

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
37th Legislative Day
Tuesday, April 2, 1996

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

Prayer by Honorable William Garfield Guerrette, Jr., Pittston.

Physician for the day, Ardis Conner, D.O., Yarmouth.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 410)

Maine State Senate
State House Station 3
Augusta, Maine 04333

April 1, 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 Accepted the Minority OUGHT NOT TO PASS Report on Bill "An Act to Prohibit the Photographing or Videotaping of Jury Deliberations" (H.P. 1360) (L.D. 1868).

Sincerely,
S/May M. Ross
Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 411)

Maine State Senate
State House Station 3
Augusta, Maine 04333

April 1, 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 Bill "An Act to Amend the Election Laws" (H.P. 1203) (L.D. 1653).

Sincerely,
S/May M. Ross
Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 412)

Maine State Senate
State House Station 3
Augusta, Maine 04333

April 1, 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 again Adhered to its former action on Bill "An Act to Expedite the Decision-making Process for Disability

Retirement under the Maine State Retirement System" (H.P. 1238) (L.D. 1698).

Sincerely,
S/May M. Ross
Secretary of the Senate

Was read and ordered placed on file.

ORDERS

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 53)

ORDERED, that Representative Ralph T. Carr of Hermon be excused April 2 and 3 for health reasons.

AND BE IT FURTHER ORDERED, that Representative David R. Madore of Augusta be excused January 27 for health reasons.

AND BE IT FURTHER ORDERED, that Representative John L. Martin of Eagle Lake be excused March 29 and 30 for personal reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Anthony Joseph Zulieve, of China, who received his M.A. from Johns Hopkins School of Advanced International Studies in Washington, D. C. He served in the South Pacific in the United States Navy in World War II and later worked for the United States Army Historical Division, helping to compile a history of the war. He transferred to the Defense Intelligence Agency where he became a senior civilian analyst at the Pentagon and Arlington Hall Station. He will be greatly missed by his family and friends; (HLS 1105) by Representative CHASE of China. (Cosponsor: Senator BUSTIN of Kennebec)

On objection of Representative CHASE of China was removed from the Special Sentiment Calendar.

Was read.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I stand in memory of and out of respect for my neighbor, constituent, and wonderful friend Tony Zulieve. When I say wonderful friend, I did not know Tony for many years, but he was an extraordinary man and a real character, among other things he was a Democrat in China, which is pretty extraordinary by itself. It's not quite like a fish out of water, but it's a fish in very little water. Early on, after having met Tony, I was speaking with him in his home and he mentioned to me that he and his wife Virginia had a very devoted marriage and one of the things that he was proudest of was that they shared neither religion, politics, nor national origin. Virginia and her son are in the gallery today and I would like to recognize them both. Thank you.

The Sentiment was adopted and sent up for concurrence.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Create the Maine Health Care Reform Act of 1996" (S.P. 769) (L.D. 1882) (S. "A" S-553 and S. "C" S-561)

Was reported by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative DORE of Auburn, tabled pending passage to be engrossed as amended in concurrence and later today assigned.

ENACTORS Bond Issue

An Act to Authorize a Bond Issue to Encourage and Support Economic Development (H.P. 1330) (L.D. 1822) (Governor's Bill) (C. "A" H-834)

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.

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$16,500,000 to Investigate, Abate and Clean Up Hazardous Substance Discharges, to Clean Up Tire Stockpiles and to Close and Clean up Municipal Solid Waste Landfills (H.P. 1371) (L.D. 1879) (Governor's Bill) (C. "A" H-908)

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

Emergency Measure

An Act to Establish the Maine Health Data Organization (H.P. 1307) (L.D. 1788) (C. "A" H-909)

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

Emergency Measure

An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine and to Amend the Maine Seed Capital Tax Credit Program (S.P. 734) (L.D. 1843) (Governor's Bill) (C. "A" S-542)

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 the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine (H.P. 1351) (L.D. 1852) (S. "B" S-554 to C. "A" H-860)

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.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has 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:

Expression of Legislative Sentiment recognizing the St. Dominic Regional High School 1996 "We the People" team (HLS 1051)

TABLED - March 26, 1996 by Representative MITCHELL of Vassalboro.

PENDING - Passage.

Was read and passed and sent up for concurrence.

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

ORDERS

On motion of Representative HATCH of Skowhegan, the following Joint Order (H.P. 1385)

ORDERED, the Senate concurring, that Bill, "An Act to Expedite the Decision-making Process for Disability Retirement under the Maine State Retirement System," H.P. 1238, L.D. 1698, and all its accompanying papers, be recalled from the legislative files to the House.

Was read.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: This is the bill that we voted on yesterday and sent over. At that time there were two amendments placed on it. There was one that was a technical amendment that would have taken care of some of the changes that had to be done to the bill itself that didn't make it through the Revisor's Office. The other one was an amendment that was put on by the Representative from Bath, Representative Mayo, in regards to a gentleman who was cut on his disability down to \$24.95 I believe it was. Although that passed this House, the other body refused passage. On sending it back over with the amendment I placed on, the technical amendment, the bill was lost. I realized at the time that it was a unanimous Committee report, and I should have taken the first amendment off and I didn't. Anyway, this bill is very important, not only to the Retirement System, but to disabled people out there, some of whom are waiting a year or more to get their disability. The problem being that the Retirement System does not have right now a program in place to speed up the services there. We have been working with the Retirement System, trying to get this process going in a more timely fashion, and we have set up a Committee through this bill, to work with them. They are totally in favor of it.

I would ask that you would vote for passage of this. I have talked to members of the other body and have been assured that they also will pass this with just the technical amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the motion of the good Representative from Skowhegan, and am perfectly comfortable with my amendment being

removed when the papers return to this body. Thank you.

A vote of the House was taken, a two-thirds vote being necessary, 103 voted in favor of the same and 2 against, subsequently, the Joint Order (H.P. 1385) was passed in concurrence.

ENACTORS Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 for Major Improvements at State Park and Historic Site Facilities (S.P. 740) (L.D. 1848) (Governor's Bill) (C. "B" S-568)

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

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

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

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

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

ROLL CALL NO. 370

YEA - Adams, Ahearne, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Buck, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, S.; Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Peavey, Pendleton, Perkins, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Ricker, Robichaud, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stone, Taylor, Thompson, Townsend, Treat, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winsor, The Speaker.

NAY - Greenlaw, Joy, Layton, Nass, Nickerson, Pinkham, Stedman.

ABSENT - Aikman, Birney, Bouffard, Brennan, Campbell, Carr, Cloutier, Dunn, Jones, K.; Joseph, Lane, Lemke, Lumbr, Martin, Ott, Plowman, Richardson, Rosebush, Stevens, Strout, Tripp, Truman, Underwood, Winn.

Yes, 120; No, 7; Absent, 24; Excused, 0.

120 having voted in the affirmative and 7 voted in the negative, with 24 being absent, in accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation (H.P. 1291) (L.D. 1773) (S. "A" S-566 to C. "A" H-906)

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. 121 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.

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

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

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

UNFINISHED BUSINESS

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

JOINT RESOLUTION EXPRESSING THE SENTIMENT OF THE LEGISLATURE IN OPPOSITION TO THE INITIATED BILL PROPOSING A BAN ON CLEAR-CUTTING (H.P. 1384)

TABLED - April 1, 1996 (Till Later Today) by Representative BARTH of Bethel.

PENDING - Adoption.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I just want to apologize, I know there were many of you who either wanted to sign onto the Resolution or would have, given the chance, but in the expediency of trying to get it on the calendar I was not able to get to everyone. For that I apologize. I don't plan to debate this, I think the issue is very clear. I think we are all familiar with it. Both sides have been portrayed across our desks in information and in the papers, so hopefully this won't take but a minute. I think Representative Hichborn expressed the sentiment of a majority of the House. Thank you very much.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: Whatever one's opinion may be privately about the clearcutting referendum set for the ballot this fall of 1996, whatever one's opinion may be privately about the Forest Practices Act of 1989 and its consequences, and whatever one's opinion may be of any proposition posed by any member of this body, whether it is a member of the party to which you yourself may belong or not, and remember there are three parties presently in this House, and perhaps four if not five out in the public at large, I think in respect for the differences of opinion that you and I live with inside these four walls, and live with in the general public, should require that we give a little pause at this moment. I think we should take pause out of respect at least for the thousands, for the tens of thousands, for the scores

of thousands, of Mainers who signed petitions to place this question on the ballot. I take that pause, not because I take a position regarding the question, but because I think we should pause out of respect for their wishes, for the opportunity to vote on the question which they themselves put before themselves by signing those petitions. Men and women of the House, you and I are lucky. There are only 186 of us in the entire State of Maine who, by the Constitution, have a chance to vote twice upon this issue. First, as legislators, we are given by the Constitution the opportunity to exercise one of those rights, which we did, the right of sending it out to the voters, when we could have voted to pass it directly, exactly as written, here. We will also have a second chance to cast a vote on it as citizens this fall back home. Now, if we are to vote on this measure now, I doubt that the vote will be unanimous, just as I doubt the vote back home will be unanimous either way. But, that vote this fall, whatever the outcome, will result from an informed public educated, we must hope, by an active and earnest and full and fair public debate. A debate which we will not have here. Since we have already given our opinion here, men and women of the House, once, because we sent it out to the voters, I think we can further give the public our individual opinions this fall during the election process. If, indeed, we are any kind of community leaders, as I presume most of us hope in our hearts that we are, then that opinion is going to mean something. But I believe it is not our proper place to be using Resolutions like this to further express legislative opinion on behalf of the entire Legislature, which it will not be, and in our capacity as representatives of all the people of the state, whose unanimous will we are not going to be expressing. If we had wanted to express our opinion in an exact way, the Constitution presents us that opportunity. We could have sent out a competing measure with our statement to the voters. It is in the Constitution, printed in the small books we keep, each one of us, in our desks. We chose not to do that. We did not pass legislative resolves on any of the other issues on the ballot before us this fall. We did not pass legislative resolves giving our opinion about the actions by the voters on any of the questions that appeared upon the ballot last fall. We choose to do it for this issue, ladies and gentlemen, I would presume there is plenty of time remaining while we are here to be faced with a similar statement offered by some member of this body on every question on the ballot that will be presented to the voters this fall. Perhaps even sentiments reflecting our opinion about things that the voters did last fall. Think about it. Ladies and gentlemen of the House, it seems to me that when issues come to public debate, as legislators, we can gain more than listening now and thinking carefully later than this resolution gives us the opportunity to do. If full, fair, clear and active public debate is what we hope we achieve on this floor, and will be achieved by the process this fall, then I think we will be well served if such people as my good friend, Representative Clyde Hichborn, rises at home to speak to his people a second time, as he has already risen and spoken here and voted here. Representative Hichborn speaks with the accumulation of the wisdom of years and spoke well. None of us who heard him could fail to acknowledge that. Should our former colleague, Representative Mariah Holt of Bath, have

been present, who happens to take a contrary position, she too would have spoken well in this Chamber, and her position too would have been wise with the accumulation of thinking and of years.

If the discussion this fall is going to be upon that level, and I hope it will, we will learn much and we will benefit greatly. But mere resolutions passed here to further expand upon the position we have already taken, I think, are unnecessary. I call them into constitutional question because I believe, in fact, we had that opportunity before and passed it up. For that reason, Mr. Chairman, because I have addressed the issue now and cannot make the motion under our own rules of procedure, I would request that some other member of this body again rise and table this item until later in today's session. Thank you.

On motion of Representative MERES of Norridgewock, tabled pending adoption and later today assigned.

On motion of Representative WHITCOMB of Waldo, the House recessed until 11:00 a.m.

(After Recess)

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

SENATE DIVIDED REPORT - Majority (9) **"Ought to Pass"** as amended by Committee Amendment "A" (S-451) - Minority (2) **"Ought to Pass"** as amended by Committee Amendment "B" (S-452) - Committee on Business and Economic Development on Bill "An Act to Amend the Membership of Certain Boards and Commissions" (S.P. 640) (L.D. 1675)

- In Senate, Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-451)

TABLED - March 26, 1996 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative DAVIDSON of Brunswick to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (S-451) Report.

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

The Bill was read once.

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

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

Representative GWADOSKY of Fairfield presented House Amendment "B" (H-898) to Committee Amendment "A" (S-451) which was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I always forget how good it feels to be in this corner, but not that good. The bill before us, L.D. 1675, is an act, as you can clearly see, to amend the membership of various boards and commissions. The bill, in its original form, deals with authorizing certain commissions of State agencies, most specifically Labor, Defense, Economic and Community Development, Professional Regulation and Education, to appoint designees to represent them on various boards. This specific amendment deals with a specific board, that board being the Vocational Technical College Board. The current board is composed of 16 members, 12 members are from the field of business and industry, labor, education and the general public, 7 members represent business and industry, 1 represents labor, 2 represent education, 1 member of the general public, there is the Commissioner of Education, the Commissioner of Economic and Community Development, and the Commissioner of Labor, as well as a student. The current makeup was a result of some political compromise when the Board of Trustees was originally created. Those of you who served in the mid 1980's know that there was a tremendous drive by many legislators to try to create a separate and autonomous board of trustees for the vocational technical institutes at that time, because we felt that they were really the wave of the future, and that they deserved to have their own governing board. In fact, the word that was often suggested was that at that time the technical institutes, they were called technical institutes, but really they were step-children of the State Board of Education and the Department of Education because they really didn't get the focus that they needed. They needed their own energy. They needed their own governing board and they needed their own vision. It's an issue that we have talked about a lot in the last couple of weeks. Representative Richard was a member of the State Board of Education at the time and vividly remembers, as do many of you, the discussion and how difficult it was with the administration at that time to break away from the State Board of Education, to give this particular group its own working entity, to create the governance and vision that it needed to be successful, to do the many things we wanted the technical colleges to do. So, we created a new board, the makeup was kind of an alphabet soup of compromise. We put the Commissioner of Education on, we put the Commissioner of Economic and Community Development on, and we put the Commissioner of Labor on. It was really a political compromise to ease the transition into this system becoming a true system that could lead and have a vision for technical education in the State of Maine.

Unfortunately, over the last couple of years, the attendance of the Commissioners has been less than ideal. Since the Commissioners were sworn in with this new administration, two Commissioners have attended only one meeting of all the meetings, and one Commissioner has attended zero meetings. You and I would probably agree that the Vocational Technical Institute Board is a pretty important board, and I'm not suggesting that these people have no interest in this board, because I believe that they do. But, I believe that they are also very busy. We heard in some of our informal groups that some of these people serve on as many as 40 or 50 boards, and it is very difficult for them to take the time to be able to

make every single board meeting. The reality is that two have attended one meeting and one has attended zero meetings. That's far different compared to some of the attendance of even a prior Commissioner of Labor, John Fitzsimmons, whose attendance was far greater, the now President of the Technical College System. He saw that as an important aspect of his job and made the time necessary to be there. As a result of a poor attendance record on several occasions there were no quorums. They couldn't take any official action. They haven't been able to participate in the retreats and develop the policy necessary for the board in and of itself. It has come to the point now where, I think in fact, we have reached that period of transition where the board can legitimately work best with its own governing body and be a little bit more autonomous from, perhaps, the administration than it is prior to this point.

