with this bill is there are 13 counties now that do not have the Legislature oversee, or have the final word on, their budget. Penobscot County's delegation, 28 in number, were polled to find out whether they wanted to continue to have oversight on the Penobscot County budget, 21 people answered, 5 were for and 16 against, and 17 did not reply. Four years ago when I arrived here the theme was less government, less government control, and more local control. I still advocate that idea that was implanted in my mind by my friend and colleague Representative Strout four years ago. A timely county budget is important to small towns and their selectmen in preparing their town budgets. A late June county budget means nearly half of that county's budget has been spent before we even approve it. Legislative control, local control, let's put the control back in the hands of the people who deal with this budget every day. That's where it belongs. Please vote to establish a Penobscot County budget. Thank you.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: Seeing as how we seem to be in a good mood for getting rid of some bills, I move the indefinite postponement of this bill and all of its accompanying papers and ask for a division.

Representative STROUT of Corinth moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion. We have had some debate on this subject, like the good Representative from Dover Foxcroft has mentioned. Sixteen out of the 21 polled voted to get rid of this, to put a sunset on this. Let's let the County handle it for a couple of years and see how they do. There are only four delegations that look over their budgets down here now. It's like he mentioned, the fiscal year starts January 1, last year we never had it voted on until the last day of June. I hope that when you vote you think that you vote keeping in mind the 16 out of the 21 want to give this a shot. I have talked to my town fathers and they are in favor of this bill. They want to give it a shot. I have talked to them personally, so anything else that is mentioned, I just want to let you know that I have talked to my people I represent and they are in favor of it, so I hope we defeat the pending motion. Thank you.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I'm sorry it's late and this is taking a lot of your time, but this has been a thorn in a lot of people's sides for a long time. I'm the Chairman of the delegation of 28 and I can tell you right now it has not been an easy task for the last few years. It is far from being an easy task. If some of you will only take some time and read the bill, pick up the bill and read it, nothing gets a sponsor who drafted a bill that is really poorly drafted, extremely poorly drafted. This is going to take a long time just to implement what they want to do with the bill. Just the election process for people who serve on the committee, there is nothing in the bill that shows how to do it. They are talking about a sunset on the bill. That's a joke. It's going to take that long just to get it through. We are hearing how people say they talked to their town fathers. I wish some of those people were around here when those towns were having trouble and needed help and needed money to keep those towns going because of lay offs, and they are going through a heck of a problem right now through county budget and whatever it may be. I wish some of those people would only listen what happened historically with the county. This is not the time to turn over our authority to the County Commissioners. They have a budget committee. It's working. I thought it was working real well. There have been towns out there that need help. What do you do if East Millinocket needs help and lays off around 2,000 people in that tri-area? What do you do with Patten, Maine, with Green Valley or Bangor, Maine, a big city that needed help with the library or the Shaw House, or some other little town? This was not put in by the legislative delegation. There are 28 of us who have to vote for it. No one person can add or delete, 28 of us have to vote for it to either add or delete. Please, take some time and look at the bill, read the bill. The bill is very poorly conceived, very poorly put together. It's just not going to work. If I thought for one minute that it would take my major headache away I would vote for it, but it's going to create more of a problem and you are going to have to go home and answer that to your public. Look what's going on throughout the county right now, misappropriation of funds through Penobscot County. No, it may not have anything to do with the budget, but people are concerned, people are very much concerned. The last time the Penobscot County budget delegation had to meet with the public, ask yourself how many people attended it, ask yourself how well it was publicized. Zero attended it. Look how big the county budget is, just take a minute and look at that. You need some oversight. Three people just cannot do it. A lot of people on the budget committee, example a couple of years ago, a gentleman from East Millinocket was supposed to serve on, did not attend the meetings, missed out on some money for KRDC. We had to add it in after because the person did not make the meetings. It is not right. The bill is very poorly conceived and I hope that when you vote you vote with the majority. Thank you.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: This is a little bit repetitious but the 11 towns that I represent have made it quite plain to me how unhappy and how dissatisfied they were with the petty squabbling that

resulted and they were unhappy because we were unable to work together as adults should and to cooperate in the best interest of the people of the county. This is the feeling of the people and of many of the officials in the 11 towns that I represent. It seems a little bit difficult for me to understand why legislators going in one day at the end of the year to look at a budget should be expected to know more about county business than the County Commissioners who work on a regular basis and who have access to, and are available to the elected officials in the towns in the county. I think the fact that the polls show that the majority of the delegation itself voted in favor of this change, this is not a new proposal. There were questions about the validity of the bill itself. That has been cleared with the Attorney General and that is what we are voting on here tonight. I hope that you will support the motion by the good Representative from Guilford. I hate to vote against my good friend, Mr. Strout, who sits in front of me, but this is one time where I have to very respectfully disagree with his decision and hope that you will follow Mr. Cross. Thank you.

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I know it's late and I would like to think of the Penobscot delegation as one big family, and we squabble as families do, but I don't know about your family but in my family majority still rules. I would reemphasize that 16 out of 21 who responded to the poll asked to have this budget committee instated. I ask you to vote against the pending motion on the floor and also want to point out that I have in my possession resolves from the towns of Glenburn, Patten, Carmel, Bangor, Brewer, Hampden, Old Town, Eddington, Lee and Orrington. Resolves by the town fathers begging and asking for this bill. It may be poorly drafted but I would say if I were some of you from other counties, I would take exception to that because the bill came from a compilation of other counties bills. Misappropriation of funds has nothing to do whatsoever with the issue in front of us. The issue in front of us is that the majority of counties in the State of Maine have chosen to get the legislative delegation out of the process, get their fingers out of the pie. The county has no business going in and rescuing poor little towns, you know what a mess that makes. I will tell you what, if this thing isn't passed, if we don't vote against the motion on the floor and vote in a county budget committee, and a good process, I am going to have demands from my three towns to come and put my sticky fingers in the till. I think enough is enough and I ask you please support the majority of us who want to vote against the pending motion on the floor. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CLARK: Based on the testimony we were just given by the former legislator, could she tell me the dates of the last resolves we have received from the towns?

The SPEAKER: The Representative from Millinocket, Representative Clark has posed a question through the Chair to the Representative from Enfield,

Representative Lane. The Chair recognizes that Representative.

Representative LANE: Mr. Speaker, Men and Women of the House: These resolves were dated 1992, so it has been that long that they have been struggling to get the legislative delegation out of this process.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: The reason why I asked that question was a lot has happened since 1992. How many of these towns really took a look at the bill that is in front of us today that we want to turn over? I would dare say to you if you call each and every one of those towns right now none of them even read the bill. None of the town council members have read the bill. None of the city managers or selectmen read the bill. Take some time and read the bill. The bill is not going to do what you think you want it to do. I'm telling you one more time, if I thought for one minute that that bill was going to be a save-all for the Penobscot County delegation on getting out of the budget, I would be the first to stand up here and tell you so. I must have rocks in my head asking you to vote the way I am, to get rid of it, but it's not going to do what you want it to do. It's just a sheep in clothing. It's not going to do it. Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: The resolve that was passed by the Bangor City Council was indeed 1990, and I was on the City Council in Bangor in 1990 when they passed that resolve. Having matured and moved down to the Legislature, and having spoken to several of the current members on the City Council now, I can attest to the statement that Representative Clark just made. Several of them aren't even aware that the bill is here, and in fact during the last budget process several of them contacted me, and I'm sure other legislators from the Bangor area, concerned about items that they wanted in the budget. I don't believe that they are in support of the current bill that is before us. Thank you.