What this amendment would do would retain the Commissioner of Education as a voting member on the Board of Trustees for the Vocational Technical College, and that would be very similar to how we treat the University System, but it would take the Commissioner of Labor and the Commissioner of Economic and Community Development, and make them ex officio nonvoting members. So it would still allow for the transfer of information for connection. It would allow them to be involved to the extent that they would be involved in, but it wouldn't allow an unusual amount of steering, or an unusual amount of influence, perhaps, from some future administration. Certainly not this administration, but some future administration. What we are really trying to say is this system is on its way now. They have a President that is widely recognized in the country for his vision. They have created their own governing body. They are way ahead, from many of our perspectives, they are way ahead of where we would like our university systems to be and our other forms of higher education, not that we are saying one is better than the other. I think they deserve no less than what we have given the University of Maine. This sets up their board very similar to that because it retains the Commissioner of Education as a voting member, but simply says, in this amended version, that the Commissioner of Labor and the Commissioner of Economic Development will be nonvoting members, but be members in an ex officio capacity. It's a modest change that I think can mean a great deal for the strength of the technical college system. I heard from the Chair who is very supportive of this change. I received correspondence from the faculty, who are also very supportive of this change. I think it's one of the little things that we can do this session that will mean a lot for this system that we all support so strongly, and I would urge your adoption of this amendment. Thank you.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: As a product of the Technical College System, as a member of the Advisory Committee of Eastern Maine Tech, and as a past member of the Technical System Board of Trustees, I have been involved with this process since 1972, and find that this amendment, after serving on the board, is long overdue. The Commissioners, I think, as the good Speaker Gwadosky has mentioned, was important to the process early on, but now the system and the board has come of age and I think it's time that they work

on their own. I think the Commissioners have been valuable, and I think now is the time to remove the Commissioners. If the Commissioners are necessary, if the interaction between these departments are necessary, it's important that they come on an as needed basis, or a special project basis, but now is the time to remove these members and we hope that you will all vote in favor of this amendment.

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

Representative JOY: Mr. Speaker, May I pose a question through the Chair? The SPEAKER PRO TEM: The Representative may pose his question.

Representative JOY: I believe under the original proposal the Commissioner of Education also will be a nonvoting member. Is there some reason why he is now going to continue being a voting member?

The SPEAKER PRO TEM: The Representative from Crystal, Representative Joy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question from the Representative from Crystal, Representative Joy, my attempt was to create some symmetry between the Technical College Board and the Board of the University of Maine System, which also has the Commissioner of Education as a voting member.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House: I rise in support of the motion. I really do not have a lot to add to it, but I think it is essential that I speak on this motion. As it has been said before, I was on the State Board of Education when this flip was made. It was not an easy choice to be made by the Legislature, because we did not know what would happen to the vocational technical institutes, as they were then called, if they were split away from the Department of Education. Since they have hired a President whose job it is to coordinate labor, economic development and education, they have done very well and grown on their own. I was on the very first board of trustees of the technical colleges, and I'm proud to say I was on that very first board of trustees. I think the time has come for us to make this change. I do agree that the Commissioner of Education should be a voting member, so that that can make it comparable to the board of trustees of the University of Maine. I hope you will support the motion to adopt this amendment. Thank you.

House Amendment "B" (H-898) to Committee Amendment "A" (S-451) was adopted.

Committee Amendment "A" (S-451) as amended by House Amendment "B" (H-898) 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-451) as amended by House Amendment "B" (H-898) thereto in non-concurrence and sent up for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

Bill "An Act to Establish a High School for the Visual and Performing Arts" (S.P. 687) (L.D. 1756):

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

- In Senate, Senate 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.

- In House, House receded and concurred.

TABLED - March 28, 1996 (Till Later Today) by Representative MORRISON of Bangor.

PENDING - Motion of same Representative to reconsider receding and concurring.

Representative AULT of Wayne requested a roll call on the motion to reconsider.

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 Reconsideration of the motion to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 371

YEA - Adams, Bailey, Berry, Brennan, Chartrand, Chase, Chizmar, Clark, Cloutier, Clukey, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heesch, Jacques, Johnson, Joseph, Joy, Keane, Kilkelly, Kontos, LaFountain, Lemaire, Libby JD; Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nass, O'Gara, Paul, Poulin, Pouliot, Povich, Reed, G.; Richard, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Underwood, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

NAY - Ahearne, Aikman, Ault, Barth, Benedikt, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Cross, Damren, Dexter, Donnelly, Farnum, Fisher, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Joyce, Joyner, Kneeland, Labrecque, Layton, Lindahl, Look, Lovett, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nickerson, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Poirier, Reed, W.; Rice, Richardson, Robichaud, Savage, Strout, Taylor, True, Tufts, Waterhouse, Winglass, Winsor.

ABSENT - Carr, Dunn, Hichborn, Jones, K.; Jones, S.; Kerr, Lane, Lemke, Lemont, Libby JL; Lumbr, Plowman, Truman, Whitcomb.

Yes, 76; No, 61; Absent, 14; Excused, 0.

76 having voted in the affirmative and 61 voted in the negative, with 14 being absent, the motion to reconsider did prevail.

Representative JACQUES of Waterville moved that the House Recede and Concur.

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

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

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

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

ROLL CALL NO. 372

YEA - Ahearne, Aikman, Ault, Barth, Benedikt, Birney, Bouffard, Buck, Bunker, Campbell, Carleton, Chase, Chick, Damren, Dexter, Donnelly, Dore, Etnier, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Joyce, Kneeland, Labrecque, Look, Lovett, Madore, Marvin, Mayo, McAlevey, Mitchell JE; Murphy, Nickerson, O'Neal, Ott, Pendleton, Perkins, Poirier, Reed, G.; Robichaud, Savage, Taylor, True, Tufts, Winglass, Winsor.

NAY - Adams, Bailey, Berry, Bigl, Brennan, Cameron, Chartrand, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Davidson, Desmond, DiPietro, Driscoll, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Jacques, Johnson, Joseph, Joy, Joyner, Keane, Kilkelly, Kontos, LaFountain, Lane, Layton, Lemaire, Libby JD; Lindahl, Lumbra, Luther, Marshall, Martin, McElroy, Meres, Mitchell EH; Morrison, Nadeau, Nass, O'Gara, Paul, Peavey, Pinkham, Poulin, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winn, The Speaker.

ABSENT - Carr, Dunn, Hichborn, Jones, K.; Jones, S.; Kerr, Lemke, Lemont, Libby JL; Plowman, Truman.

Yes, 50; No, 90; Absent, 11; Excused, 0.

50 having voted in the affirmative and 90 voted in the negative, with 11 being absent, the motion to Recede and Concur was not accepted.

Representative JACQUES of Waterville moved that the House Insist.

The same Representative requested a roll call on his motion to Insist.

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 Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: Obviously there is something going on with this piece of legislation that I don't understand. I would encourage you to vote against the motion to Insist. Thank you.

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

ROLL CALL NO. 373

YEA - Adams, Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Cameron, Chartrand, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Joseph, Joy, Joyner, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JD; Lumbra, Luther, Marshall, Martin, McElroy, Meres, Mitchell EH; Morrison, Nadeau, Nass, O'Gara, Paul, Pinkham, Poulin, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stedman, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Winn, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Buck, Bunker, Campbell, Carleton, Chase, Chick, Damren, Dexter, Donnelly, Etnier, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Joyce, Kneeland, Labrecque, Lemke, Libby JL; Lindahl, Look, Lovett, Madore, Marvin, Mayo, McAlevey, Mitchell JE; Murphy, Nickerson, O'Neal, Ott, Peavey, Pendleton, Perkins, Poirier, Reed, G.; Robichaud, Savage, Simoneau, Stevens, Taylor, True, Tufts, Whitcomb, Winglass, Winsor.

ABSENT - Carr, Dunn, Jones, K.; Jones, S.; Plowman, Truman.

Yes, 92; No, 53; Absent, 6; Excused, 0.

92 having voted in the affirmative and 53 voted in the negative, with 6 being absent, the motion to Insist did prevail. Ordered sent forthwith.

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "B" (H-881) - Committee on Labor on Bill "An Act to Abolish the Legislative Retirement System" (H.P. 363) (L.D. 483)

TABLED - March 29, 1996 (Till Later Today) by Representative HATCH of Skowhegan.

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

Representative MARTIN of Eagle Lake moved that the Bill and all accompanying papers be Indefinitely Postponed.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: In the last couple of days I have had an opportunity to do an awful lot of reading. I would encourage you to take a look at this bill, and I am speaking because it doesn't affect me, so no one can accuse me of being effected by it because I am obviously vested, at least three times. So, I'm not effected by it, nor am I in the new legislative retirement plan that was adopted four years or so ago, because that was also the same way. Let me tell you, when I read this, what I saw. What I saw was something for someone who has been in the legislature for a very short period of time. I hate to pick on people who are 60, but that's where it lies, and are not vested, because under existing law, if you happen to be a teacher, for example, and you come to the Maine Legislature and you are retired from the profession, under the laws that we passed in the past about 25 percent of your retirement is paid for by the State, the rest you have to pay for yourself. Now you come here and you are now 60 years old and

you leave here. You now have Blue Cross and Blue Shield paid for you for the rest of your life. I repeat, if you missed the point, that's under existing law, and this appears to grandfather those who have been elected a few years ago, but to deny it to anyone who has only been here for three years or less.

The second problem I have with this bill is that it also allows people to opt out and to put it into a 401K or whatever. I have no idea how this bill ever got drafted or why, but I think it is very unfortunate it is aimed at people and it shouldn't be aimed that way. If we want to pass retirement issues do it for in the future, not retroactive. I encourage you to read this, because it floored me, and I would hope that the motion to indefinitely postpone prevails and I would ask that the vote be taken by the yeas and nays. Thank you.

The same Representative requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: The bill to abolish the Legislative Retirement System came in front of the Labor Committee during the last session and was carried over to see how it could be fit into the current system where term limits will not allow members to become vested. As you are probably aware, and I'm sure you all are, term limits are set at eight years and it requires ten years to be vested in the legislature. The good Representative from Eagle Lake has pointed out a few things that I was not aware of, and that's the fact I was not aware of the insurance factor. I fully expected that when I got done my term in the Legislature that I would have to revert back to the teacher's insurance thing, and I assure you that I had no ulterior motive in putting this forth. If you will notice that the first part of the amendment is to abolish the legislative retirement system and to provide retirement alternatives to legislators, for the simple reason that very few legislators will get vested. At the present time there about 35 people who are not affected by any change in the Retirement System because they are eligible for benefits. Much research went into this and this came back to the Committee on many, many occasions trying to satisfy all of the questions and demands that were asked of this legislation. It went to the analyst several times and this was the final thing. There was the provision to allow teachers to continue in the Maine State Retirement System while they were on a leave of absence, serving in the Legislature was included, also there are several members of the House who are still considered Maine State employees and are in the regular Retirement System. The option, or the suggestions that there can be an alternative, since we are a public employer, subject to a public employer, we do not necessarily have to comply with all of the requirements, for example like social security. The 401K and the 457 plans are plans whereby each legislator would contribute 7.5 percent to that plan and the state does not have to put anything in. The fiscal note on this came down at about \$51,000 for an annual fiscal note. Actually, when the figures were figured out in our Committee it came out to about \$200,000 over the biennium. Here was a chance to save some money, have a program where

legislators would have an annuity in the 401K or the 457 plan, and the state would not have to participate. Also, there are going to be many dollars that are left in the Retirement System fund that are never going to be used. They will just stay there and stay there and stay there. This proposal, under the Minority Report, allows for all of those monies that are left over when the liabilities of the system are met, would then be applied to pay off the unfunded liability in the Maine State Retirement System, and as the good Representative from Falmouth, Representative Reed, pointed out earlier, that for every dollar you pay in now it's a four-to-one savings later on. I would urge you to vote against the motion to indefinitely postpone this and go on and accept the Minority Report and let's make some positive steps forward to go along with the term limits that have been initiated and give the people out there the notice that we will be trying to save them some money. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I just want to make one correction to the remarks of the Representative and that is the question of term limits. It is quite true that term limits might stay or might not stay, and I am one of those that doesn't particularly care either way, but let me point out, you serve eight years here, you go up to the Senate and serve for two, come back here for eight and visa versa, so this term limit is just a figment of someone's mind, because if you really wanted term limits you would do it for eight, period. I had that option, as do other members, and some have taken that option in this body, to choose to run for the other place at the other end of the hall, which I find uncomfortable, that's why I'm here. Remember, term limits, in this regard, your ten years can be acquired one way or the other, so you play eight here and go down there for two, obviously you have already met the vested requirement. I want to make sure that whatever way you vote you don't get confused that vesting can take place because you can always get the other two by going to that horrible place at the other end of the hall.

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 Lewiston, Representative Lemaire.

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I'm not going to go through the whole history of the discussion on this bill other than to say we worked very hard on this bill for quite a long time. We had someone from UNUM come in to explain retirement systems and some of our options. For as many questions as were asked and answered and accommodated by the members who were bringing up the amendment in the proposed bill, there were many more questions that we had. A lot of the problems which were spoken to before, the eight years here and two years in the Senate, obviously, makes people vested so that problem was not taken care of

really, because even though we can no longer run for office again after term limits were imposed, there are people, obviously, who can go to the other body. There is no social security for those who wish to be on social security. On or after December 2, 1986, if you are a member of the Legislative Retirement System, you may continue in that capacity. Those people who are accommodated by this were teachers, people in technical colleges, and former state employees who were formerly on the State Retirement System. Every time we mentioned something we would look back and we would say, "Okay, we have to answer this problem." Frankly, I am very, very uncomfortable with what we might be looking at next year when we say we goofed. I think that very well could happen. I really urge that you support this. We do not have enough information. I don't think it's necessary. We are paid very little as legislators up here and this is one thing that I think is very important for us to have. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative STONE: It seems to me that the 401B plan that is being proposed, most legislators would benefit from it. It's pretax dollars so it is a net saving to us if we are not here long enough to be vested. We can take the money and roll it over into an IRA or some other plan and the money stays with us. In the current system that is here is after-tax dollars and if we are not here long enough to be vested we get the money back but we have lost the benefit of growth over a period of time. I just want to make sure if I have that right or not. I'm not on that Committee I am just going by what I have read in the bill and from what we do in our business and the benefits that I see of 401B plans, defined contributions rather than defined benefits. Could somebody tell me if I am heading in the right direction or not?

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

Representative JOY: Mr. Speaker, Men and Women of the House: I think it is a 401A plan, and it is certainly a tax shelter and the reason that was one of the proposals selected was because it doesn't require State participation. The 401A is a qualified plan and as such you have to meet certain qualifications in order to have an IRA along with it. The 457 is an unqualified plan and allows you to have additional tax shelters along with that. That's the reason those two particular plans were selected and certainly would be an advantage. One of the things, Mr. Speaker, we received a letter a short time ago that the average amount of time that legislators spend down here is two terms. When they get done they have the option to withdraw their funds from the Legislative Retirement System. They can take their money, plus the interest that is earned for the time that they have served. The rest of that money stays in that black hole where it will never come out of. It seemed logical to try to participate in something where money wasn't being poured into something that it never has a chance of being taken

out of and the person who made the contribution that matches with that employer's share never gets any benefits from that. I hope I have answered the question. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I think it's important to notice that this year, in this biennium, we could be in a 457 plan right now. We can also ask for a waiver if we wish to be in social security or something other than the Legislative Retirement System. I urge your support on this indefinite postponement. This is not a good idea at this time.

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

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

The SPEAKER: The Representative may pose his question.

Representative LOOK: My question is, for those who will be attaining ten years service at the end of this session, how does this legislation effect them?

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

Representative JOY: Mr. Speaker, Men and Women of the House: Those people who have ten years will be able to be eligible for their benefits in the Retirement System. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Lemaire. 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 LEMAIRE: Mr. Speaker, Men and Women of the House: That is absolutely true, they will also get full Blue Cross and Blue Shield, which the rest of us will not if we get vested after ten years. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I'm covered. I can say nothing like Speaker Martin can say, not Speaker, I am sorry, John Martin from Eagle Lake. I'm thinking of the future of these people here. I think the person from Eagle Lake is right. Thank you.

The SPEAKER: A roll call has been 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. 374

YEA - Adams, Ahearne, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etudier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemont, Libby JL; Look, Lovett, Luther, Madore, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Poulin, Pouliot,

Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Vollenik, Watson, Whitcomb, Winglass, Winn, The Speaker.

NAY - Aikman, Barth, Bigl, Birney, Buck, Campbell, Carleton, Clukey, Damren, Donnelly, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Lindahl, Lumbr, Marshall, Marvin, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Poirier, Reed, G.; Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Winsor.

ABSENT - Ault, Carr, Dunn, Jones, K.; Lemke, Plowman, Truman.

Yes, 99; No, 45; Absent, 7; Excused, 0.

99 having voted in the affirmative and 45 voted in the negative, with 7 being absent, the Bill and all accompanying papers was indefinitely postponed. Ordered sent forthwith.

An Act to Implement Performance Budgeting in State Government (EMERGENCY) (S.P. 700) (L.D. 1790) (Governor's Bill) (S. "A" S-525 to C. "A" S-502)

TABLED - March 29, 1996 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

Subsequently, This being an emergency measure a two-thirds vote of the House necessary, 133 voted in favor of the same and 0 against, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

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

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

JOINT RESOLUTION EXPRESSING THE SENTIMENT OF THE LEGISLATURE IN OPPOSITION TO THE INITIATED BILL PROPOSING A BAN ON CLEAR-CUTTING (H.P. 1384) which was tabled by Representative MERES of Norridgewock pending adoption.

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

Representative BARTH: Mr. Speaker, Men and Women of the House: I didn't expect that there would be the great debate that is looming, and given the time frame and what we have to do, I ask leave of the House to withdraw my Joint Resolution. Thank you.

Representative BARTH of Bethel withdrew consideration of Joint Resolution (H.P. 1384).

On motion of Representative WHITCOMB of Waldo, the House recessed until 1:50 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:

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) (S. "B" S-554 to C. "A" H-860) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

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

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

ENACTORS

An Act to Initiate Education Reform in Maine (S.P. 701) (L.D. 1791) (Governor's Bill) (C. "A" S-549)

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

Representative MARTIN of Eagle Lake requested a roll call on passage to be enacted.

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

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

Representative WATERHOUSE of Bridgton moved to table until later today.

Representative MARTIN of Eagle Lake requested a roll call on the motion to table.

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

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

The pending question before the House is the motion to Table until Later in Today's Session. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 375

YEA - Aikman, Ault, Birney, Buck, Campbell, Carleton, Chick, Clukey, Damren, Dexter, Donnelly, Gerry, Gieringer, Gooley, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Labrecque, Lane, Layton, Libby JD; Lindahl, Lovett, Lumbr, Madore, Marshall, Marvin, McAlevey, Meres, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Reed, G.; Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, Tuttle, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Cross, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Greenlaw, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Keane, Kneeland, LaFountain, Lemaire, Lemont, Libby JL; Look, Luther, Martin, Mayo, McElroy, Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Poirier, Poulin, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois,

Spear, Stevens, Strout, Thompson, Townsend, Treat, True, Tufts, Tyler, Vigue, Volenik, Watson.

ABSENT - Bailey, Carr, Daggett, Dunn, Joseph, Kerr, Kilkelly, Kontos, Lemke, Mitchell EH; Pinkham, Plowman, Saxl, J.; Tripp, Truman, The Speaker.

Yes, 53; No, 82; Absent, 16; Excused, 0.

53 having voted in the affirmative and 82 voted in the negative, with 16 being absent, the motion to table failed.

A roll call having previously been requested and ordered on passage to be enacted was taken now.

ROLL CALL NO. 376

YEA - Adams, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Cameron, Campbell, Chick, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gieringer, Gooley, Green, Hartnett, Hatch, Heesch, Heino, Hichborn, Johnson, Jones, K.; Keane, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Libby JL; Look, Madore, Martin, Marvin, Mayo, McAlevy, McElroy, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Ott, Peavey, Pendleton, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, True, Tufts, Tyler, Vigue, Watson, Whitcomb, Winsor.

NAY - Ahearne, Aikman, Birney, Buck, Bunker, Carleton, Chartrand, Chase, Chizmar, Dexter, DiPietro, Donnelly, Gerry, Gould, Greenlaw, Guerrette, Jacques, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Lane, Layton, Libby JD; Lindahl, Lovett, Lumbr, Luther, Marshall, Meres, Nass, Nickerson, Paul, Perkins, Pinkham, Savage, Stedman, Tuttle, Underwood, Volenik, Waterhouse, Wheeler, Winglass, Winn.

ABSENT - Bailey, Carr, Daggett, Dunn, Gamache, Joseph, Kilkelly, Kontos, Plowman, Saxl, J.; Tripp, Truman, The Speaker.

Yes, 92; No, 46; Absent, 13; Excused, 0.

92 having voted in the affirmative and 46 voted in the negative, with 13 being absent, the Bill was passed to be enacted.

Representative LEMKE of Westbrook moved that the House reconsider its action whereby the Bill was passed to be enacted.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I have to say in the six years I have been here I am really astounded by this. Not the vote of the House, but that this was run at this time. Let me explain why. Yesterday I asked the Attorney General of the State of Maine to render an opinion, to actually render five opinions, on this bill that involved constitutionality, conflicts, inconsistencies within the bill, which involve potential conflict between federal law and state law. I did this, not because I am bright enough to do it, but because one of my friends is a constitutional lawyer, another one of them is an expert in education law who teaches at Saint Joseph's College. I got that help in preparing the questions that were posed to the Attorney General. I'll get to them in a moment, but I want to make it clear to this House that I discussed with leadership that this is what is going on, and that it would be wise and

prudent before we have a final vote, for people on either side, that they at least know what the questions are, then everybody is free to vote one way or another. Let your conscience be your guide, but at least you would know what the potential issues are, so unlike CarTest, you don't find out later when you go out in your districts, that at least you know. That's it.

At 1:15 I met with the Attorney General and his staff, understandably they have a lot of things on their plate, but they were considerate enough to put other things aside to address this because they understood the importance of this to the Legislature, with a vote pending on this issue. The Attorney General assured me that he would have the information available to the House later this afternoon, and I was under the understanding that we were only going to be here for an hour or so and then we have various ceremonial duties, so we would have more than adequate time, or I should say the A.G.'s office would have more than adequate time to give us these answers. They might be the answers I want. They might not be the answers I desire, but at least they will be answers and something that you can look at. So, that's the background and why I am a little bit thrown back, and it takes a bit to throw me back, that this bill was moved at this point. I thought there was an understanding involved here. What I had intended to do, and I am going to have to read them to you, is to make available to all of you, once I had discussion with the A.G., and I asked him if it was okay to do this, to release the questions to everyone, so everyone would have a few moments at least to look at this before there was any floor debate one way or the other. Since there aren't copies I will read to you the letter. It's very brief. "Dear Attorney General, I respectfully request an opinion of your office re L.D. 1791 as amended by Committee Amendment "A." Number one, is section one, Legislative intent, line 46, page one through line five page two, compatible with section two, Development of standards and indicators, lines 25 through 44? Additionally, is Chapter 6209 the proper enabling provision in law? Finally, as written, is L.D. 1791 compatible with the Maine State Constitution re provision for local control in education? Number two, is section two, Appropriation, a mandate, unfunded or otherwise?" Note, Representative Kerr said on the floor that L.D. 1791 is still on the Appropriations Table, money is not there. "Number three, is section one, chapter 6209, lines 23 through 28 compatible with current Maine law which allows accommodation for moral, philosophical, or other personal reasons? Additionally, is said section compatible with current constitutional law, particularly re Pierce versus the Society of Sisters, Wisconsin versus Yoda, and pertinent relative case law? Four, is section one, chapter 6209, 1D1, at variance with the first amendment by giving the Department of Education the power to define 'demonstrates participation skills'? Would passage of this law possibly precipitate issue and possible litigation against the state by groups such as the Jehovah's Witnesses? Number five, what impact would passage of this legislation have on the Reform Act of 1984? Because debate on this bill is pending today," and this was presented on April 1, "it is vital that an opinion be rendered as soon as possible. Thank you for your consideration of these vital questions. Sincerely."

The Attorney General's Office is bending over backwards to answer these, under very difficult situations, and I think all of us, hopefully, would at least like to have some answers before we finally vote on this legislation. We have already voted on a tabling motion, apparently when I wasn't here, I would inquire to the Speaker what the proper motion would be simply to allow time so the Attorney General, who is working on this, and apparently would be working in vain, at least has the ability to give these answers to the Legislature? I'm not sure the debate would be very long one way or the other, but I really think that we should debate this.

The SPEAKER: The Chair would respond to the Representative from Westbrook, Representative Lemke, that the appropriate motion would be to table at this time, pending reconsideration.

Representative WINN of Glenburn moved to table pending the motion to reconsider passage to be enacted and later today assigned.

Representative MARTIN of Eagle Lake requested a roll call on the motion to table.

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

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

The pending question before the House is the motion to Table until Later in Today's Session. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 377

YEA - Adams, Berry, Bigl, Birney, Bunker, Campbell, Carleton, Chartrand, Chase, Chick, Clark, Clukey, Damren, Dexter, DiPietro, Donnelly, Gerry, Gieringer, Gould, Green, Guerrette, Hartnett, Heeschen, Hichborn, Jacques, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Nadeau, Nass, Nickerson, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Reed, W.; Rice, Robichaud, Rosebush, Rowe, Savage, Saxl, M.; Shiah, Simoneau, Stedman, Stone, Strout, True, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Ahearne, Aikman, Barth, Benedikt, Bouffard, Brennan, Cameron, Cloutier, Cross, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gooley, Greenlaw, Hatch, Heino, Johnson, Joseph, Libby JL; Martin, McElroy, Morrison, Murphy, O'Gara, Ott, Paul, Poulin, Pouliot, Povich, Reed, G.; Richard, Richardson, Ricker, Samson, Sirois, Spear, Stevens, Taylor, Thompson, Townsend, Treat, Tufts, Watson.

ABSENT - Ault, Bailey, Buck, Carr, Chizmar, Dunn, Plowman, Saxl, J.; Tripp, Truman, The Speaker.

Yes, 89; No, 51; Absent, 11; Excused, 0.

89 having voted in the affirmative and 51 voted in the negative, with 11 being absent, the Bill was tabled pending the motion to reconsider and later today assigned.

BILL RECALLED FROM LEGISLATIVE FILES

(Pursuant to Joint Order - House Paper 1385)

Bill "An Act to Expedite the Decision-making Process for Disability Retirement under the Maine State Retirement System" (H.P. 1238) (L.D. 1698)(H. "A" 903 & H. "B" 911 to C. "A" H-899)

On motion of Representative HATCH of Skowhegan, the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-899) as amended by House Amendments "A" (H-903) and "B" (H-911) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-903) to Committee Amendment "A" (H-899) was adopted.

On further motion of the same Representative, House Amendment "A" (H 903) was indefinitely postponed.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: Would someone try to give us a summary of where this bill stands now with all the things that have been going on? I'm lost. Thank you.

The SPEAKER: The Representative from Cumberland, Representative Taylor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: This bill, at the present time, is in it's original form. It was amended by Committee Amendment "A" originally, which took the place of the bill. This would set up an Advisory Committee to work with the Maine State Retirement System on the disability plan. The amendment that was stripped off, the one that we talked about yesterday in the House, was the one that caused it to be lost in the other body. This would set up a Committee to try to speed up the process on the disability retirement system. Sometimes this takes almost a year before people are able to receive their disability pensions, leaving them without any funds for over a year. This is just an effort to speed up the disability retirement. Thank you.

Committee Amendment "A" (H-899) as amended by House Amendment "B" (H-911) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-899) as amended by House Amendment "B" (H-911) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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

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

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: An Act to Amend the Laws Concerning Commercial Whitewater Rafting (EMERGENCY) (S.P. 719) (L.D. 1820) (C. "A" S-486) has had the same under consideration, and asks leave to report:

That it is unable to agree.

Signed:

Representatives:

MITCHELL of Vassalboro
KEANE of Old Town
PERKINS of Penobscot
HALL of Piscataquis
MICHAUD of Penobscot
MILLS of Somerset

Senators:

The Committee of Conference Report was read.

Representative MARTIN of Eagle Lake moved that the House reject the Committee of Conference Report.

The Chair ordered a division on the motion to reject the Committee of Conference Report.

Representative MARTIN of Eagle Lake requested a roll call on his motion to reject the Committee of Conference Report.

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

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

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: When we voted to go to a Committee of Conference I was under the impression that we were going to come out with another item, another bill, another amendment, that would be acceptable to all sides. I find that that has not happened. I find that that was a break of trust, and that's why I made the motion to reject the Committee of Conference Report. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This has been a very difficult issue for everybody in here, including and especially for the rafters. This House voted by a very large majority to vote against the proposal that came out of the Committee on Inland Fisheries and Wildlife. This Representative, in a good faith effort to try to find a compromise among the competing interests on those rivers, made one mistake, and it was the mistake of naivete. I honestly believed that there could be a compromise reached. Compromise means that those sides who prevailed in here, their interests were taken care of too. That did not happen. There was an honest effort to do so, and we failed to find that common ground, but I sorely resent my integrity being questioned. Never have I spent more time on an issue than on this one, and I cannot find common ground between the parties who are warring over use of the rivers. I am very sorry if we failed. My vote was "no" because I could not find that common ground. Thank you.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I am sorry to take up your time, but this bill has been around here for a while and it means a little bit to me. I'm sorry it had to break down this way. Yes, we could have taken a little bit of time. Yes, we should have done a lot of things. The 16 years I have been here dealing with rafters, with the good Representative Jacques of Waterville, we had to put the rafters out of the picture, if we

didn't we couldn't accomplish anything. I didn't think that happened this time. You should have went off to a room and took care of your work. I don't think it happened this time. I think it was a bungle what happened. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I don't want to question anyone's integrity. However there was an understanding, from my point of view, that there would be something coming back to us. The only thing coming back is the Committee of Conference that we can do nothing to amend. The only two options available to us are to accept or reject the Committee of Conference. My purpose in making the motion to reject the Committee of Conference is in the hope that another Committee of Conference could be appointed. As I said to you when I delved into this issue after being called by a former rafter, or whatever the heck he is, my concern basically after looking at it was that the only people who seemed to be protected here were the rafters, and that the people of Maine were being ignored. That's my concern. It seems to me that in the time we have left, maybe it's impossible, but I would hope, quite frankly, that we would try to do it. Maybe there is no hope, and if you believe that there isn't you should vote to reject my motion and vote "no." If you think there is any hope it's worth another try. That's all my motion intended to do. I didn't intend to have a big to do about it until the Speaker Pro Tem decided to ask for a roll call because the Speaker could have put it under the hammer, which would have been so nice for all of us. I understand the direction that he was coming from, but the question is whether or not we want to try again. That's it. My motives are simple.

The SPEAKER PRO TEM: The Speaker Pro Tem asked for a division, not a roll call. The Representative from Eagle Lake asked for the roll call. The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Colleagues of the House: Just a few days ago I couldn't even spell Committee of Conference and then I got on one. The rafters, about 15 of them, have got to get in a room together, come up with a compromise and then present it to the Legislature, in my opinion. Not the way we tried to do it. Thank you.

Representative GREENLAW of Standish requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Reject the Committee of Conference Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 378

YEA - Adams, Ahearne, Aikman, Barth, Birney, Bouffard, Buck, Cameron, Chick, Clark, Dexter, Dore, Driscoll, Farnum, Fisher, Greenlaw, Hichborn, Johnson, Jones, K.; Joy, Joyce, Keane, Lane, Libby JD; Lindahl, Lumbra, Martin, Mayo, McAlevey, McElroy, Meres, Nickerson, O'Neal, Poirier, Pouliot, Rosebush, Sirois, Stedman, Tufts, Tyler, Underwood, Vigue, Waterhouse, Whitcomb, Winn, Winsor.

NAY - Ault, Benedikt, Berry, Bigl, Brennan, Bunker, Campbell, Carleton, Chartrand, Chase, Chizmar, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Etnier,

Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Heeschen, Heino, Jacques, Jones, S.; Joseph, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lemont, Libby JL; Look, Lovett, Luther, Madore, Marshall, Marvin, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nass, O'Gara, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Poulin, Povich, Reed, G.; Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tuttle, Volenik, Watson, Wheeler, Winglass.