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

Representative POVICH: Mr. Speaker, Men and Women of the House: I'm probably known as the Champion of Hancock County Causes but I do have a big toe in Penobscot County with my town of Clifton. I love them near and dear. Budget advisory committees generally in my opinion rubber-stamp county commissions recommended budget. Our voters in November told us by a three-to-one vote in the line item veto for more scrutiny in government. Please, I urge you, don't take the legislative delegation out of the process. Please support the motion. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Hampden Town Council did read the bill. The city manager did read the bill. I received phone calls on the bill and basically their question was, "We read the bill, tell us, does it take the legislators' fingers out of our budget?" Because these people sit on the committee, they don't just go and rubber-stamp. We have a city manager that is a representative member looking at how the

money is going to be put together, looking at how it's going to affect the mill rate. I have one from Hampden and I have one from Dixmont, and I can tell you from both ends of my district that they read this bill, and while it wasn't clear, wasn't the best written bill, what they wanted was the legislators to stop adding in pet projects or things that might not be pet projects to some, but they said, "Stay out of it please. We have worked hard. We have tried to make it as fair as possible. We are trying to keep the mill rate down." So, however this bill comes out, please make sure that it keeps us from having additional cost added to the budget. That was in 1996, Dixmont, Newburgh and Hampden. Please vote against the pending motion. We are one of three counties left with this archaic system and it's time to move on. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: I rise to support the motion for indefinite postponement. It is just because of the kinds of things which have gone on in the county this year, and the kinds of problems we have had with appropriations, that it is important for us at this time not to turn over to the County Commissioners and to the budget committee of the county those funds. That would send a very bad message indeed when we have had some irresponsible kinds of matters which have occurred in Penobscot for us to take this time to turn over the budget. We have a budget committee which has reviewed the budget. We had a series of meetings in Penobscot which were so poorly attended in fact, and then the budget comes to the Legislature. It is a time when people can come together to review that budget. I think that at this moment in time it would be very unfortunate for us to turn the total budget procedure back to the county. In fact, there were many items which were left out of the budget which took the legislative delegation to remind the county that they had forgotten to include. This would not be a good thing for us to do for Penobscot at this time. I understand that there is some concern about having some small items added to the budget. It did not increase the mill rate and it did go to help those communities which have some projects which were in need of help and which were county-wide in benefit to us all in Penobscot. So, I would ask you to vote for the indefinite postponement and let's stick with the system that we have that has worked for so long. Thank you.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: The reason I made the motion to indefinitely postpone this bill is that if you look at the committee report it came out seven to six. That's not a clear message. The delegation is split and I would remind the good gentleman from Dover-Foxcroft that a few years ago I represented a town that he represents now in Penobscot County and they don't want this. Over my term down here I have represented four different districts in Penobscot County and not one of those towns has asked me to support this bill. Until such time as the delegation, in my opinion, can be unanimous I would plead with this House to vote for the indefinite postponement because there is no need to make a change in this county process that as far as I'm

concerned if it isn't broke you don't need to fix it now.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I have heard some words tonight. I might be a freshman. I'm new to this process, and I was born at night but not last night. This word "our authority," the last time I checked the Commissioners were elected. The last time I checked it was their authority to get the county budget balanced and to oversee it. In my short time here I haven't seen us lower the cost of the county budget one bit. All we did was add to the county budget. Yes, it does take a vote, but it goes something like this, you vote for my issue and I will vote for your issue. It gets added on. Yes, it did come out of surplus, but we were told that that surplus would probably be needed the next budget to balance things. If it wasn't there then we might have a hike in the mill rate. The other thing that I heard was "legislative oversight," we have to maintain "legislative oversight" over this budget. In my humble opinion that is like giving the fox oversight over the chicken house. We haven't seen any reduction in this budget. Let's give it a try the other way. Please vote against this motion. Thank you.

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

Representative CROSS: Mr. Speaker, Men and Women of the House: I have heard a couple of situations explained by a couple of the Representatives. They said if it isn't broke don't fix it. I can only think of the time that Representative Strout has been here, if things have been the same, we shouldn't change it just because he has been here for 24 years, I don't believe that. We can easily in today's world, those people that are next to making the budget should be the ones that have control of it. The three commissioners and the budget committee, as far as I'm concerned, are the people that know what's going on in the county, in the individual towns, and should make the decisions, not we down here who get the paperwork once a month, go over it, say add this or add that. I disagree with both my friend Representative Clark and my friend Representative Strout, I think this is a needed thing in Penobscot County and I think we would make a mistake to indefinitely postpone it.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: The last time I went through Newport, the good gentleman from Corinth bought my dinner. He probably will never buy another one. I would point out just one fact, that out of the 28 members of this body, only 5 voted for this particular bill. That should tell you something. Thank you.

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

Representative LANE: Mr. Speaker, Men and Women of the House: I just wanted to update, there is a letter here from Old Town dated February 28, 1996, asking us to please support the new budget committee. Also, I had a phone call from my town manager, it was kind of heart wrenching and was totally unsolicited. He said, "I have to go before the town council. Can you please tell me what you

guys have done? What have you added in, so that I can figure out what to tell them, because I'm trying to figure out a town budget and it's really difficult." That call came two days ago. He said, "Do you know about this bill?" I said, "Yes, it came before my committee as a matter of fact." He said, "How do you feel about it?" in a very guarded tone. I said, "I'm absolutely in support of it." "Thank you," he said. I told him I will be fighting for it, so ladies and gentlemen, I'm fighting for it. I'm asking you to please vote against the indefinite postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark. 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 CLARK: Mr. Speaker, Men and Women of the House: No matter what we do here this evening the towns back home are still going to get the lateness of the money coming back to the towns and knowing what the county budget is going to be. Look on your calendar tonight or yesterday, we are still dealing with other counties. This will not speed up the process any. If any of you deal with county budgets you know a month before we have to sit down in December and meet with the County Commissioners, we get the report. It's not my fault lots of people don't look at it. I look at it. I read it because it affects towns in my district. It affects Penobscot County. I attend the meeting in Bangor. They have a meeting with the public. I try to attend that if I can, and we have two or three down there if we have any questions. In the 16 years I have served in the Legislature and been active in the Penobscot County budget, not every year we put it through, not every year we rubber stamp it. We ask questions. We are very thorough. We make sure the County Commissioners give us what we want for responses for our towns. I tell you one more time, please do what Representative Strout asked you to do. Take some time and read the bill. It's very poorly conceived. It will never work. The sunset on it is even worse. By the time you get to the sunset, the bill is going to be dead anyway. I hope when you vote you vote the majority with us to kill the bill. Thank you.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