ABSENT - Bailey, Carr, Dunn, Fitzpatrick, Kerr, Lemke, Morrison, Plowman, Saxl, J.; Truman, The Speaker.

Yes, 46; No, 94; Absent, 11; Excused, 0.

46 having voted in the affirmative and 94 voted in the negative, with 11 being absent, the motion to reject the Committee of Conference Report was not accepted.

Subsequently, the Committee of Conference Report was accepted.

ENACTORS

An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws (H.P. 1352) (L.D. 1853) (C. "A" H-876)

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

On motion of Representative HEESCHEN of Wilton, the House reconsidered its action whereby L.D. 1853 was passed to be enacted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Heeschen.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: As you know, the other day I offered an amendment to remove the elimination of review of power lines from this bill. I just want to put on the record, before we enact this, that I think there is still a concern here and I hope the next Legislature will revisit this issue. I went and looked at what some typical 115 kilovolt lines are. It was asserted to the Committee that they are local and of no consequence. One example of such a line is the line that runs from Wyman Dam to the central Maine area, about 34 miles. I wonder whether it would have been appropriate to review this as one piece in one place, or should Bingham have reviewed nine miles, Solon a quarter mile, Athens nine and a half miles, Hartland nine miles, Pittsfield seven miles. There is a 115 line that runs all the way from Lewiston through Farmington to Wyman Dam. Is it more appropriate to look at that in one place in one piece, or should Lewiston look at five miles? Should seven miles be reviewed by Greene, eight miles by Leeds, eight miles by Livermore Falls, seven miles in Jay? Should Chesterville and Wilton both review a little bit less than a mile apiece, Farmington seven miles, Industry five miles, Starks seven miles, Anson seven miles, six and a half miles in Embden, six miles in Concord Township?

One of the lobbyists, again, said that these were local, of minor importance. Notice the recent article, Bangor Hydro proposes a 20-plus mile line running from Orrington through Bucksport, Orland, Ellsworth and Dedham. I'm not sure that's really

local and of minor importance. It's my understanding that the Chairman of the Public Utilities Commission has a call into the State Planning Office asking what is up on this issue, because, in fact, the Public Utilities Commission wasn't really in on the loop on this particular piece of this bill. I think that what all of us should be prepared for is when your constituents come to you later and ask you where the state review of this project is. Thank you.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: For those of you remaining in the House, I want to add some remarks to the record. We failed to pass an amendment when we first visited this bill a week ago which would have deleted the part of this bill that some of us object to. I bring this forward today because I promise you you are going to hear about it in January, those of you who are remaining in this body, and the reason is this, it looks like a benign change from 110 kv to 120 kv line that would no longer fall under site law in this legislation. The actual effect of that is to eliminate any kind of a review at the DEP that would go up to the 345 kv lines, and there is only one of those in the State. That's the major line that runs from New Hampshire through Maine and into New Brunswick. So this is a major change which looks like an innocent change because the numbers look small in the bill. The Committee was paying closer attention to the nonsource pollution issues and storm water issues in the bill, rather than this particular piece. If I had had my way we would have passed the amendment the other night. Since we failed to do that, I want to make sure that you are aware of the change that you will be voting on, knowing there are other very legitimate and substantial things that we can support in the bill, and to try to begin to educate you about this issue because I promise you, numbers of us will be bringing this to your attention in January. Thank you.

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

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I, too, want to be on record as talking about some of the things which are missing in this legislation. We have all received some information on our desks from Maine Municipal Association and from the Maine Chamber and Business Alliance regarding this legislation. It's very evident that the Maine Chamber talks about all the stakeholders who support this, including the Chamber, the Alliance, the Maine Municipal, the Maine Real Estate and Economic Development Association, the DEP, the State Planning Office, Maine Oil Dealers, and several other trade organizations, the Natural Resource Council, but if you look closely you will see that when you got the legislative report from the Maine Municipal Association, they have some serious reservations about this particular legislation. I just want you to realize that there are several things that are not included in this legislation that will impact environmental issues. I want you to realize that there are issues of state significance which are not reflected in this legislation and which will not be reflected in the rules. They include such things as deer wintering yards, the unique natural areas of historic and archeological significance, and I want you to know that there are

also limited protections against erosion. The Maine Municipal Association has concerns because they are not sure that we have addressed carefully enough the impact on communities and the mandate possibilities of passing on them these responsibilities given to them without due consideration for their ability to perform these things. There are many issues in here which I will not go into, but I am seriously concerned about three areas, which I think you ought to know. One issue is the community impact by development. There is nothing in here to discuss that and when you talk about urban sprawl, or whatever else it is, you have to realize that some of these things do impact environmental issues. We don't have any real opportunity to talk about the impact on small business. They are the only nonparticipant in the stakeholders and the mandate on them for increased fees and the responsibilities can be overwhelming to a small business. For the life of me I cannot understand why, when we talk so strongly about storm water, which is a significant issue, we are not equally concerned about the erosion problems that go along with development that could impact seriously on the water quality in our communities. These things are not included. It's a mixed mess. I think that when you do go back to your communities, I want you to be able to feel comfortable explaining to your small towns about the mandate on them. I want you to go back into your communities and be able to explain why the community that might have real significant archeological significance might not be protected. I want you to go back into your communities and explain to them why some of these things have been passed without significantly considering the small businesses in your small towns. I want you to feel comfortable explaining those things. So, I just want you to think about these, and I am going to ask for a roll call. Thank you.

Representative MERES of Norridgewock requested a roll call on passage to be enacted.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: I, too, rise to place on record what I hope will be seen as principled objections to the misuse of a large document for a small purpose. Representatives, lobbyists, the Bangor Hydro Electric Company, clearly, in my opinion, took advantage of the fact that on small items of interest exclusively to themselves, you and I could be found with our heads turned, because we are dealing on large items of concern for the entire State. A single lobbyist from the Bangor Hydro Electric Company presented, during such a moment, the specific amendment which we have been debating regarding the kilovoltage of certain lines in the State of Maine. I assure you what ever you may think of Maine being good for business, or bad for business, or one party being for it or against it, that the deed they accomplished is not good for either party or any town in the State of Maine. I wish the record to clearly reflect the absolute truth of what was said by the Chairperson of the Utilities Committee, that the act, as unamended, now specifically removes from review all but one line in the State of Maine, it would appear. That is a 345 kv line that, as previous speakers have brought forward, stretches from the New Brunswick border across Maine to the border of New Hampshire. Since most of the rest of the lines in the State of Maine

are only 115 kvs, therefore, they should probably have no review whatsoever, which was the intent entirely of the lobbyist from the Bangor Hydro Electric Company. It had taken them one year to achieve permission to run one of the lines that they so desired, as it should, because all persons along that line, and all agencies of government that had to have their say could, and did, do so in the period of one year, about the length of time it would take you to conceive, deliver and care for a child. I should hope we at least give to future generations of children as much consideration and time as you would to bring forth one. 115 kv lines are not short lines. There are some in this state that are 30 miles, many towns, long. They definitely cross town lines. The Public Utilities Commission review over such lines are for the need of power only. The Department of Environmental Protection does any other review and if we simply exempt them all from review, which is what this bill would do, then there is no other review at all, except that which your town is now going to pay, and pay dearly, to do, when the lawyers from other municipalities south of here, such as Boston, New York and Philadelphia, are hired by such companies as the Bangor Hydro Electric Company, come to your town and put your three selectmen on the griddle. The Public Utilities Commission's staff's best guess is there are about twice as many 115 kilovolt lines in the entire State of Maine, twice as many miles of 115 kilovolt lines in the State of Maine as there are that famous 345 line, which, again, is so vast it stretches from one nation across an entire state to another state.

Members of the Legislature, I know it is difficult in the last hours to keep our eye on everything, but this is one thing that I think it would behoove your town, where ever it is, to keep its eye upon and not be deceived, once again, by some clever lobbyist well paid, whose own interest is minding their interest to put you and I at a disadvantage to have to uninvent the wheel that nobody intended to invent this time, but got slipped in by clever manipulation. And, if in my voice, you hear a little irritation, I hope it is clearly expressed in the record, because when we play ball here I prefer to play it fair, so that the people that sent you and I here, who will be having children living near, under and beneath these lines for the next few generations are well cared for and taken care of and the tax dollars that your towns and mine raise to take care of things don't have to go toward paying expensive lawyers, which they will if any electric company approaches your town and as fast as the Legislature can get its feet underneath it in January to reflect this. I should hope that all of you that have cause to reflect upon that in the next Legislature, which, God willing, I shall be part of and I hope many of you shall too, will have that as a memory. If, in the event a good number of us are not here, the record shall clearly express our frustration, our concern, and I hope a caution that all of you will carry into the deliberations on this and other subjects in the next Legislature. Thank you.

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

A vote of the House was taken and more than one-fifth of the members present and voting having

expressed a desire for a roll call, a roll call was ordered.

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

ROLL CALL NO. 379

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Bunker, Cameron, Campbell, Carleton, Chick, Clark, Cloutier, Clukey, Cross, Daggett, Davidson, Dexter, DiPietro, Donnelly, Driscoll, Etnier, Farnum, Fisher, Gieringer, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hitchborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Kneeland, Layton, Lemont, Libby JL; Lindahl, Look, Lovett, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, Mitchell EH; Morrison, Murphy, Nadeau, Nickerson, O'Gara, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Poirier, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rowe, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Townsend, True, Tufts, Tuttle, Tyler, Vigue, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Brennan, Buck, Chartrand, Chase, Chizmar, Damren, Desmond, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Green, Hatch, Heeschen, Johnson, Jones, K.; Keane, Kilkelly, Kontos, Labrecque, LaFountain, Lane, Lemaire, Libby JD; Lumbr, Luther, McElroy, Meres, Mitchell JE; Nass, O'Neal, Poulin, Povich, Richard, Richardson, Rosebush, Samson, Saxl, M.; Shiah, Sirois, Stevens, Thompson, Treat, Tripp, Underwood, Volenik, Waterhouse, Watson, Winn.

ABSENT - Birney, Carr, Dore, Dunn, Kerr, Lemke, Plowman, Saxl, J.; Truman, The Speaker.

Yes, 90; No, 51; Absent, 10; Excused, 0.

90 having voted in the affirmative and 51 voted in the negative, with 10 being absent, the Bill was 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.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

Bill "An Act to Allow the Removal from Public Office of Certain Elected County Officials" (EMERGENCY) (H.P. 1240) (L.D. 1700)

- In House, passed to be engrossed as amended by Committee Amendment "A" (H-803) and House Amendment "B" (H-904) on April 1, 1996.

- In Senate, Senate adhered to its former action whereby the Bill was passed to be enacted in non-concurrence. (Having previously been passed to be engrossed as amended by Committee Amendment "A" (H-803))

TABLED - April 1, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Further Consideration.

On motion of Representative LOOK of Jonesboro the House voted to Recede.

On further motion of the same Representative, House Amendment "B" (H-904) was indefinitely postponed.

The same Representative presented House Amendment "C" (H-916) which was read by the Clerk.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: Last night, as you will recall, this bill came back in non-concurrence from the Senate. In researching this to find out what the problem was my amendment will strike out all of section seven from this amendment, which takes that section relative to the Sheriff's office from the amendment. What was found was that there is a disagreement between the language constitutional as in that as to the statutory language which is currently in the law. By removing this part, we now can go on and pass this bill so that we will have what we want, mainly, with this bill, was the words "permanently incapacitated" to cover the need if people should become in that condition during that term of office. This applies only to County officers other than the Sheriff. I move it's adoption. Thank you.

House Amendment "C" (H-916) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-803) and House Amendment "C" (H-916) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

At this time a ceremony was held in the House Chamber for members who will be departing after this session.

On motion of Representative STROUT of Corinth, the House recessed until 6:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Joint Order: (S.P. 774)

ORDERED, the House concurring, that Bill, "An Act Concerning Notice in Foreclosure Proceedings," H.P. 1315, L.D. 1799, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

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

COMMUNICATIONS

The following Communication: (S.P. 773)

117TH MAINE LEGISLATURE

April 2, 1996

Senator Vinton E. Cassidy

Representative Robert W. Spear

Chairpersons

Joint Standing Committee on

Agriculture, Conservation and Forestry

117th Legislature

Augusta, Maine 04333

Dear Senator Cassidy and Representative Spear:

Please be advised that Governor Angus S. King, Jr. has withdrawn his nomination of Meldon Gilmore of Kingfield for appointment as a member of the Land Use Regulation Commission.

Pursuant to Title 12 MRSA, Section 683, this nomination is currently pending before the Joint Standing Committee on Agriculture, Conservation and Forestry.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House

Came from the Senate, read and referred to the Committee on Agriculture, Conservation and Forestry.

Was read and referred to the Committee on Agriculture, Conservation and Forestry in concurrence.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Abolish the Legislative Retirement System" (H.P. 363) (L.D. 483) on which the Bill and accompanying papers were indefinitely postponed in the House on April 2, 1996.

Came from the Senate with the Minority "Ought to Pass" as amended Report of the Committee on Labor read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-881) in non-concurrence.

Representative MARTIN of Eagle Lake moved that the House Adhere.

Representative UNDERWOOD of Oxford moved that the House Recede and Concur.

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

Representative UNDERWOOD: Mr. Speaker, Men and Women of the House: I rise to ask for your support for the pending motion. I would like to give a couple of reasons why I introduced this legislation back last year. The first reason was with the introduction of term limits there will be very few of us who will ever be vested in this Legislative Retirement System that we presently have. Even without the introduction of term limits, very few people ever get their ten years into the system. The second reason that I introduced this piece of legislation is that my feeling was that there are very few, if any, that I have been able to find, companies in the private sector that offer any type of retirement system to a part-time employee. Ladies and gentlemen of the House, we are part-time employees. We spend six months a year here in the first regular session and three or three and a half months a year in the second regular session. I don't know of any place, also, or any company, that if you are over the age of 62 that if you come in and work two years that you will be able to get a retirement benefit. The present plan does that.