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

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

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

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

ROLL CALL NO. 344

YEA - Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Carleton, Chartrand, Chizmar, Clark, Daggett, Desmond, DiPietro, Dore, Driscoll, Etnier, Gamache, Gates, Gerry, Gooley, Gould, Green, Jacques, Joseph,

Kerr, Kilkelly, Kontos, Lemaire, Look, Madore, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Neal, Paul, Pouliot, Povich, Richardson, Rowe, Saxl, J.; Saxl, M.; Shiah, Sirois, Stone, Strout, Thompson, Treat, Tuttle, Volenik, Watson, Wheeler, Winglass, Winsor, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Carr, Chase, Chick, Cloutier, Clukey, Cross, Damren, Davidson, Dexter, Donnelly, Farnum, Fisher, Gieringer, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Keane, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Lindahl, Lovett, Lumbra, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Nass, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Reed, G.; Rice, Richard, Robichaud, Rosebush, Samson, Savage, Simoneau, Spear, Stedman, Taylor, Townsend, Tripp, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Whitcomb, Winn.

ABSENT - Adams, Campbell, Dunn, Fitzpatrick, Lemke, Libby JL; Luther, Martin, Nickerson, Reed, W.; Ricker, Stevens, Truman.

Yes, 56; No, 82; Absent, 13; Excused, 0.

56 having voted in the affirmative and 82 voted in the negative, with 13 being absent the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

A roll call was previously requested on the motion to accept the Majority "Ought Not to Pass" Report.

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

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

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

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that you will vote this down so we can go to the Minority Report and get the ball going the way it is supposed to be. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 345

YEA - Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Carleton, Chartrand, Chizmar, Clark, Daggett, Desmond, Driscoll, Etnier, Gamache, Gates, Gerry, Gooley, Gould, Green, Jacques, Joseph, Kerr, Kilkelly, Kontos, Lemaire, Look, Madore, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Neal, Paul, Pouliot, Povich, Richardson, Rowe, Saxl, J.; Saxl, M.; Shiah, Sirois, Stone, Strout, Thompson, Treat, Tuttle, Volenik, Watson, Wheeler.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Carr, Chase, Chick, Cloutier, Clukey, Cross, Damren, Davidson, Dexter, DiPietro, Donnelly, Dore, Farnum, Fisher, Gieringer, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Keane, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Lindahl, Lovett, Lumbra, Marshall,

Marvin, Mayo, McAlevey, McElroy, Meres, Nass, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Reed, G.; Rice, Richard, Robichaud, Rosebush, Samson, Savage, Simoneau, Spear, Stedman, Stevens, Taylor, Townsend, Tripp, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Adams, Campbell, Dunn, Fitzpatrick, Lemke, Libby JL; Luther, Martin, Nickerson, Reed, W.; Ricker, Truman, The Speaker.

Yes, 51; No, 87; Absent, 13; Excused, 0.

51 having voted in the affirmative and 87 voted in the negative, with 13 being absent, 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" (S-476) was read by the Clerk.

Representative LANE of Enfield presented House Amendment "A" (H-855) to Committee Amendment "A" (S-476) which was read by Clerk and adopted.

Committee Amendment "A" (S-476) as amended by House Amendment "A" (H-855) thereto was adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-476) as amended by House Amendment "A" (H-855) thereto in non-concurrence and sent up for concurrence.

MATTER PENDING RULING

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) TABLED - March 22, 1996 by Speaker GWADOSKY of Fairfield.

PENDING - Ruling of the Chair.

The SPEAKER: I have had under consideration a request for a ruling of the Chair relative to L.D. 1777 by the Representative from Eagle Lake, Representative Martin. Representative Martin questioned if L.D. 1777 is in violation of Joint Rule 22, and if the same L.D. is a state mandate. A review of this legislation reveals that the bill is not in violation of the Joint Rules or the State Constitution. The basis for the Joint Rules is contained in the general provisions of the Constitution of Maine, Section 21. This section states in part that the state may not require a local unit of government to expand or modify that unit's activities so it necessitates additional expenditures from local revenues unless the state provides funding. This bill may reduce future revenues to units of local government, but it would not require additional expenditures on the parts of units of local government and, therefore, is not a mandate in terms of the Constitution of Maine. The pending question before the House is enactment.

The Chair ruled that L.D. 1777 was not in violation of Joint Rule 22.

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

BILLS HELD

Bill "An Act to Establish a High School for the Visual and Performing Arts" (S.P. 687) (L.D. 1756)
 - In House, House voted to Recede and Concur.
 - In Senate, Bill passed to be engrossed as amended by Committee Amendment "A" (S-490).
 HELD at the request of Representative MORRISON of Bangor.

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

On further motion of the same Representative, tabled pending his motion to reconsider and later today assigned.

Resolve, to Reimburse a Lumber Company in Connection with Sales Tax Paid by the Company (S.P. 747) (L.D. 1857)

- In Senate, Majority "Ought Not to Pass" Report accepted.

- In House, Majority "Ought Not to Pass" Report accepted in concurrence.

HELD at the Request of Representative KNEELAND of Easton.

Representative KNEELAND of Easton moved that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted.

On further motion of the same Representative, tabled pending his motion to reconsider and later today assigned.

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

Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (EMERGENCY) (S.P. 622) (L.D. 1630) which was tabled by Representative JACQUES of Waterville pending further consideration.

On motion of Representative THOMPSON of Naples, the House voted to Recede.

The same Representative presented House Amendment "A" (H-879) to Committee Amendment "B" (S-473) which was read by the Clerk.

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

Representative THOMPSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill is the bill which we debated, An Act to Allow the Diagnosis of Biologically Based Mental Illness by Licensed Psychologists. It is back before this House in non-concurrence. My motion returns the report, which this House accepted, back to the original bill. The original bill was simply to allow licensed psychologists to diagnose in the cases of biologically based mental illnesses. This was the original bill that was submitted and this is the part of the bill that was common to both of the reports. I would ask that you support this amendment so that we can move on with this bill. Thank you.

On motion of Representative VIGUE of Winslow, tabled pending adoption of House Amendment "A" (H-879) to Committee Amendment "B" (S-473) and specially assigned for Friday, March 29, 1996.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders

of the Day and continue with such preference until disposed of as provided by Rule 24.

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

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-860) - Minority (1) "Ought Not to Pass" - Committee on Business and Economic Development on Bill "An Act to Establish the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine" (H.P. 1351) (L.D. 1852)

TABLED - March 27, 1996 (Till Later Today) by Representative ROWE of Portland.