A couple of things that came up this morning, that I did not speak on, from the Representative from Eagle Lake. One point that he brought up was that people who are in this Legislature now, with the present system, have the option of getting on social security. That's true, but that's a very small percentage of the people in this body. You have to have a conflict with the Legislative Retirement System in order to have the option of getting on to social security. I believe, if my numbers are right, there is only one member of both bodies at this time

that have that option and are on social security. Another item that was brought up was that members that are vested in the system have health care for the rest of their lives. Again, that's true but it's only for those people who are serving after the age of 62. They have to be 62 years old and serving in this Legislature to get a full-time, permanent health benefit. Again, there is very few people that actually qualify for this benefit. My hope is that we continue to move forward and promote a citizen legislature and I think this is one benefit that we have that we are just pouring money down a black hole. The money that the State puts in we do not get back. It sits in this system and will stay in this system for eternity the way things are looking right now. I feel that the good Representative Joy has come up with, when he amended my bill, I think is a viable plan and I think is a much better alternative than what we have now and I would ask for your support on this motion. Thank you.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I would encourage you to not support the motion to Recede and Concur. The good Representative from Oxford, Representative Underwood, said that there aren't any other retirement programs that will support a part-time person who is working, I disagree. As a citizen soldier, as a member of the Army National Guard, or as a member of the Army Reserve, after a 20-year period you are entitled to a pension being a citizen soldier. We, in this body, are a citizen legislature and I think that we have to remember that if the institution is to prevail as a citizen's body, we do have to have a system of retirement like this. I would encourage you not to support the motion to Recede and Concur, so that this body will remain a citizen institution. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I did a little arithmetic on my placemat while I was having lunch, or supper, or whatever you call it for this time of the day, and I had been doing a little keeping track while we were in session before, and I noticed that of those legislators who are getting done there were 26 of them who had less than 10 years. I took an average of their years of service and averaged it out to six. It's actually slightly less than six, but I thought I would give them the benefit of the doubt. I reduced the salary for the biennium down to \$15,000 and if we figure out the State's share based upon that, for those 26 legislators there is \$234,000 that is dumped into the Retirement System that will stay there, \$234,000 that can't be used for anything else. That is what I was referring to earlier in my remarks when I said we were pouring money into a black hole for all of those legislators who don't get vested. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I just need to correct something and to add to the remarks of the Representative from Island Falls, Representative Joy. It may be true that someone is here for eight years, but they could have purchased military time, peace corp time, those years could also have been purchased so that eight becomes ten and ten becomes twelve, et cetera. They

also could have been part of the plan prior to the change in the legislative plan. So, all those factors, when you add that all in, that's what the Retirement System did was to program the cost of what it could be, and over time and over the assumed life of someone, so that I don't think that this is money that is just lying there. The other thing is that it certainly would be a help to the Retirement System in the final end because we do have a very slight unfunded liability.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: Two sessions ago I sponsored a bill that changed the vesting period from ten years to five years. I offer that as a solution to those of you who think this bill is in part designed to deal with the issue of term limits and the vesting period. Maybe the option would be to reconsider the bill I offered a while ago which, to the Retirement System, was revenue neutral. The actuaries in the Retirement System indicated there was no change. So, there is another way to look at this issue. Given that observation I would suggest, based on comments we heard earlier today, this particular issue isn't fully baked. It seems to me there is much work to be done on this issue, and I would urge you to defeat the pending motion. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I have spoken to a lot of people who have a lot of concerns about this. I had a Senator ask me if you were eight years in the system being a legislator, and you moved to an agency in the State, was your time considered to be vested? It is considered to be vested. So if you are a legislator for eight years, you move into a state department, any of the agencies, you are on the State Retirement System, you are vested after two years. So, this isn't just a legislative issue. This is an issue for a lot of people. My concern is there are so many unanswered questions. I sent information out. I gave information to the Senate and I gave the bill to members of the House to look at. They have some concerns like how does this effect me if I do this, how does it effect me if I do that. I don't think this is the time to be doing it. If there comes a time when we need to look at this, term limits are definitely out, we have some other considerations to look at. We have another bill that makes other proposals, frankly, being allowed to be in only two plans, a 401A and a 457, and they have some problems with portability, moving from job to job, taking it with you, having a 401K what do you do with your 401A if your spouse has a 401K? There are just too many issues for us to be concerned about. I say leave it alone. Thank you.

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

Representative UNDERWOOD: Mr. Speaker, Men and Women of the House: I would like to correct something that was just mentioned by the Representative Lemaire. This is a question that I asked people at the Maine State Retirement System, and the people that came to the Labor Committee to testify on this. The question I asked was if I spent eight years in the Legislature and moved on to a state job, is my time that I spent in this Legislature transferrable? The answer was no. With

the new system that is in place at this time, you cannot transfer that time over. Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: Having only been here for one term and leaving after one term I have a couple of little observations, probably personal I guess, but it seems to me that our job here is to serve the public and be of a public service, not to be down here and generate an annuity for life for us. We all seem to be worried about our retirement system and covering our butts for something in the future and, frankly, I think it's a travesty for anybody to be down here in public service looking at a plan where the state participates 10 percent and we put in seven percent, or whatever it is. I don't think you will find too many corporations in the world that do that and I think it is embarrassing that we are sitting here trying to worry about ourselves instead of about everybody else. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I resent the fact that someone has said we only get paid for the time we are here, which is what we do, but every day in the week I get calls from constituents and they are asking for something to be done here in Augusta and I have to get on the phone and sometimes spend hours getting that problem straightened out. Should I, when those people call, say, no, I can't do this, I'm not being paid now? Should we say we can't do the work and just forget them? What should I do? Thank you.

Representative WATERHOUSE of Bridgton requested a roll call on the motion to Recede and Concur.

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

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

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I just have two final points to make. Three days ago I called Gail Wright at the Maine State Retirement System, and she told me that eight years and moving into an agency you were vested. Since she is an assistant over there and is very high in the hierarchy of the Maine State Retirement System, I assume she knows what she is talking about. In response to the last speaker, I would like to say, as a teacher, I work 180 days a year. I am on a retirement system, but those 180 days do not include the work that I do in between, and I think the Legislature should take pride and when we have constituency calls in June and July and August we don't say we are sorry but we're not in session and can't respond. I think it's an obligation and responsibility for all of us to be year-round legislators, even though we are being paid part-time. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I think we have a misconception here of what this retirement is all about. When I ran for the Legislature I didn't even know what the pay was. I didn't even know there was a retirement system. I didn't know anything about the retirement system until I came down here and I came in because our legislator had died so it was mid-term, and I'm sure John remembers the day that I came in. I had never been in this room before and everybody clapped and I thought, oh wow. Anyway, in going down to the Governor's office, and it was Governor Brennan, to be sworn in, Lin Higgins said to me, "You want to think about the retirement system." I said I didn't even know there was one. I said I won't be here long anyhow, probably just this term. He said, "It's a good savings program." I thought he was right so I signed up for the retirement system that day, thinking I won't be here very long. Here it is, 14 years later, and I'm here. I'm glad I signed up. It is a good savings program but another thing, even if I took it, remember your social security is reduced by part of your retirement that you get here. I believe it's a third of your retirement is taken off your social security. So, you are not going to get that much. I think one person told me he has been here for 6 years and his retirement is \$100. So if you take a third of that there is \$33. So there is \$66 a month more he will get. It's not a big deal in my opinion, but I just thought I had to get up and say something. If I retire I am going to take it and I certainly think I earned it. I am not a part-time legislator. Anyone can call me anytime they want to, day or night, and they have, and I consider myself a full-time legislator. Thank you.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make an observation from what I have seen here from the first time I got involved in this wonderful institution called the Legislature in 1978 with my friend, the Speaker of the House, Dan Gwadosky and Paul Jacques and Greg Nadeau and Theone Look, and all the people who influenced me and all the people who are here today who have spent well over 300 years. The people who are up on that board today, spending 300 years. As Representative Murphy has so eloquently stated, we are not here for the retirement. I'm not going to get a retirement. That's not why I came here, and I don't think that's the reason why any of us come here, for the retirement, but as I sat here today and kind of looked around and saw the number of years and the effort that each and every one of us have put in to the system, it is not that much, \$100 as Representative Murphy has said. It's a mere stipend. I think of the experience of Representatives like Clyde Hichborn, John Martin, Dan Gwadosky, Theone Look, and I guess I could take a look and incorporate all of us here in saying that this is something that we should not be beating down as bad as we are. It's something, a stipend, and I would ask you to vote against the pending motion simply because of the fact that it is right. These people deserve it. They gave way beyond what this simple stipend could ever repay them for. So, I ask you to think about that before you do make your vote, and I congratulate all of you for the time you have

put in, and the effort you have put in to the good people in the State of Maine. Thank you.

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

Representative MARSHALL: Mr. Speaker, Colleagues of the House: I guess I share Representative Murphy's observations. When I came here I guess I was nearly sworn in before I realized there was a retirement here. I said, wow, that's a big deal. I don't have one, being self-employed, so maybe there will be a little bit of one here. Then, in talking with my good friend, Walter Hichens, who was here before me, somewhere around 20 or 22 years, he told me one day just out of the blue what his retirement was. He gets about \$200, out of that comes \$150 for his wife's insurance. That's a disappointment, so if I may, Mr. Speaker, I would like to ask a question. Under our present system, and I don't know if I am going to be here long enough to get vested or not, and I guess most of us don't know that, except those that are leaving right now that are vested, but if I take just my contribution, I couldn't care less about the State's contribution because that's gone anyway. That's just going into the black hole called the Legislative Retirement Fund, and I guess that's good, but whatever it is, if I take my contribution out, I hear I get a percentage, but what penalties, interest, or whatever there are, or what portion of that can I roll over into an IRA or whatever other private retirement there is, and then compare that to the new system that is being presented as what part of it would be portable under that program? I'm just looking for the difference, what's the difference? Can I take what I have in there now, dollar for dollar, or am I going to have to lose a lot of it transferring it in relation to the new program? Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I'm not suggesting that the Representative ought to leave legislative service, but if he were, at whatever time he chooses to do so, six months after you have terminated your service, let's assume you were not to run again, somewhere in June of 1997 you can fill out a form, certify that you are no longer a member, and you get the entire amount that you have put in. You can roll it into any plan that you want to and it is not taxable. If you don't roll it over then it becomes taxable at the rates. I would point out that if you are going to do that, then you roll it over and you make sure the check is issued to a corporation, an insurance company, or whatever, or else under the new federal laws it becomes taxable if the check goes to you first.

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

Representative JOY: Mr. Speaker, Men and Women of the House: There are a few problems. It's not possible to roll it into an IRA. As the good speaker previously said, if you do have the check made out to a corporation and they have a plan that you can roll it into that is allowable. The reason it is not allowable to roll it into an IRA is because it is a qualified plan. May I make one further comment? I would like to point out this is not an act to abolish

the retirement system. As I indicated when I first spoke, earlier today, the first amendment to this act was to change the title, "An Act to Abolish the Legislative Retirement System and to Provide Retirement Alternatives for Legislators." I think there is a little misconception. People think that they aren't going to have anything when they get done serving in the legislature, and that is not true. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I need to respond, and once I respond I no longer will be able to accept any money from you to transfer into the insurance company that I sell for, so please don't come to see me with your money, because I will consider it a conflict of interest. However, having said that, you may go to any insurance agent and they will roll it into an annuity without any problem at all, and I can guarantee you I can give you a list of your own insurance agents in your home town if you don't have one.

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. 380

YEA - Aikman, Ault, Barth, Bigl, Buck, Campbell, Carleton, Clukey, Damren, Donnelly, Gerry, Gooley, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Lindahl, Lumbra, Madore, Marshall, Marvin, McElroy, Meres, Nass, Ott, Peavey, Perkins, Pinkham, Povich, Reed, G.; Rice, Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Winglass, Winsor.

NAY - Adams, Ahearn, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gould, Green, Greenlaw, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Keane, Kerr, Kil Kelly, Kontos, LaFountain, Lemaire, Lemont, Libby JL; Look, Lovett, Luther, Martin, Mayo, McAlevey, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Poulin, Pouliot, Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Spear, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Whitcomb, The Speaker.

ABSENT - Birney, Carr, Dunn, Joseph, Lemke, Nickerson, Plowman, Poirier, Saxl, J.; Strout, Truman, Winn.

Yes, 51; No, 88; Absent, 12; Excused, 0.

51 having voted in the affirmative and 88 voted in the negative, with 12 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere. Sent forthwith to the Senate.

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

SENATE DIVIDED REPORT - Report "A" (5) "Ought to Pass" as amended by Committee Amendment "A" (S-545) -

Report "B" (5) "Ought Not to Pass" - Report "C" (2) "Ought to Pass" as amended by Committee Amendment "B" (S-546) - Report "D" (1) "Ought to Pass" as amended by Committee Amendment "C" (S-547) - Committee on Education and Cultural Affairs on Bill "An Act to Establish Choices for Parents and Guardians in their Children's Education" (S.P. 36) (L.D. 66) - In Senate, Report "A" "Ought to Pass" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-545) TABLED - April 1, 1996 (Till Later Today) by Representative JACQUES of Waterville. PENDING - Acceptance of Any Report.

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

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

Representative AULT: Mr. Speaker, Men and Women of the House: Currently there exists around the state examples of families exercising choice in their children's education. Examples include superintendents' agreements, a student may elect to attend school in another district with their parent's support as long as the sending superintendent and the receiving superintendent agree, there exists choice within specific school units. There are SADs and CSDs where choice is available at the elementary level. The City of Portland offers its students the choice between attending high school at either Deering or Portland. Currently there are 10,000 students in this state who choose where they will go to high school because their home town does not have a high school. Some towns have contracts with other districts to facilitate this. There are many reasons why parents choose to send their children to be educated in another school district, in fact, of the states that actually collect data on why parents choose a school outside their district most have found that parents give reasons of educational quality. Proximity to school is also cited. In addition, the three states that have collected data on parental satisfaction found that parents are very satisfied with the schools they choose for their children. Reasons cited at the hearing were varied, but daycare location in a different district was frequently mentioned. The Department of Education told the Education Committee that 600 students are currently attending school outside their districts through superintendent agreements. L.D. 66, Report "A," simply expands on what is going on already in Maine. L.D. 66 will provide consistency and uniformity for all Maine families, not just those who have agreeable superintendents. There will be consistent guidelines, specific guidelines, for everyone to follow. One of the most important aspects of this report is that it respects and protects local control. While the sending, or home, district cannot refuse a student's request to transfer, the school board of the receiving district can deny the transfer of a student from another district. Additionally, it is every school board in this State that will adopt specific standards for acceptance or rejection of those applications.

Transportation is most often cited as the major obstacle to a workable school choice option. I believe that we have addressed this and offer a very reasonable and manageable solution. A parent would be responsible for their child to be transported to the border of the receiving school district. However, if that family is at, or below, the poverty

level the receiving unit would then pay for the cost of transportation. Many of you have asked about special education. The cost to a receiving district of educating a special education child is limited to the State average tuition. Any cost in excess of that would be the responsibility of the sending school. This is not a major change in the way we educate children in Maine. Local school boards can decide not to participate, students will be counted for funding purposes in the receiving school district. The sending unit can limit the percentage of students transferring out if it creates a financial hardship. This bill provides an opportunity for all our students to exercise the same choice option that some of our students already have. I urge you to support the pending motion and Mr. Speaker, when the vote is taken I request a roll call. Thank you.

The same Representative requested a roll call on her motion to accept Report "A" **"Ought to Pass"** as amended.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: It seems to be education week. If you still have the report you will note that this is the only report this year that has four reports. The reason, in part, is because, quite frankly, most of us are not sure of all the consequences involved. So we end up in a situation where we feel strongly but we are not really sure why. Let me try to explain. Under present law if there is a problem with a student and there is an agreement between the two superintendents, that child, in fact, goes to another school. It has actually happened in one of the communities in my district where the child simply could not get advanced physics, advanced chemistry, et cetera, at this particular school. An agreement was made between the two principals and the two superintendents, and the child then went to his neighboring high school. Here is the problem, and it is especially a problem in rural Maine, not as much so in Portland and Bangor and Lewiston for example, because there you have large schools and numbers going back and forth except for a part who are trying to figure where they ought to be and where they are going to be, you are not going to impact the education of other students. But here is the potential for danger in a rural school. I'm talking Aroostook, Piscataquis, Washington, Hancock, Waldo, Oxford, all of them. Here is the problem, because some of these high schools are fairly small, and for whatever reason, and you know what it is like in a small high school, when someone decides they don't like the principal or they don't like the superintendent or they don't like the basketball coach, they are going to get their student to go to school somewhere else, that's one problem. The other problem is the recruiting of basketball coaches to get the ball player from the next school to improve their team, if you allow complete movability. You now have Dirigo High School, for example, in Western Maine, with not many students. But go take ten of those students away and they have lost \$30,000. What does that do, then, to the remainder of the school and the ability of that district to provide some quality education? Some people would argue that there is no problem, they are looking for a better school. My answer to that is very simple, if you don't like the quality of education in your school,

run for the school board and change what is going on. That's what I tell people every day, because that is how you are going to improve the quality of education in this State, not to run away and to move your child to another school. It's real easy, the Representative from Waldo, for example, lives five miles from Belfast, as I recall. How easy it would be to switch from that high school and move. What does that do to Belfast? It gives them more money. What does it do to the place where they were? It hurts the quality of their program. That's what scares me. If the money didn't go with them, and we had all kinds of money, I wouldn't be overly concerned, but we just don't have it.

So, the Education Committee tried to do some different things that a couple of members tried, perhaps, to create a couple of schools where they might try it, a satellite or pilot school, but I don't know where that's all going and, frankly, if someone wants to try a pilot school maybe what we ought to do is see if we can find a separate allocation and not hurt the school that is going to be impacted. So, Mr. Speaker, with great reluctance, because I know that those who worked on this worked hard in trying to come up with a solution, I must move indefinite postponement of the bill and all of its accompanying papers and ask you to vote with me. Thank you.