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

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

Representative BIRNEY: Mr. Speaker, Men and Women of the House: I am a minority of one on the report. I do need to tell you that if Representative Libby was able to vote on Friday, the third time the bill was called back, he did vote "Ought Not to Pass" on the other two votes. This vote was recalled to committee three times. We ended up amending it in 24 places. This was after a year. Last year we had this, we referred it out to study over the summer. A study group was set up that came back with a report and a new bill. The study group was not unanimous. It seems that in this short session, I feel that there wasn't enough time put into this bill to give the Legislature the proper information they need to make a decision on this. I have spent a lot of hours studying naturopathy and this bill. I am not opposed to naturopathy, as a matter of fact I endorse it. I endorse naturopathic doctors, but this bill is not the avenue to license or regulate naturopathic doctors.

Naturopathic doctors, a description of a naturopathic doctor is basically a trained professional in a separate and distinct healing art that uses noninvasive, natural medicine. This bill includes a lot of medicine that is not natural. Another thing that I need to emphasize is that there are only 11 naturopathic doctors in this state that want to be regulated. The 11 come from what they call, and what they want in this bill, an approved naturopathic medical college. An approved naturopathic medical college in the bill states that the college has to be accredited by an accrediting agency recognized by the federal government. There are only two schools in this country, one in Oregon and one in Washington, that are accredited through an organization that has accreditation or recognition of the United States Secretary of Education. There are other naturopathic schools in this country that actually give out naturopathic doctor degrees. I think that this, for one thing, makes these two schools an elitist. It doesn't allow for other naturopathic doctors to apply for a license in Maine.

Another thing too, when you look at the license and the title act in this bill, it's another section where it eliminates all other naturopathic doctors. Naturopathy and naturopathic doctors have been around for decades. I just think it's too bad to allow only the physicians that graduate from these two schools if we are going to license them. The American Association of Naturopathic Physicians is the organization that is pushing for licensing. There are many other organizations of naturopathic doctors in this country. They're credentially what is called

the CNME, the Council of Naturopathic Medical Education, this is the accrediting board. It's not a federal board as stated in some of your flyers from the proponents of this bill. It's a board in Oregon that was set up by Bastyr College and National College of Osteopathic Medicine, those two colleges are on the west coast. They set up the board. They organized the board and started organizing it in 1980, and they went before the Secretary of Education and finally got recognized as an accrediting board. Any school or organization can go before the Secretary of Education to ask for accreditation.

On your desk there was a paper passed out from the National Council Against Health Fraud Incorporated. I just want to read a couple of excerpts from that. It's a lengthy article, but I did want to read a couple of things. "The most politically active of the organizations in naturopathic are the American Association of Naturopathic Physicians, which is made up primarily of graduates of Bastyr University and the National College of Naturopathic Medicine. A naturopathic degree program at Southwestern College in Scottsdale, Arizona may now also be included. Graduates of these schools control the Council of Naturopathic Medicine Education, that's the accrediting agency recognized by the U.S. Office of Education. The misguided reform effort has focused upon eliminating diploma mill degree holders from license and practice. To help accomplish this the Council of Naturopathic Medical Education was formed and eventually recognized by the U.S. Department of Education as an official accreditation agency for naturopathic training. On the surface such an effort seems legitimate, the problem is that the accredited naturopathic schools teach invalid medical practices." On the last page of this organization, the National Council Against Health Fraud that is a public organization, they include all kinds of papers that you can send for on naturopathy. You can also send for a description of naturopathy and a critical component on its validity as a health care system. It also explains why recognition of accredited agencies of the U.S. Department of Education for Health Care Training is meaningless from the point of scientific validity or jurisdiction. So, in other words I did call the U.S. Secretary of Education and asked her about the accrediting process, because they feel if they set a board up here that only those schools that are accredited through this agency will be allowed to be licensed in Maine. In talking with the U.S. Secretary of Education's office, they told me that there are 55 criterias for accreditation. Anybody can apply. They are all the same questions and if they are answered properly and they do the right things anybody can get accredited.

I also want to mention, because one of the comments on the papers that were passed out, I think it was passed out by Doctor Sarah Ackley, and it was on your desk yesterday, the American Naturopathic Association recognizes naturopathic doctors who have not completed doctoral education through a federally accredited postgraduate medical school. This is another organization of naturopaths. This school, and basically you got a letter also, or you should have received a letter from Central State College of Health Science in Ohio, a copy of the letter, this school is not approved, she says, to grant collegiate level degrees of any kind, much less doctoral level degrees. They have submitted an application seeking accreditation through the United States Department of

Education. Their application has been denied on numerous occasions for failure to meet even basic eligibility requirements. This school is a chartered school in the State of Ohio, and if you will note, I did, on the back of that letter, that should be passed around on your desks, although I haven't seen it yet, show you a page out of the charter where this is a chartered school and they do offer postgraduate and graduate degrees. So, basically this is mistruth, and I feel that a lot of the information that we got in committee was misinformation.

I also did call out to this college in Ohio and they said they have never applied to the State Department of Education for accreditation and that they are going to write Doctor Ackley to refute what she has said. They also said that they have applied to this organization, this CNME, the exclusive group that wants to be licensed and only license them in Maine, and that they have basically ignored their application, which amuses me that they say that they don't take anybody because they don't have a doctorate degree or they don't have a postgraduate degree offering them, and they certainly do, and then I got some information that they accepted, the same agency accepted an application from a school in Canada. I researched that a little bit and contacted the Minister of Education in Canada and he wrote a fax to me yesterday stating that this school that this supposedly elite accrediting program that takes no one other than these two schools on the west coast, they accepted an application with money from this school and this school. Let me just read an excerpt from this. This school is not even allowed to give out degrees by Canada. They have actually deregulated. They used to regulate naturopathy in Ontario, and they have deregulated it and the Regulated Health Care Profession Act of 1991, which basically has taken a lot of major health professionals and brought them under one consistent regulatory system and with that they took away the naturopath regulation. However, as the result of a vigorous pressure on the government the decision was made to maintain for naturopathy a regulatory system established by the Drugless Practitioners Act. Now I want to emphasize drugless as I talk further. Pending a review of the appropriate scope of practice for naturopathy, in January 1994 the Minister of Health referred this question to the Health Professional Regulatory Advisory Council and its report is still pending. This is as of yesterday. He said furthermore, as far as the Canadian College of Naturopathic Medicine, which this CNME recognizes, has no degree granting authority in Ontario, and is regulated, I mean of any regulation of degree granting. The Canadian College of Naturopathic Medicine is a private institution which does not have degree granting status, although it can grant certificates and diplomas. So, talk about calling the kettle black. I mean you have some misinformation on your table. We had misinformation in the committee.

Another thing that I want to mention, we have a sunrise law in this state where several questions have to be answered in order to do licensure. The naturopaths answered the question that they had a standard of practice. That is only a proposed standard of practice. There are no national standards of practice for naturopathy in this country. We need to have that before we go through this licensing process. There are many states now

that have licensed naturopaths that haven't even gotten through, or they have passed the legislation but they are still not licensed. For instance, New Hampshire passed legislation in June of 1994 to license naturopathic doctors. It is still tied up in rule making and a formulary in New Hampshire two years later. They are not licensed to this day and I just feel that this is sending Maine down the wrong road. We don't need to get caught up in these naturopathic debates that are going on around the country. Naturopathic doctors are disagreeing, naturopathic colleges are disagreeing, and they haven't gotten together and formed national standards for anybody to really license them fairly.

I have quite a bit of information here, I am sorry for any delay, I know it's late, but this is really important.

You know, another question that has been asked, and was asked in committee, I mean there has been a lot of opposition around in the past few days to this and I have gotten an awful lot of information from other people other than these 11 naturopathic doctors. The question was asked in committee why the opposition came so late. I just want to read to you a little excerpt as to why it came late probably. It's my feeling, and this is from the AANP, this is an organization that is supporting this legislation newsletter. It talks about state licensure efforts, and basically this is an excerpt, it says, "Due to our past experience when our political opposition has been forewarned of hearings and activities the State Affairs Committee has adopted the policy of keeping the specifics of the licensing activity confidential to those who are involved in the process." This is a quote from Bob Timberlake, who we saw many times before our committee and is their lobbyist. Then another excerpt from another newsletter, "Legislative efforts continue to progress in a number of states. The Naturopathic Physician, as a policy, does not report on details of legislation in progress in order to avoid revealing strategic information to political opponents of naturopathic profession." There again is Bob Timberlake. I thought we had an open process here in the Legislature and an open process in committee hearings, and I am really upset that someone would put that in their newsletter that they are going to keep information a secret because they are afraid of the people that are going to oppose them. All of these things I find very disheartening, but most disheartening of all is the bill itself.

If you look at the bill when you think that naturopathy is the use of natural to heal or to rebuild the body, this bill allows for prescriptive rights, and by the way, those of you who had the opportunity in the last session to work with the former Representative Joe Bruno, told me that the prescriptive rights in this bill are more liberal than any of the other states that have licensed naturopathic doctors, including the two states, Oregon and Washington, where these two schools are. They have a right to order ultrasound, x-rays, EKGs, do lab work, phlebotomy, speculum exams, psychological function checks, counseling, hypnotherapy, biofeedback, immunizations. This goes far beyond the order of the naturopathic doctor in my estimation. I mean if we are going to license naturopathic doctors let's license them to treat with natural occurring substances and not all of these modes of treatment that the conventional physician uses. I mean I just have the feeling that they want

to be medical doctors and they talk about they have eight years of school. Well, if you look at their catalog, this is the Bastyr catalog, it states that three years of college courses are a minimum for admission to the naturopathic medicine school, and then also they can take competency exams or they can challenge exams for courses and if they pass them they don't have to take them, and also, if you look at the catalog for the National College of Naturopathic Medicine, you will note when they did that information that 17 percent of those students have two years of college or less when they enter the program.

Another thing I want to mention about this National College of Naturopathic Medicine, they never even had a doctor degree, naturopathic doctor degree, doctoral degree, until 1990. If you look at their staff and their professors, of 56 of them 31 of them graduated from this naturopathic college. It's an incestuous type of situation. You look at some of the situations where they didn't have to have a doctorate degree until 1990, for instance there is this Judy Peabody, she is an instructor in clinical cases mind you, now this is the clinical part of their education. Her only education is she has a degree from this college in 1988, before they even had a doctoral degree. You go through the list of these professors, the Assistant Professor of Clinical Science Naturopathic Medicine, Clinical Physical Diagnosis, has a degree of dentistry from the University of Toronto and he has a naturopathic doctor degree from this same college that he is teaching at and it was in 1986 before there was a doctoral degree even in place. So I mean there has been so much misinformation here that I do not feel, I mean they can talk about their education all night, and I can give you information that will probably refute it. For those reasons, and for the fact that it is late and I'm tired, I could go on with student survey results and what the students feel, 63 percent of the students, this is a 1992 survey, are unhappy with the school, think it has major problems. We want to license people to be primary care providers in this state from schools like that? I think not. I'm proud to stand in opposition of this bill. Thank you.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: We took the original bill which came in during the first session of the 117th Legislature and we turned it into a resolve and referred it out to a committee, a task force that we created on the committee, made up of nine individuals, and they brought back to us a bill to license naturopaths. We took that bill, Representative Birney is absolutely correct, we did spend a lot of time on this bill. We did visit it many times. The final result was an eleven to one "Ought to Pass" as amended Report, which is the report that you have before you tonight. Mr. Speaker, I would ask for a division.

Representative ROWE of Portland requested a division on the motion to accept the Majority "Ought to Pass" as amended Report.

Representative STONE of Bangor moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I know it's late. I would ask you to

oppose the pending motion. Let me just say a couple of things about the bill, I won't be long. The bill does license the practice of naturopathic medicine in the State of Maine. It restricts the use of the term naturopathic doctor to licensees. It defines the scope of practice. It does include the right to use and order certain medicines and therapies. It does clear disclosure to each patient that is seeing a naturopathic doctor. We had some concerns on the committee, and I don't know if you do have the committee amendment, but if you do have it, it is filing number (H-860), in the rear of the amendment it has the sunrise questions. One of the questions is what is the nature of the potential harm to the public if this occupation is not regulated? The answer was the public is subject to harm from those who may represent themselves as naturopathic doctors who do not have the necessary education and the experience to recognize potential dangerous conditions requiring treatment or further diagnostic tests from a specialist. Another question was what is the extent which the public is guided in selecting competent practitioners? The answer was, currently the public has little guidance in determining credentials of naturopathic doctors in Maine. Men and Women of the House, what we are trying to do is to say that if individuals are going to be treated by naturopathic doctors they ought to understand who naturopathic doctors are, what their limitations are, and what their scope of practice is. They ought to understand the difference between naturopathic doctors and allopathic physicians and osteopathic physicians. That's the intent of the bill.

The bill prohibits many things. It prohibits the prescription of controlled substances. It prohibits the prescription of all noncontrolled drugs except those that are expressly approved by a subcommittee of the board consisting of a medical doctor or osteopathic physician, a pharmacist, and two naturopathic doctors. It excludes use of the term "physician." You cannot use the term "physician." It excludes obstetrics, which is childbirth. There is no naturopathic childbirth in this bill. Naturopathic doctors cannot claim to practice medicine, osteopathy, dentistry, podiatry, optometry, physical therapy, or other treatments that are not authorized under the bill. It does not prohibit individuals other than naturopathic doctors from using or recommending medicines and therapies, as long as the individual is not prohibited by law from doing so. That's very important.