Representative MARTIN of Eagle Lake moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: First of all I would like to simplify this process for you a little bit. One of the reasons why there are four reports in front of you is probably a mistake that I made in that I put out my own report. In the spirit of independence I thought that if we were going to have school choice we ought not to require that the parents give the reasons on the application why the child would be leaving that school. I felt they could do it on an exit interview or some other method. I don't like the application process. Rather than muddy the waters, I would just as soon join my colleagues who are in favor of school choice and say let's just see if we can get a bill through here that makes sense for the State of Maine. I want to point something out that I think the good Representative from Eagle Lake really has not considered, possibly, in his discussion of school choice. It's really important to me. Some schools have certain problems, for instance I am going to use the example of a drug problem. I don't like to bring it up. It's a difficult problem to talk about and we are all trying to do something about it. There are some great programs out there, the DARE program and so forth, to combat this problem. I believe that school choice can do something about a problem like this. You got school XYZ who has a drug problem, they have had one for years and years and they just are not doing anything managerially about it. I believe that school choice is going to send the message to those administrators. It's going to send a serious message and say, "Look, you are not taking an active role at overcoming this problem, and there go some students because of it." Not a lot of students because here in Maine we have a geographical problem and it automatically is going to keep a lot of students right where they are. In other states

that have tried this that is exactly what has happened. We are talking about one or two percent of the students moving around, but not many.

On the other hand, you find out that, pretty quickly, that if you have a problem and you are not addressing it and you are losing students, you better address it. That is just one example of why I firmly believe in school choice. I think it's actually a fundamental right of the Maine taxpayer. They ought to have a choice. So if you take this one problem and replicate it by the many problems that we have in our schools that we all want to work to overcome, I think you can imagine some of the positive impacts that school choice might be able to have. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative LUTHER: We have been assured that the money will follow the student, but if you have a special ed student and then they have been transferred to your school, you need an out-of-state placement for them. Who will be responsible for picking up that cost, which could be a very, very high cost? Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: As is presently most of that would be picked up by the State.

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

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

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: Every time we get to talking about this topic I feel a little bit like someone has put a blindfold on me and asked me to walk the plank. I get a little bit nervous about this. It's been stated here this evening that this is going to give everybody an equal choice. I don't think that is true at all. I can only speak of the areas in which I have worked as a school administrator. If a parent decides, and a student decides, they want to go to another school, if the parent has money enough to buy that child an automobile then that child will be able to go to the school of his or her selection. What about the child whose parents cannot afford to buy the automobile, the third car in the family, or maybe the second car in the family? You don't have to be on poverty row not to be able to afford an additional car. I think this is highly, highly unlikely that we could call this equality of choice or equality of opportunity. One thing that I have never been able to figure out, take your own high school, there are parents who have taken children from your high school, and they have taken them and sent them to private schools for whatever reason.

There are more reasons than you could possibly count why they do this, yet that very same school from which they removed that child is sending children to Bowdoin, to Amherst, to Dartmouth, Tulane, Notre Dame, Bates, Bowdoin, from the same school which the parent says is no good and wants to move their child out of there. We don't understand all of these facets. We are walking the plank.

In the greater Portland area there are probably half a dozen high schools. Choice may have a small margin of success there. You have public transportation. Where I live, the nearest high school to Boothbay Region High School is Wiscasset High School. That's roughly 15 miles. If, by chance, I had a student from the Boothbay Region High School who wanted to go to Brunswick High School, so that they would be, perhaps, closer to the Voc/Tech program, that's probably 45 minutes or more, depends on the Carlton Bridge. If we get a new Carlton Bridge it probably will cut that by one or two minutes. All schools have problems. Your school has problems. My schools have problems, and by taking a student out, whether the problems are real or not real in the minds of the students or the parents, doesn't solve that local problem. If you want to solve the local problems, if you are dissatisfied, the good Representative from Eagle Lake is right, get involved. We still have PTAs, ladies and gentlemen. We have active parent groups. Get involved. Solving the problem with choice will not do it. There are too many unanswered questions in this whole scheme of choice. I'm afraid of it. I don't think it is for everybody in the State of Maine. It may be for some small pockets, but I think it is not for the good of all Maine students, and I would ask you to support the motion on the floor. Thank you.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House: We talk about choice as if we were walking the plank with a blindfold, and so forth, choice is all around us. It exists in all seven towns that I represent. We have no high school. There is one private high school in Blue Hill, in the other towns there is no high school. We have choice, not just this watered down version of choice within the public system, we have real choice. You can take that money and send your kid to a private school out of state. We have the choice of going to Bucksport High School, where they are more oriented towards athletics. You can send them to George Stevens Academy, it's a little more into art and literature and so forth. So you have a bit of a choice and what it does is beautiful. It makes them compete a little bit. It makes Bucksport kind of look at their schedule and say, "Hmm, maybe we ought to modify that. Maybe we ought to broaden it." There was a full-page piece in the Bangor paper a few months ago about how the same situation exists north of Old Town and Orono, in that district, where there are no high schools. It isn't something from another planet. It's all around us, and that's real choice. What has it done? Has it ruined the public school system? No, it hasn't. The G.I. Bill was a perfect example of a true choice system. You could take that money and go to a Catholic School if you wanted. It didn't ruin the State universities. It probably made them stronger. It certainly didn't weaken them. This whole thing of choice, it's the strangest word, people panic.

In California, when the petitioners were trying to get it on the referendum, some of the teachers made human chains around the signature tables to stop this. It is absolutely astounding to me that it would be this terrifying when we have it. Just look around, we have it. When you take polls around the country the people who support this the most are the people in the inner cities, the minority people, the poor people support this choice. It's really ironic that that is true. I ask you to support this and I hope that some time we can go on to a real choice, but this is a good step. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: Reluctantly I am going to support the pending motion. My preference would be to go on and have a discussion about the Minority Report that is also attached to this report, but at this point I think it would be belaboring the issue, and I'm not sure we are going to get to that point. What I would like to do is say I do support choice, and I think properly structured, and put forward in a way that is meaningful and rational, the choice could be effective in schools throughout the State. However, as this bill is written, and as presented in the motion to "Ought to Pass," I don't believe that is an effective way to offer choice in the State of Maine. Let me explain why. There are three reasons. The first one, it was noted that this would be an opportunity to provide some uniformity and consistency of choice throughout the State. In fact the Majority Report would do the opposite because it would allow for a "local block," meaning that any particular municipality that chose not to accept students could do that. Conceivably, in rural areas of the state, you might have to go 50' to 100 miles before you would find a school that would accept you if you weren't happy with the current school that you are in. In the greater Portland area, for example, if Portland, Cape Elizabeth, Gorham and Windham all decided not to participate in accepting students who wanted to come from other districts, the student might have to go over four or five different school districts, and 25 miles before they could find a school that would accept them. That is not choice. It is said that that is local control, but in fact, that's an effective way of preventing people from having choice. Secondly in the bill it allows for the Commissioner to develop standards for adverse effect. What that means is if a local school district teaches Latin IV, and they have ten students in that class, and if four of those students said, "We are not going to stay in this school anymore, we want to go to another school district," that school district could then petition the Commissioner and say that is a hardship because if we lose those four students out of that Latin class, we will no longer be able to keep that Latin teacher, and that would be a hardship to our district. That school district could then say to the students in their school district that they cannot go to another school district. That would be the hardship that a school could claim. The third problem I see with the bill is in regard to special education. Believe me, the logistics in the bill on special education are pretty difficult, not only to explain, but to implement, but I will try to explain it. What would happen with special education is if a child qualified for special education, and chose to go to another district, the

receiving district would get the state average of special education from the sending district. However, the special education director from the sending district would have to participate in any decision process that had to do with that child in the receiving district. So, again, if you had a student who is attending a school 20, 25 or 30 miles away, anytime there was any discussion in the PET process about that particular child, the special education director from the sending district would have to participate in that. The other thing is it is not clear in the bill whether or not the sending school district's special education director would be able to veto spending any additional money if the PET process in the receiving school decided that there needed to be a change in the IEP. So, again, with special education, there is a number of different conflicts that could arise in terms of who has authority for spending and who has authority for making decisions about resources with that particular child.

I'm not real happy with the superintendent process in terms of having to get superintendent approval in order to move from one district to another, but I do believe, at least for the eight months between now and next January when we might be able to come back and revisit this issue, that there are 600 students in this State that now avail themselves of that process and are able to get an education in other districts that they so choose, that that process could remain in place and that that could be utilized by parents that want to educate their children out of district. I believe that the three flaws that are in the current bill are so pronounced, and are great enough, that we should not pass that at this particular point. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Unity, Representative McElroy.

Representative McELROY: Mr. Speaker, Ladies and Gentlemen of the House: I have prepared seven or eight pages of notes. I'm not going to bore you with those seven or eight different pages of notes because some of them have already been repeated. I find it very difficult to support this bill for various reasons. The major one being that it has six or seven major flaws, as the good Representative Brennan has noted. I would prefer to go to a document that you have laying on your desk, which is yellow, the one that I have is goldenrod and that was passed out yesterday. I would read some of that because probably you do the same thing with yours as I do with mine and put them in the can as soon as they hit the desk. This legislation provides, in my mind, an elitist public school choice plan. It sounds deceptively simple. It allows students to select the public school of their choice within limitations, and the state funding would follow. Once a school admits one choice student it would have to accept any choice student. There are a few reasons on here, I will rapidly go down through them. It will hurt students in school. I'm not afraid of school choice, I have seen it work and work well. We have a diverse community in the State of Maine that is spread all over in various geographical areas. This choice bill pits the rich against the poor. It pits the north against the south. It pits rural against the metropolitan, and it pits students with apathetic parents against those that are upwardly mobile and motivated. Students from affluent families living in metropolitan areas will have real choices. The poor,

rural students, unless we move to real open choice, will have few or none. The system is designed to have some schools win by recruiting the top scholar and the top jocks, while others lose students and resources in a downward spiral. Each child, as was previously mentioned, that leaves your school system, one or two is not going to impact, I don't believe, but if you get 5, 10, or 15 kids booking it for the other side of the tracks, that's going to impact significantly the finances of that small unit.

Proponents of a choice system think, and they truly believe, that the free market will produce better schools. I don't think that that is going to happen. I think the only way you are going to produce better schools is to have the local community board get on the ball and get rid of those that aren't performing, bring in somebody that does perform. That's going to make better schools, not by taking the better student off the top and sending them to better high schools and leaving the local unit with less qualified individuals. Under this free market approach, it's alright for some schools to go bankrupt, while some schools go down the drain because they are not competitive. Losers are a consequence of competition. Guaranteeing every child a real choice is virtually impossible without spending a lot of money. This bill has a possibility of costing many sending schools big money because of the transportation factor that is built into it. Studies of existing choice plans in Colorado, Michigan and Minnesota show that affluent and better educated parents will crowd out the poor and the less educated parents in the competition to gain access to the best schools. We have a big problem in Maine with aspirations. The aspirations are a bigger problem in our more rural parts of the State. Time and distance in Maine are practical barriers to parental access and student participation in school activities, particularly the poor families who have a hard job in keeping one vehicle on the road and not three or four vehicles on the road.

As I mentioned earlier, this current choice bill has a number of problems. I'm not going to get into them. I can get back up if I have to, but they also have some big money problems. To me this bill is the most insidious way to disenfranchise the have nots even more than the have nots have been disenfranchised to date. Thank you.

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

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

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

Representative HARTNETT: In my community of Freeport, teachers who teach in the community but who live outside of it are able to bring their children to Freeport schools. Is that something unique or is that the law statewide?

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: Freeport is giving them a gift. That is not law, and the Freeport school board could put an end to it by voting against it.

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

Representative LANE: Mr. Speaker, Men and Women of the House: I find myself in a peculiar position, certainly one that should be for choice, and I am, in the right way. However, I have spoken with my superintendents and I just want to share with you what they had to say. They already have choice. They already exchange students. My superintendent from Howland pointed out that he has students from Milo and he has students from Lincoln. The Lincoln school district has students from Howland and from Milo and from Lee. They have a very good working arrangement. It's not mandated. It's their choice. I'm concerned with some of the elements that I see written in this bill and I'm much more for the concept of vouchers, which would create true choice in my opinion. I would like to pose a question if I may. In the original bill, and I'm assuming it is still left in tact in the amendment, that a parent may be reimbursed by the nonresident unit for the cost of transportation from the student's residence to the board of the nonresident unit if the student is from a family whose income is at or below the poverty level determined by the federal government. My question is, does this include extra-curricular activities as well? Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I'll have to respond in this fashion, at the present time extra-curriculars are determined by the local school board as to whether or not they are going to have buses or not have buses. Based on the discussion that I had that if extra-curricular buses are allowed in that particular SAD or school district, that child now moves to another one, that that would follow with the child. If they didn't allow it, it would not follow.

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

Representative LIBBY: Mr. Speaker, May I pose a question through the Chair? The SPEAKER PRO TEM: The Representative may pose his question.

Representative LIBBY: My question is to Representative McElroy. I was curious as to where you got this recent distribution on poor choices for students? It's a yellow sheet and it didn't have any source listed. I was curious as to where that may have come from. Thank you.

The SPEAKER PRO TEM: The Representative from Representative Buxton has posed a question through the Chair to the Representative from Unity, Representative McElroy. The Chair recognizes that Representative.

Representative MCELROY: Mr. Speaker, Men and Women of the House: To the Representative from Buxton, the article was extracted from the most recent publication by the Maine Education Association. I have no problem identifying my sources.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: This is going to be a surprise to many of the people here who know from whence I come and so forth, but if you keep arguing about this I am going to go back recruiting because it will be paradise. It amazes me that people are so disturbed about

choice when they have had choices for years and years. Let me just name a few. How many of you put up with the so-called emancipated student, and tried to prevent him from going anywhere? How many of you people have had young people move in to the aunts and uncles and grandparents, and tried to take them to court and prevent them from going to school when these people have gone to the boards to say, "I pay taxes in this town, why can't this person live with me and go to school?" For those of you that don't know it, you can go to court and get guardianship for \$35 and go where ever you want to.

Now I will surprise you even more. In my background I belong to a couple of groups of schools. One is called ISONNE, which is the Independent Schools of Northern New England. Another is MAIS, which is the Maine Association of Independent Schools. I don't know how many times this has come up and every time it has come up these groups of schools, private schools, have voted not to try to influence choice, and I, even though most of my time has been in private schools, I have never influenced choices. There are good schools, there are poor schools, and if a parent wishes to change their children, there are many, many opportunities to do it. I guess don't worry about it, if we just pass 1791 all of our prayers will be answered.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I hope I am the last speaker on this issue, and I will be brief. I can't let my seatmate be last. I think what we have to do is if you really believe in education, and you believe that education should push, stretch, et cetera, and give the most opportunity to each and every student, then you have to look at this choice bill, and other related issues, as to will this help that individual child. If you believe that it is in the best interest of a student to move to another school, for whatever reason, to get a better education, then I think you will be in favor of choice. Thank you.

Representative JACQUES of Waterville 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 Orono, Representative Stevens.

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote for the indefinite postponement of this bill because I believe, and I hope that you will join me in believing, that what is bad for one student is bad for any student. If a student, for some reason or another, has to flee a dysfunctional school unit, then all of those students should have the liberty to flee that unit. In Maine, now, students have a fair crack at graduating from high school, going to technical school, going to college, in or out of state, and if this were to pass, if we had a mandated blanket school choice policy in Maine, that would no longer be the case. I fear that some schools would

find themselves with a majority of students, say, who were precollegiate, or one school might find themselves with a majority of students who didn't want to go on to higher education, who maybe wanted to go to technical school, maybe a third school would find themselves with an abundance of minority students, for example, or a school would begin to lean toward one religion or another. I think that if this bill were to pass the students who would truly have the choice are the students whose parents have the interest, the time and the affluence to remove them from a dysfunctional school unit, drive them, care for them, and see to it that they are placed in a proper school district, like mine, and probably like most of yours. Either way those school districts will lose if this passes because they will either have more students or they will have less students. As it is now, I think there is a general understanding that public schools in Maine are unfunded by over 150 million dollars, and until we give our schools the tools to participate in this free enterprise type of competition we can't expect them to make themselves better, to try to recruit these students without the proper tools. Please join me in voting to indefinitely postpone this bill. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: Very briefly, I just need to say the question still of the ability to control lies in the hands of the local school board. Local school boards control the schools. If there is a problem there is your problem. Specifically I need to address the question of drugs because it was raised. If there is a drug problem in your school, may I encourage you to do what other schools have done, to bring in the police and the dogs and go through the schools and get rid of the drugs. It has been done in Maine, it is constitutional and I urge you to do it.