Again, it was an eleven to one vote. We believe that licensing naturopathic doctors will help protect the citizens of the State of Maine. I feel strongly about that. I ask that you vote to oppose the pending motion to indefinitely postpone this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Men and Women of the House: I know you have listened to about all you want to hear on this subject tonight, but I do feel compelled to rise to agree with Representative Rowe, our House Chairman of that committee, who did everything that he could to get a unanimous report on this bill. Many of us sat through many, many hours of discussion. Other people just came in occasionally. I think for those people that talked with us, that worked with us, we do owe them the courtesy of considering the fact that this

committee voted, eleven to one, to support this bill. Thank you.

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

Representative BIRNEY: Mr. Speaker, Men and Women of the House: I don't know if you have gone through your amendments tonight, but if you look at those, there must be a little bit of dissension, even on those that voted "Ought to Pass" because you will note if this bill passes there are amendments on the desks to add to the 24 we already did in committee.

Another thing, Representative Rowe brought up that it's illegal for them to call themselves physicians in this state. That's a law that has been on the books. It's not just new with this bill. To call yourself a physician in this state you have to have graduated from a medical school and have an M.D. or a D.O. You will note on Doctor Sarah Ackley's letter, she still mentions that if you have any questions please contact the President of the Maine Association of Naturopathic Physicians. I confronted them in committee about so using the word "physicians" and they continued to do it. I asked them about when they ordered an EKG, what were they going to do? Well, they would properly refer. Well, when they give me this nice information how can I trust that they will properly refer? Naturopathic doctors, to define them, I will tell you folks, there's a lot of them in the country that have as much education as these eleven doctors that want licensing, but they didn't go to the right school. So, we are eliminating those doctors. If we are going to license naturopathic doctors let's be fair about the licensing. Accreditation does not develop standards. Anybody can buy accreditation.

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

Representative DAVIDSON: Mr. Speaker, Men and Women of the House: I'm going to be exceptionally brief on this. There has been a full year of major, major discussions on this bill, one year. If I can ask one thing of you, it's to have some faith in not just the committee process, but the task force process. I'm sitting here listening to these things that we have been hashing out for a year, things like the prescriptive authority. The prescriptive authority went out to this task force and came back with a unanimous language vote out of that task force, unanimous language. The only thing I have to say about that is that the language that was put forth for the prescriptive authority, which sounds to me like the most contentious argument here on an eleven-to-one report, that language was put forth by the President of the Maine Medical Association. There's a lot of misinformation. I agree with my friend from Paris, Representative Birney, there's a lot of misinformation and it's not one-sided. These things are turf battles. We have been through them before. All I'm asking you is that you have members from both parties, people from all political persuasions who have agreed that it is a good idea to license these folks. There has been a ton of give-and-take, both sides have put in a lot of effort. It is absolutely ridiculous that this bill is being indefinitely postponed possibly, that there are people who are affecting this bill that haven't attended one work session, one task force hearing, not offered one piece of input during this whole process. I'm just a little frustrated because I

think this is a really good bill. I think it's a good thing for the people of Maine, I think it's a good thing of the health care of the people of Maine. People are going to be safer because this bill goes through. Thank you.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: First of all, we don't have a quorum during this debate, and it's late, so I doubt anybody is really listening.

The SPEAKER: The Representative may proceed if she so chooses, or the Chair will be happy to recognize another Representative.

Representative LUMBRA: Excuse me?

The SPEAKER: Does the Representative wish to debate the issue before us?

Representative LUMBRA: Yes. Thank you. I won't check on the previous statement because everybody is tired, but I know that committee members that have been on the Majority Report have told me that they have changed their mind, but they are not here to tell you that. I also know that the MMA does not support this bill. I also think it is an elitist bill because it only singles out two colleges and they are not the only two that are accredited. It has a lot of opposition and I would ask you to support Representative Stone's motion. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Very briefly, what this bill singles out are colleges that grant mail-order degrees. What this bill singles out are people who have not had adequate education and training. This bill is identifying people who are qualified and trained to practice naturopathy in this state. There have been hundreds and hundreds of hours of committee work put into this bill. We have come up with a very limited scope of practice, one that everyone has agreed to, and I urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Birney. 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 BIRNEY: Mr. Speaker, Men and Women of the House: I would not want to have a naturopathic doctor in this state with a mail-order degree. We could have put that in legislation. We did not have to just allow these two colleges and students graduating from these two colleges to be the only naturopathic physicians, doctors, in this state. Those two colleges, you can take a competency exam, or challenge any exam for any course. What is the difference? I mean if you go in and want to challenge an exam it cost you half of your course money. If you don't pass the exam, that money is credited toward taking the course. What have you got to lose to challenge an exam, or do a competency exam? If you go through, if anybody takes the time to look at these catalogs from these colleges, and see the people that are teaching them. I have a student survey here who time and time over, this was in 1992, the student said that the educators were not qualified to be teaching them, no academic standards. I can just stand here and tell you all kinds of complaints of the students in 1992, after

this college cleaned up its act. In the 1980s there were people on the staff, the President of the College, serving time in prison for selling drugs, the death of a patient, illegal abortions. I mean who's calling the kettle black here? A lot of these professors graduated from the school during those 70s and 80s, when it wasn't a doctoral school.

As far as the prescriptions, as long as I've got the floor for another minute, the prescriptive authority could go as far as to include things like Prozac, antidepressants. Like I say, the New Hampshire Legislature put this in statute in 1994 and they have yet to develop the rules of the formulary so that these people can be licensed because there is so much debate and so much appeal going on. I guarantee we would spend a ton of time on this, but you will be back here next year spending time on it with a repeal bill.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I have been somewhat confused in the course of the debate, and I have a couple of questions that I would like to pose. It seems to me that there is a lot of concern about the level of training that people would receive and at the same time there is also concern about limiting the number of people who can use the title to people who have graduated from schools that are, in fact, accredited by the federal Department of Education. Those two things, to me, seem very confusing. It seems to me that if we don't pass this legislation then someone with an eighth grade education, or less, could in fact call themselves a naturopath and could practice under that title. That, to me, seems like it is much more of a risk than to put in place something that does have standards and depends on the federal Department of Education accreditation process. Whether we think that is the correct process or not, it's the process that every other medical school goes through, or any other type of school for that matter. I worked on some chiropractic issues years ago and dealt with that as well. I guess my question is, if we don't pass this bill, is it true that a person with an eighth grade education could in fact call themselves a naturopath, put out a shingle and have that service available to the public?

The SPEAKER: The Representative from Wiscasset, Representative Kilkelly has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Men and Women of the House: In response to the Representative from Wiscasset's question, I believe the answer is yes. I believe there is no legal prohibition from anyone at this point in time calling themselves a naturopath, a naturopathic doctor. I believe there is a restriction on the use of the term "physician" in the State of Maine.

I also wanted to answer Representative Kilkelly's questions about the qualifications for licensure regarding the schools, and to clarify something that Representative Birney said. In order to be licensed you must be a graduate of an approved naturopathic medical college and pass, or have passed, a competency based examination approved by the board covering the appropriate naturopathic subjects, including basic and clinical sciences. An approved

naturopathic college is one that is accredited or recognized by the federal government accrediting agency, which is the U.S. Department of Education. Presently there are three colleges, naturopathic medical colleges that have been approved by the U.S. Department of Education. Certainly others can apply and can be approved. I wanted to clear up one thing, in addition to being a graduate from one of these approved colleges, you also must pass a competency based examination, which is approved by the board. I think what we are trying to do, I know what we are trying to do, or at least what I am trying to do, is to protect healthcare consumers.

Many folks that are fairly unsophisticated go to naturopaths and sometimes don't understand that they are not osteopaths or allopathic physicians. They may take home something that is a naturopathic drug and not really understand the limitations this individual had with respect to their prescription privileges and their abilities. What we are trying to do is to make sure that folks that are calling themselves naturopathic doctors, that have met minimum competency requirements and are indeed competent to do what it is that we are allowing them to do. We also are notifying consumers in Maine that if you go to a naturopathic doctor here is their scope of practice so you're not fooled, so you know who is treating you, you understand their limitations, their capabilities and their competency. That's what we are trying to do with this bill. I'm not trying to help eleven people out. I'm trying to help 1.2 million people out here with this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Birney. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection?

Representative RICHARD of Madison objected to suspension of the rules.

The Chair ordered a division on Indefinite Postponement of the Bill and Accompanying Papers.

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

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

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

The pending question before the House is indefinite postponement of the Bill and Accompanying Papers. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 346

YEA - Ault, Bailey, Barth, Birney, Clukey, Cross, Damren, Gooley, Guerrette, Joy, Labrecque, Lane, Layton, Libby JD; Lumbra, McElroy, Nass, Ott, Pendleton, Pinkham, Saxl, J.; Stedman, Stone, True, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Aikman, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gould, Green,

Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lemont, Lindahl, Look, Lovett, Madore, Marshall, Marvin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Peavey, Perkins, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Rice, Richard, Richardson, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Strout, Taylor, Thompson, Townsend, Treat, Tripp, Tufts, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

ABSENT - Campbell, Cloutier, Daggett, Dexter, Dore, Dunn, Greenlaw, Lemke, Libby JL; Luther, Martin, Nickerson, Reed, W.; Ricker, Truman, Tuttle.

Yes, 29; No, 106; Absent, 16; Excused, 0.

29 having voted in the affirmative and 106 voted in the negative, with 16 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Representative WATERHOUSE of Bridgton moved that the Bill be tabled one day.

Representative THOMPSON of Naples requested a division on the motion to table one day.

The Chair ordered a division on the motion to table one day. A vote of the House was taken. 30 voted in favor of the same and 86 against, subsequently, the motion to table failed.

The Majority "Ought to Pass" as amended Report was accepted. The Bill read once. Committee Amendment "A" (H-860) was read by the Clerk.

Representative CAMERON of Rumford presented House Amendment "A" (H-880) to Committee Amendment "A" (H-860) which was read by the Clerk.

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

Representative CAMERON: Mr. Speaker, Men and Women of the House: You will be very pleased to hear this will be the shortest speech I probably have ever made. I was on the majority side of this bill on the eleven to one, and in principle I think I still support it, and I accept the argument about people practicing with no kind of licensing at all, but the more I heard about it, the more we talked about it, the less comfortable I became. I became especially uncomfortable around the prescriptive authority. As I talked to friends of mine that are in the pharmacology business I became more uncomfortable. I offer the amendment. I urge your support of the amendment which will, in effect, take the prescriptive authority out of the bill. It still would allow licensing and I would appreciate your support. Thank you.

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

Representative DAVIDSON: Mr. Speaker, Men and Women of the House: I'm going to try and beat my friend from Rumford on the time. This is the prescriptive authority which I mentioned earlier in the debate. This was the result of the task force's long work, hard work. This came out of the task force made up of medical doctors, osteopaths and naturopathic doctors who know a lot more about this stuff than I do. It was a seven-to-nothing recommendation from the task force, with two abstentions from the osteopaths who eventually came on board afterwards. So, since they know what we are

talking about I know we are all going to do the right things. Thank you.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I just want to say that we did make a change in this because I did have a concern that the Representative from Rumford brought up, and it was about how we deal with prescriptive authority. What we have done is naturopathic doctors cannot prescribe controlled drugs. These are drugs that are listed as controlled substances under federal law. What they can do, if the subcommittee of the board agrees through rule making, then they would be able to prescribe certain limited noncontrolled legend drugs. The group that will make this decision will be an osteopathic or allopathic physician, a pharmacist and two naturopathic doctors. So, the osteopathic and allopathic physician, and the pharmacist, could obviously block anything. There is also public rule making involved.

Again, I would emphasize these are only noncontrolled legend drugs. When I say only, I know this is a broad spectrum. The schools that you have heard about, the accredited schools, all of them have major courses in pharmacology. Naturopathic doctors receive a minimum of 72 classroom hours. The exam that will be given will be a clinical exam, as well as a competency based exam. So, I guess I don't have the concern that my friend from Rumford has. I have faith in these professionals, through public rule making, determining what is within the ability and the competency of naturopathic doctors to prescribe. Because I feel strongly about this, I would move for indefinite postponement of this amendment and request a division.

Representative ROWE of Portland moved that House Amendment "A" (H-880) to Committee Amendment "A" (H-860) be indefinitely postponed.

The same Representative requested a division on adoption of House Amendment "A" (H-880) to Committee Amendment "A" (H-860).

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: Just a couple of things I wanted to add. My good friend from Brunswick pointed out that this prescriptive authority came from the study this summer and he is exactly right, but, people with pharmacology backgrounds were conspicuously absent from that committee. There were no pharmacists on that committee. That is one of the things that makes me uncomfortable. My friend from Portland is right, we did go back and look at the prescriptive authority. We did make changes, but the people that I have talked to subsequent to that change still have a high level of discomfort, and as a result I now have a high level of discomfort and I ask you to defeat the pending motion.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I apologize, again, the Representative from Rumford, when he says there were no individuals with a pharmacology background, I just want to point out that there was a medical doctor, who was a member of the Maine Medical Association. There was a doctor of osteopathy. There was the Director of the Bureau of Health for the State of Maine. These individuals

were on the task force. I just wanted you to know that. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for interjecting myself into something that's in another committee, but I just have a question, having listened in the other room to the discussion about the prescriptive authority and where that will come from. Will it be possible for them to prescribe psychotropic medications? Can somebody answer that?

The SPEAKER: The Representative from Auburn, Representative Dore has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The answer is no.

The Chair ordered a division on adoption of House Amendment "A" (H-880) to Committee Amendment "A" (H-860).

Representative CAMERON of Rumford requested a roll call on adoption of House Amendment "A" (H-880) to Committee Amendment "A" (H-860).