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

Representative AULT: Mr. Speaker, Men and Women of the House: There are just a few points that I would like to address before I sit down and one of them is, just to build on something the Representative from Orono said, what I believe is what is good for one student should be good for all students. What is available for one student in this State should be available for all students. I would remind you that there are 10,000 students who choose where they go to high school because their home town does not have a high school. Currently, again, there are 600 students who are exercising choice through superintendents' agreements. As Representative Lane said, there are some superintendents in this State who are very supportive of exercising choice. However, that is not the case with all superintendents. There are many families in this State who are told that their children cannot attend school in a different district for whatever reason, because the superintendents will not agree. This legislation provides uniformity.

For me, this is a very positive bill and I'm intrigued with people having the negative connotation. I look at this as an opportunity for us to present for the student what is absolutely in that child's best interest. Sometimes that is to be educated outside their home district. I would like to say, again, that we already offer choice to many

students in this State, and I would urge you to vote against the indefinite postponement so we can make sure that that choice option is available for all students. Thank you.

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

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

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

Representative HARTNETT: I am a little confused about this aspect of recruiting. Will school units be able to set up a sort of office of recruitment? Either for academics or for sports? Thank you.

The SPEAKER PRO TEM: The Representative from Freeport, Representative Hartnett has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: In response to that question, I refer you to page two of L.D. 66 and remind you that each school board shall adopt specific standards for acceptance and rejection of applications. I can tell you the standards may include the capacity of a program, class, grade level, or school building. The standards may not include previous academic achievement, athletic or extra-curricular ability, any physical or mental handicap, and proficiency in the English language.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I will attempt to be brief. Don't be fooled. Those who do have choice in the State of Maine now, it is not a golden goose. It doesn't lay golden eggs. There are drawbacks to it. You can go out here to Whitefield, to Chelsea, to Windsor, to Jefferson, Alna, Westport, Arrowsic, some of those parents are having to dig into their pockets to pay for transportation. Don't you think for a minute they wouldn't like to have a school in their own town. There is no free lunch. It's true, there are some schools in the state, or towns I should say, that give choice, but they don't give full choice. They usually hold their, and have their elementary schools in town. They don't have choices. The high school students have choices, but there are some hardships that go with it. There are very few places in the State of Maine that don't have schools and K through 12 have a choice, very few. In my area you have the Town of Arrowsic, you have the Island of Westport, and you have the little town of Alna. In those three places each town probably has no more than 30 and 60 students, K through 8 in those towns. It just isn't feasible to operate schools in those towns. They did away with those schools 30 years ago when they had the two-hole law. They did away with them. Choice is not a golden goose, that which we have in the State of Maine today. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: I'm standing tonight, very briefly, to ask you to please vote no on this pending motion, and I want to just plead with you to please consider trusting the parents to make the decision about what is the most appropriate way to educate their children. I want to point out that most of the people that are in opposition to school choice will

never support school choice, and they will find one excuse after another to keep it from happening. I also want to point out that the studies show that communities that do allow for school choice, that it is only about one percent of the population that actually takes advantage of it. I can point out as a parent who has been able to have school choice for their children that it really is extremely difficult, and not just something that you would take lightly. One of my daughters goes to another school, two daughters, two different schools, 25 miles apart, different holiday schedules, completely different culture, long distance to call, different superintendents, the whole different set of things to deal with. I say, as a parent, to please consider allowing me to have that choice, that right to decide where my children are going to go, and to believe in the people who sent you here to be able to make their own decision about the best environment for their children. It's not something that a parent does lightly. It takes an incredible amount of effort to go through that. We get one child up at 6:00, another child up at 7:30, two different breakfasts, the whole routine.

I also wanted to mention, for those of you who are saying this isn't good enough, it's not full choice, it's not a voucher, please consider supporting this. I realize it's not a voucher. I realize that it is not full choice, but many of you, a month or so ago, we had an exhibit downstairs with a little starfish. Do you remember the little golden starfish and the story behind it about how yes, perhaps we can't save everyone, but if we can save one starfish at a time we have done our little bit to improve our corner of the world. I can give you examples from my own hometown of four children whose lives would have been greatly improved if their parents had been able to have choice. One is a child, he is the only child of a mother with acute kidney failure and a kidney transplant, who desperately needed to get out of the school system. Finally that mother had to give up custody of the child and send the child to go live with the grandparents. The grandparent happened to be a superintendent so he could cut a deal to let the kid in. That tore that mother's heart to see her only child, the only thing she had worth living for, leave her home and go several hours north in order to get an appropriate education. There is another constituent, a teacher, who ended up having to give up custody of her child to the grandparents in another town, just so that her daughter could be able to go to another school. Another boy, many of you have seen the sticker on my desk that says, "Does this meet the Ben test?" Ben is a young boy that was a constituent of mine. The mother pulled him out of school and did home schooling. That certainly wasn't a good environment for Ben, but if Ben had been able to go to another school, his life could have been quite different. As for the excuse of if you don't like the way things are why don't you go try and change the school board, remember the school board controls a great deal. For instance, my school board agreed to give the teachers a 14 percent raise over the next three years. Do you think there is any way on earth that the teachers are going to oust anybody from the school board? They love their school board. They thought it was perfect the way it was. It's not easy to run and get elected for school board, and it's one person at a time. I get really offended by that argument of go and work at the local

level to try to change your school board. Again, I just say would you please try to consider trusting the parents to make the decision about where is an appropriate place for their children to be educated, and to remember that if it really is that important to them, you should allow them to have that choice. We are not talking about masses, migration from one school to another. We are just talking about one percent. This is just a few people that would make a decision to go somewhere else, and those few people are people like Ben and Wes and the other children who I just spoke about. Thank you.

The SPEAKER PRO TEM: A roll call has been 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. 381

YEA - Adams, Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Keane, Kerr, Kil Kelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemke, Lemont, Libby JL; Lovett, Lumbra, Luther, Madore, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Peavey, Pendleton, Pinkham, Poulin, Pouliot, Povich, Rice, Richard, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Vigue, Vollenik, Watson, Whitcomb, Winglass, The Speaker.

NAY - Aikman, Ault, Barth, Buck, Cameron, Campbell, Carleton, Chick, Damren, Donnelly, Farnum, Gerry, Greenlaw, Joy, Joyce, Joyner, Layton, Libby JD; Lindahl, Look, Marvin, Murphy, Nass, Ott, Perkins, Reed, G.; Reed, W.; Richardson, Savage, Underwood, Waterhouse, Wheeler, Winn, Winsor.

ABSENT - Birney, Carr, Dunn, Joseph, Nickerson, Plowman, Poirier, Saxl, J.; Simoneau, Truman. Yes, 107; No, 34; Absent, 10; Excused, 0.

107 having voted in the affirmative and 34 voted in the negative, with 10 being absent, the Bill and all accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

ENACTORS

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Reserve Fund (H.P. 630) (L.D. 855) (C. "B" H-913)

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

Representative DONNELLY of Presque Isle requested a roll call on final passage.

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 Final Passage. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 382

YEA - Aikman, Ault, Bailey, Barth, Bigl, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Ott, Peavey, Pendleton, Perkins, Pinkham, Povich, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gates, Gould, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Keane, Kerr, Kil Kelly, Kontos, LaFountain, Lemaire, Luther, Martin, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Vollenik, Watson, The Speaker.

ABSENT - Birney, Carr, Dunn, Fisher, Joseph, Lemke, Nickerson, Plowman, Poirier, Saxl, J.; Truman, Winn.

Yes, 72; No, 67; Absent, 12; Excused, 0.

72 having voted in the affirmative and 67 voted in the negative, with 12 being absent, this being a Constitutional Amendment, and a two-thirds vote of the House being necessary, the Resolution failed of final passage in non-concurrence and sent up for concurrence.

An Act to Amend the Membership of Certain Boards and Commissions (S.P. 640) (L.D. 1675) (H. "B" H-898 to C. "A" S-451)

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. Ordered sent forthwith.

SENATE PAPERS

Non-Concurrent Matter

An Act to Implement Performance Budgeting in State Government (EMERGENCY) (S.P. 700) (L.D. 1790) (S. "A" S-525 to C. "A" S-502) which was passed to be enacted in the House on April 2, 1996.

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

by Senate Amendments "A" (S-525) and "B" (S-572) thereto in non-concurrence.

The House voted to Adhere.

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

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

Joint Order - Relative to Bill, "An Act Concerning Notice in Foreclosure Proceedings," H.P. 1315, L.D. 1799 recalled from the Governor's desk to the Senate (S.P. 774) which was tabled by Representative JACQUES of Waterville pending passage.

-In Senate, read and passed.

Subsequently was passed in concurrence.

Bill "An Act to Create the Maine Health Care Reform Act of 1996" (S.P. 769) (L.D. 1882) (S. "A" S-553 and S. "C" S-561) which was tabled by Representative DORE of Auburn pending passage to be engrossed as amended.

On motion of Representative SAXL of Portland, the House reconsidered its action whereby Senate Amendment "C" (S-561) was adopted.

The same Representative moved that Senate Amendment "C" (S-561) be indefinitely postponed.

Representative GUERRETTE of Pittston requested a roll call on the motion to indefinitely postpone Senate Amendment "C" (S-561).

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 Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: Just very briefly, my intent is to offer an amendment to the Majority Report which I see as a compromise between an in hospital catastrophic health plan and a catastrophic health plan which will cover people both in hospital and out of hospital, and will more reasonably address the needs of people who can't afford more comprehensive health care coverage. It will be a large deductible catastrophic health care plan which will be required to be offered by a private purchasing alliance.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I recognize the late hour and I will make this very brief. Senate Amendment "C" is an integral part of this bill. It is important to the overall Majority Report that was passed. It should not be indefinitely postponed. There has, I believe, been a compromise reached that will lead to a majority vote all the way around. I encourage you to vote against postponing Senate Amendment "C." Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The \$5,000 and \$3,000 deductible offered by Representative Saxl from Portland is already available in the industry. It does not do a thing. I would urge you to oppose the pending motion.

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

Representative SAXL: Thank you Mr. Speaker: I now have Senate Amendment "C" before me. What I have to do procedurally, in order to offer my amendment, is to indefinitely postpone this amendment. Senate Amendment "C" is not integral to the catastrophic health plan or to either side's interest in this issue. It just describes a range of the deductibles that can be offered and that can still be addressed no matter what we do with the pending motion for the House Amendment that I am going to be offering, House Amendment (H-914). I beg the indulgence of the body and just proceed with this and I will be happy to explain why I believe the House Amendment that I am offering does offer a reasonable alternative and a genuine compromise and not just something that is written on paper. Thank you.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: It's been mentioned before and obviously disputed, I beg to differ with my good friend from Portland. This is an integral part of it. The deductible is very important, even though this is an explanation, this is very important to us. I would like to pose a question through the Chair if I might. If it's crucial that that not be on before the Representative from Portland offers his amendment, I would be willing to entertain a tabling motion for a moment.

Representative SAXL of Portland withdrew his motion to indefinitely postpone Senate Amendment "C" (S-561).

Representative SAXL of Portland presented House Amendment "A" (H-914) which was read by the Clerk.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: I appreciate your indulgence as you consider House Amendment "A" this evening. House Amendment "A" is a very simple idea. What it does is it requires the voluntary purchasing alliance, which we are trying to create in this piece of legislation in L.D. 1882, it requires them to have a health care plan which provides both in hospital and out of hospital health care coverage with a higher deductible. Yes, it is possible that that plan can be created on the market right now, but it is not readily available on the market right now. If we are trying to provide access to insurance for a community that doesn't have access to a low-cost plan, I ask that this body adopt a type of insurance which truly meets the needs of Maine's health care consumers.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to oppose adding House Amendment "A" to this and if I am allowed I will suggest that there is another amendment which would be more appropriate if this is defeated. Thank you.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: This amendment replaces what we discussed last night, the catastrophic policy that was so important to the majority of the Committee. If this amendment only said that the purchasing alliance must offer this plan in addition to other plans I would have no problem with that, but this replaces what we discussed last night, and the majority of this body decided that that should be a choice for the citizens of Maine. This amendment also is currently offered in law right now, and to say that it is not readily available is misleading. It is false, because it is readily available. There are \$1,000, \$2,000, \$2,500, \$3,000, \$5,000, \$7,500, \$10,000 deductibles available right now with current companies currently doing business in Maine. To pass out a piece of paper as we are debating this right now that says that this is about mammograms, Ladies and gentlemen, this is not about mammograms. If you have a \$5,000 deductible, an average mammogram is \$100. So whether you have the catastrophic in hospital plan, or the \$5,000 deductible plan, your mammogram is going to be something that you are going to have to pay for out of pocket. Neither plan bypasses mandates. It's just a matter of the deductibles and one being in hospital. We have had this lengthy debate last night, I would ask that we get on with this. Defeat the adoption of this amendment and let's pass the bill as it was last night. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: This has been offered in the other body and was soundly defeated. I ask you to do the same thing here. Let me explain about the fact that these do exist. You will have to follow this. There were 13 employees, this is a case that we know about here in this body, 13 employees with a \$2,500 deductible on each one of the members. This company continued this for 15 years. What the company did was take the savings and put it into a savings account and paid all of the bills for the employees. In a 15-year period the employees never had to pay one cent. When the business was sold there was \$9,000 left in the account. This is not a dream. This individual serves with you in this body. It works and this one will work. The person I am referring to is Chester Rice, and in there they paid for heart operations, gall bladder and numerous, numerous expenses, so I urge you to please defeat this pending motion.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Woe be it to me to get involved in somebody else's fight, but there is a problem ladies and gentlemen. The problem is that last night's bill was adopted by a two-vote margin. Perhaps tonight, I don't know how it will go one way or the other, but I think we ought to take another look at what happened last night by a two-vote margin. What happened last night by a two-vote margin, and people say there is no problem, all the mandates stay in place. There is a word for this, ladies and gentlemen, and it is called mandacity. All the mandates don't stay in place because many of the mandates apply to primary care and preventive care that is not conducted in a hospital. The problem with this little bit of insurance is that if

you are going to have any out of hospital care, this little bit of insurance will not cover it. Let's talk about what this little bit of insurance will not cover. It will not cover mammography that is conducted outside the hospital. Now I don't know how many people admit themselves to a hospital for a mammogram, and I asked myself, if you are a working class woman in Lewiston and you work in a shoe mill and you make maybe \$10,000 a year, and you currently have health insurance, and you are 41 years old, your health insurance covers an annual mammogram. That's what it covers. If your company decides to get rid of that insurance and get this cheaper, in hospital only insurance, it will not cover the mammogram. As a working-class, 41 year old woman in Lewiston, are you going to have that mammogram if you have to pay for it out of pocket on \$10,000 a year, or are you going to wait until you feel a lump? I suspect that you are going to wait until you feel a lump, and that when you wait until you feel a lump you are going to wait until you are mortally sick, but don't worry, because under this plan your health insurance will cover a lumpectomy, a mastectomy, radiation and all of the in hospital care you need while you are dying. If you want to go home and tell that to the women of your district, and say this is a good thing, you go right ahead. But let's talk about the physicians in your district, because we all know a particular lobbying organization for the Maine Physicians has taken no position because they like either the Majority or the Minority Report. I have a brilliant idea for everyone in this room. While I am blowing a little wind here, walk out of the room, pick up the phone, call your doctor, ask for his or her fax number, fax them the two reports and ask how they feel about this. Let me tell you why, and let me just speak a little bit about politics. Generally, doctors don't like the way democrats take a position on tort reform, but if you think that's a problem for democrats you have got to start asking yourselves, and remember I don't really care how these people make their living because I know they are all going to make a living, one thing I know is no physician is going broke. Ask yourself how is a physician going to feel about the roll call last night regarding their income, because this is no longer about tort reform and their exposure, this little bill is about their income. I checked with a few doctors this weekend and I didn't find one who thought the idea of in hospital only was a good idea. Just in case all the doctors I talked to in Lewiston and Auburn don't agree with your doctors I am really going to strongly recommend that you make this call, because it's certainly true in the world of politics that people are going to care about how stuff impacts them. As I said to you, I'm not worried about how doctors are going to make a living, they are all going to make a living. I'm worried about how patients are going to access care, and in particular I have a strong worry that if you do in hospital only you have wiped out the work that you all did over the last five years about out-patient parity for mental health care. See, it's great to know that anybody who goes into a psychiatric hospital will have parity for all their coverage. The question is, will they have any coverage at all if their employer decides to buy in hospital only and replace their current insurance with in hospital? Will they have any coverage for an out of hospital care? That's just mental health. That's just

mammography. Let's talk about pap smears. Let's talk about PKU in children who are allergic to formula and are losing weight, and initially the doctor suspects failure to thrive and then finds out the kid is allergic to formula. Now if you represent only people who can easily afford to pay the \$60 for a well-baby visit, that's wonderful. I don't, and I have a pretty middle-class district, but I remember standing in line four years ago with my two kids with the flu and the person in front of me had two kids with the flu and I didn't know where they were getting the money to pay for the visits for both of those children because there is no two-for-one discount when you are seeing the pediatrician.