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

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

The pending question before the House is indefinite postponement of House Amendment "A" (H-880) to Committee Amendment "A" (H-860). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 347

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Buck, Carleton, Chartrand, Chase, Chizmar, Clark, Davidson, Desmond, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hartnett, Hatch, Heeschen, Heino, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lindahl, Marvin, Mayo, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Peavey, Perkins, Poirier, Poulin, Pouliot, Rice, Richard, Richardson, Rosebush, Rowe, Samson, Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tufts, Tyler, Volenik, Watson, Wheeler, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Cameron, Carr, Chick, Clukey, Cross, Damren, DiPietro, Donnelly, Dore, Driscoll, Farnum, Fisher, Gieringer, Gooley, Guerrette, Joy, Joyce, Joyner, Keane, Labrecque, Lane, Layton, Lemont, Libby JD; Look, Lovett, Lumbra, Madore, Marshall, McAlevy, McElroy, Meres, Murphy, Nass, Ott, Pendleton, Pinkham, Plowman, Povich, Reed, G.; Robichaud, Savage, Saxl, J.; Saxl, M.; Simoneau, Stedman, Stone, Taylor, True, Underwood, Vigue, Waterhouse, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Bunker, Campbell, Cloutier, Daggett, Dexter, Dunn, Greenlaw, Hichborn, Kerr, Lemke, Libby JL; Luther, Martin, Nickerson, Reed, W.; Ricker, Truman, Tuttle.

Yes, 71; No, 62; Absent, 18; Excused, 0.

71 having voted in the affirmative and 62 voted in the negative, with 18 being absent, House Amendment "A" (H-880) to Committee Amendment "A" (H-860) was indefinitely postponed.

Subsequently, Committee Amendment "A" (H-860) was adopted.

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

Representative LIBBY of Buxton presented House Amendment "A" (H-878) which was read by the Clerk.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: The first go round I voted for L.D. 1852 for many of the reasons that Representative Rowe gave, but my amendment has been brought to you because of part of this bill that was brought to my attention. I investigated it and I got to tell you I was pretty disappointed in it and it caused me to change my vote this last time around and vote against the bill. It kind of falls under the "give an inch take a mile" category and it regards scope of practice. What this amendment does is strikes out, under scope of practice, counseling, hypnotherapy, and biofeedback. In other words, those three areas would not fall under the scope of practice of a naturopath. The reason that I am presenting this amendment today is because these are areas, especially counseling, where trained psychologists and trained psychiatrists with PhDs, who have received years and years of training, they are qualified to do this, particularly counseling, but I can't say that about the naturopaths. I cannot say that they have not received nearly this level of training, so I think my amendment makes the bill stronger. So you ask, "What do you know about it?" That's a fair question. Right here on my desk, and I will let anybody look at it that wants to, I have a transcript of a graduate from the National College of Naturopathic Medicine, a transcript, and I have gone over it and over it and over this transcript. As an educator I have had the good fortune of looking at thousands of transcripts over the years. This isn't exactly my field, I admit, but I have talked to people in the field, and I have got one thing to say particularly regarding counseling. There are only three academic credits for counseling on this entire transcript. If you are going to allow counseling, as well as these two other areas, hypnotherapy and biofeedback, which again I have talked to professionals in the field of psychology and psychiatry, and they say this is our turf. It is a turf war, you are right. But that is their turf. It's legitimate. If you are going to vote for something that has three credits of training then I say go ahead, go ahead and vote for it, but I'm not going to vote for that. It just doesn't seem right. If anyone has additional information on transcripts that I don't understand I would be glad to hear it. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I will be brief, hopefully this will be over with very soon. I move indefinite postponement of this amendment. While hypnotherapy and biofeedback may be the turf of psychologists, it's also the turf of anyone in this House. It's not regulated. Anyone can do it. So, a naturopathy can

do it as well as anyone else. Counseling includes nutritional counseling. It includes talking about someone's records. The task force specifically looked at this and decided to keep it in because all health professions use some form of counseling. I believe there really is no need for this amendment and I urge your support for the pending motion. Thank you.

Representative MITCHELL of Portland moved that House Amendment "A" (H-878) be indefinitely postponed.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: Counseling, in its broad definition, includes psychological counseling. Now if you are going to leave a door wide open that you can drive a truck through, you go ahead and do that right here, but I'm telling you it's just not the right thing to do. We've got professionals, and their profession is at stake, and it's just not correct to allow naturopaths to practice something that requires more extensive training than this. Thank you.

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

Representative DAVIDSON: Mr. Speaker, Men and Women of the House: Just to follow up with something that Representative Mitchell said, and react to something that Representative Libby said, if this bill were licensing naturopathic doctors to become psychologists this would be about psychological counseling. As Representative Mitchell said, I could say to you right now, go home and get a good night's sleep. Consider yourself counseled.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "A" (H-878).

A vote of the House was taken. 83 voted in favor of the same and 26 against, subsequently, House Amendment "A" (H-878) was indefinitely postponed.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-860) and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith with the exception of those matters having been held.

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

SENATE PAPERS

Divided Report

Majority Report of the Committee on Utilities and Energy reporting "Ought to Pass" pursuant to Public Law 1993, chapter 566, section 10 on Bill "An Act to Amend the Laws Concerning Enhanced 9-1-1" (S.P. 766) (L.D. 1877)

Signed:

Senator:

Representatives:

CARPENTER of York

KONTOS of Windham

ADAMS of Portland

TAYLOR of Cumberland

GIERINGER of Portland

O'NEAL of Limestone

LUTHER of Mexico

HEESCHEN of Wilton

Minority Report of the same Committee reporting "Ought Not to Pass" pursuant to Public Law 1993, chapter 566, section 10 on same Bill.

Signed:
Senators: HARRIMAN of Cumberland
CLEVELAND of Androscoggin
Representatives: MARSHALL of Eliot
STONE of Bangor
CAMERON of Rumford

Came from the Senate with the Majority **"Ought to Pass"** pursuant to Public Law Report read and accepted and the Bill passed to be engrossed.

Representative KONTOS of Windham moved that the House accept the Majority **"Ought to Pass"** pursuant to Public Law Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought to Pass"** pursuant to Public Law Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Promote Additional Health Insurance Reform" (H.P. 1074) (L.D. 1513) on which the Majority **"Ought Not to Pass"** Report of the Committee on Banking and Insurance was read and accepted in the House on March 25, 1996.

Came from the Senate with the Minority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-820) as amended by Senate Amendment "A" (S-526) thereto in non-concurrence.

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

ENACTORS
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Construct Water Pollution Control Facilities and to Address Environmental Health Deficiencies in Drinking Water Supplies (S.P. 741) (L.D. 1849) (Governor's Bill) (C. "A" S-522)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 101 voted in favor of the same and 3 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Remove Statutory References to the Maine Waste Management Agency (H.P. 1343) (L.D. 1838) (C. "A" H-853)

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

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

On motion of Representative MARTIN of Eagle Lake the House adjourned at 10:50 p.m. until 10:00 a.m., Friday, March 29, 1996.