The problem with what you passed last night by two votes is that I don't think a lot of people have checked with physicians directly. I know what the Maine Merchants want, I know what the Chamber wants, but I also know that many of you care deeply about what physicians think is good quality care for their patients, and I suggest that you talk to your doctors about whether this is good quality care for their patients, in hospital only. I can afford in hospital only, and some of you can, but frankly, most of you cannot afford in hospital only. Most of you in this room cannot afford in hospital only, and I think you are going to have a hard time explaining to your constituents why they can. So, I suggest that we give this another days thought, that you check with your doctors and see how they feel and get an opinion, and that you think long and hard about whether this is providing insurance to people who otherwise don't have it, or whether this is about robbing people who currently have insurance, working-class people, and providing them with something far less that gives them tremendous economic vulnerability and will make them decide not to see the physician until they are in very deep trouble. It goes against everything about primary and preventive care and ladies and gentlemen, I really hope that you don't snooker yourselves with your two-vote margin yesterday into doing something that is going to hurt your constituents. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative KEANE: Are we currently debating House Amendment (H-914), Representative Saxl's amendment?

The SPEAKER: The Chair would answer in the affirmative, House Amendment "A" (H-914). The Chair recognizes the Representative from Old Town, Representative Keane.

Representative KEANE: Mr. Speaker, may I pose a question through the Chair to Representative Saxl?

The SPEAKER: The Representative may pose his question.

Representative KEANE: I'm getting a little confused here. Is your amendment catastrophic coverage intended to include catastrophic coverage including in-patient and out-patient care?

The SPEAKER: The Representative from Old Town, Representative KEANE has posed a question through the Chair to the Representative from Portland, Representative Saxl. The Chair recognizes that Representative.

Representative SAXL: Mr. Speaker, Men and Women of the House: In response to Representative Keane's question, yes, this plan covers in-patient. It covers out-patient. It covers all the care that a person could need.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I would just like to remind you that I represent a district in Bangor that has Saint Joseph's Hospital, and all the doctors associated, BMHI, Acadia, Eastern Maine Medical Center, all the doctors associated, and last Saturday Representative Campbell and myself invited every doctor in Bangor to a meeting, had sent them all a copy of the Majority Report, and went through this Majority Report page by page with the doctors. We have talked with doctors about this. To say that we haven't, or insinuate that we haven't is not true. They had no problems with this. Yes, they like it. If we could have a policy that would cover everybody and didn't cost a thing, wouldn't we all? But the situation here is not, ladies and gentlemen, someone that has a policy that covers everything going to a policy that is in-patient only that won't cover them for out-patient situations. This, let me bring you back to last night, because things get very confusing in the late hours. Sometimes I wonder if in my brief period here that isn't intentional. Maybe it is maybe it isn't, but let me bring you back, this is for people who usually don't have any insurance. If you don't have any insurance you're not going to have a mammogram that is paid for. If you don't have any insurance you are not going to have a doctors visit that is paid for if you have a sick child. If you don't have any insurance you may not even want to take your child to the hospital if they are very sick because you are afraid of going through financial ruin. If you don't have any insurance the list goes on and on and on. This is not in comparison with people who have insurance and can afford insurance that covers everything. This is a choice for people who have nothing to get them over a hump. Let me remind you that this also has a sunset on it. It's a study to see what happens, to give people an option. Let me remind you also that the majority of the Committee discussed this in length. Representative Saxl's amendment was nothing new. We debated that, it was already current law and that's why it wasn't in here, it was current law. We can already do it. Why did we put the in hospital coverage in there? Because the insurance industry told us that that premium would be comparable to a \$10,000 deductible insurance policy like Representative Saxl is creating with his amendment, only his is a little bit lower, \$10,000 deductible in and out of hospital coverage. Ladies and gentlemen, if you have a \$10,000 deductible I suggest that might be financial ruin for some people and that's why we came up with this, as another alternative, as a trial, as a choice. Let me remind you that the majority of the Committee, I have heard this over and over again in this body, trust the Committee, trust the Committee, the majority of the Committee in a bipartisan effort came up with this after hours and hours and hours in a work session. So, I would ask you to vote against this motion. Let's get on with the business at hand, and let's offer the people a choice and see if it works in the alliance. Thank you.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: Just briefly, I know you have all heard this, I want to be very clear, this is for the uninsured, not those who have insurance as has been mentioned earlier. This is for the uninsured who want to take personal responsibility. What this does, not so much this amendment but to get back to the original intent of the bill, it brings us back to the intent of insurance many, many years ago, simply if the worst happens it will be paid for. Beyond that I will take responsibility for my preventive health care. I will take my responsibility. I just want a policy, just a small piece offered to me through this alliance that allows me to take a personal responsibility, and I will pay for my preventive, but I want something to cover me if I have to go into the hospital. This covers only worst case, only in hospital, and yes, the Senate Amendment that has been before us is important because somehow in the legislation, the draft legislation, the \$1,000 deductible was neglected. It's important to have both the in hospital piece and the \$1,000 deductible, therefore we need to defeat the motion before us, go back to the original and then accept Senate Amendment "C." Thank you.

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

Representative DORE: Mr. Speaker, May I pose two questions through the Chair to Representative Lumbra?

The SPEAKER: The Representative may pose her questions.

Representative DORE: First, Representative Lumbra explained that she showed the Majority Report to a group of physicians in Bangor. I haven't found a physician yet that I have faxed both the Majority and Minority Reports to who embraced the Majority Report. So, the first question is, did Representative Lumbra also show the Minority Report to this group of physicians in Bangor? This was, after all, a six to seven report, and not a ten to three report. The second question is would you consider a friendly amendment that would say that any employer who currently covered their employees with more comprehensive insurance would not be allowed, would be prohibited from dropping to this level of insurance?

The SPEAKER: The Representative from Auburn, Representative Dore has posed a question through the Chair to the Representative from Bangor, Representative Lumbra. The Chair recognizes that Representative.

Representative LUMBRA: Mr. Speaker, Men and Women of the House: What we did in the meeting two Saturdays ago, excuse me, I lost my sense of time when I said this past Saturday, is we compared both reports since there are just a few differences. The other report has no catastrophic care offered and it also has no quality of care standards that protect the patient from rationing health care, two differences. Ours offers the catastrophic and it has the sentence in it that protects the patient from rationing health care or allowing the insurance industry to practice medicine. We, Representative Campbell and I, told them this is the difference in both reports and this is what we went over. I am not standing here tonight saying the doctors said, "Oh yippee!" because they didn't even know what 1512 said originally, so we had to go back and show them things

in that, but we did tell them the difference in both reports. As far as the amendment, I think there is a little bit more to that and if you were on Banking and Insurance you may understand this in detail, that I think an employer would be more than willing, or I would be more than willing to let an employer pick up a plan that has less coverage as long as they agreed with the employee, through a contract, to pay for any difference. There is a little bit difference than just putting an amendment like that on and saying the employer can't do anything. If they agree, like we have heard from other members of this House, that they have said, "Look, I have bought a higher deductible," or "I have bought a plan similar to this," but then I agreed with my employees that I would pay all out-patient costs for them to try to save money then that should be an option. We can't just put an amendment on like that and not allow for other options.

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

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

The SPEAKER: The Representative may pose her question.

Representative MERES: I would like to ask a question about rationing of health care, that sort of piqued my interest. I would like to know a comparison between the two bills and whether or not rationing includes age discrimination, and what else it covers? Thank you.

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

Representative VIGUE: Mr. Speaker, Men and Women of the House: There are no restrictions whatsoever on either one. The only difference between the two bills is the portion that we are discussing right now. That is the key thing. Thank you.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I apologize at this late hour to still be doing this. There is a minor difference here and that is in the Majority Report we add language that does protect senior citizens from discrimination because of age in their health care treatment and that is not in the Minority Report, and that is, in fact, a difference. Beyond that issue, Ladies and gentlemen of the House, we debated this heavily last night. This is about choice. This alliance we will form will help small businesses and employers to get health insurance that may not have it today. This tiny piece we are talking about will only be a tiny piece of an overall package to allow people to buy health insurance at a lower cost. The overall package, ladies and gentlemen of the House, will give many options, probably dozens of options, to people that join this alliance for purchasing health insurance. If this particular option we are fighting about today doesn't help Maine people, and doesn't help Maine citizens, it will die a quiet death in the near future. It is unsettled. The only way that this particular little piece that we are fighting about will stay in Maine law is if a future Legislature, when the sunset arrives, decides that

this is really helping people, and if they decide it is really helping people they will make an affirmative vote to keep this. If it isn't helping people it will die a quiet death. We have made this a very clear test as another way to bring more people under the insurance umbrella. I urge you to stay with your vote last night and I urge us to get on and vote. Mr. Speaker, when the roll is called I ask for the yeas and nays. Thank you.

Representative GUERRETTE of Pittston requested a roll call on adoption of House Amendment "A" (H-914).

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: In case you were confused by the answer from Representative Lumbra, I listened very carefully and it appears the answer to the first question is that she did not show the Minority Report to the doctors she met with two weeks ago. She may have explained it, but she didn't show it to them. Let me assure you the doctors I got in touch with this weekend, I faxed them both reports complete, because I assume that doctors have a reasonable IQ and can read and decide for themselves what they think is in their best economic interest, which I don't care particularly about, but in their patients' interest in terms of primary and preventive care, which I do care a great deal about. I told you from the get go on any health issue I am not worried about how a doctor is going to make a living, but I think they are. What I am really worried about is how a patient is going to access care. So, the answer to the first question is she did not show them the Minority Report, that seems to be what she said when she indicated that she explained it.

The answer to the second question is that she is not willing to ride a friendly amendment guaranteeing that people will not drop down, that employers will not drop down from comprehensive coverage that includes preventive care to coverage that is only hospital. Nobody wants that amendment because even though everybody is talking about how this is going to be insurance for people who currently don't have it, the real truth is this is going to be the elimination of primary and preventive care for people who currently have it. This is a shell and that's what is really going on. It's the elimination, otherwise there would be no problem with a friendly amendment. It's writable. It's doable, there would be no problem saying if you currently offer comprehensive insurance you cannot decide to ratchet down to hospital-only insurance. Ladies and gentlemen, I can only urge you two things. First, I think you should check with your doctors. If you are not going to check with your voters who have insurance coverage I think you should check with your doctors. Second, if you are not going to do that, then I am glad we have had this debate tonight and that there is an extensive record about what everybody is doing in this situation. Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: If you look at the current amendment that is before us, it says, "Amend the bill in part A, section 3, by striking out all of paragraph B." Then it goes on to list lines 28 to 33 and it has a substitute for paragraph B. The paragraph that it is taking out is the paragraph that says, "The alliance shall provide at least one health

plan providing catastrophic coverage for in-patient hospital benefits." So the amendment before us strikes that language out and only includes plans with a deductible. I only wish that we were allowed to discuss Representative Martin's amendment that would be a compromise as the good Representative Dore has discussed, because I think that would eliminate all debate and we would have a plan that everybody could live with. I would hope that we all move not to adopt this plan and vote against it so we can move on to further amendments. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative LANE: Were the amendments in question, or the reports, printed two weeks ago? Thank you.

The SPEAKER: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Lumbra.

Representative LUMBRA: Mr. Speaker, Men and Women of the House: In response, two weeks ago, when I had the meeting with the doctors neither report was printed. We could only discuss what we had in hand and what we knew to be the differences, which is what the differences are today. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to apologize to Representative Meres. I thought she had said AIDS and not age. A carrier may not deny payment for a covered service based on the enrollees age, nature of the disability, degree of medical dependency. It cannot be done whatsoever.

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 Norridgewock, Representative Meres.

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

The SPEAKER: The Representative may pose her question.

Representative MERES: I just have some real confusion now, because the question that I asked was whether or not there was an opportunity for rationing of health care for the elderly in either report. I got the impression from listening to Representative Vigue that there was no opportunity for discrimination against the elderly somewhere, but I guess the impression that I am getting now is that there is a difference between the Minority and the Majority Reports and I really need some clarity because I have no desire to vote for any bill that rations health care for the elderly. So, if I could have the clarification I would appreciate that.

The SPEAKER: The Representative from Norridgewock, Representative Meres has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Rockport, Representative Gates.

Representative GATES: Mr. Speaker, Men and Women of the House: In response to the question, all that is in front of us is the Majority Report. This amendment changes one thing in the Majority Report, so the provision you are concerned about, and question about, is in the bill that we are going forward, we are not going back to the Minority Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-914). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 383

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Green, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, LaFountain, Lemaire, Martin, Mayo, McAlevey, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Pouliot, Povich, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, DiPietro, Donnelly, Farnum, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jones, S.; Joy, Joyce, Joyner, Kean, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Marvin, McElroy, Meres, Murphy, Nass, Ott, Peavey, Pendleton, Pinkham, Poulin, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Birney, Carr, Dexter, Dunn, Kerr, Lemke, Nickerson, Plowman, Poirier, Saxl, J.; Truman.

Yes, 66; No, 74; Absent, 11; Excused, 0.

66 having voted in the affirmative and 74 voted in the negative, with 11 being absent, House Amendment "A" (H-914) was not adopted.

Representative MARTIN of Eagle Lake presented House Amendment "B" (H-917) which was read by the Clerk.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I don't want to repeat my speech of last night, so I won't. The thing I was trying to get to was an option for out-patient services to be covered. What this does, basically, is to create plan four. You have heard about plan one, plan two, and then the catastrophic hospitalization was plan three. This will be plan four for out-patient services, and will do the same thing as what plan three would have done, but will be only for out-patient services. I believe that if, as an employer, this is going to be offered, this offers an alternative. I feel strongly about it because I believe that it allows an opportunity for me, as an employer, or any other employer in the State, to really help the employee. As I said last night, in

the case of hospital care, most of that will be picked up anyway if they can't pay for it and don't have coverage one way or the other. That is not the case when it comes to out-patient services. I hope you will support adoption of House Amendment "B." Thank you.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: This is a good piece. This is the missing piece to our deliberation, therefore I recommend we go with this amendment.

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

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

The SPEAKER: The Representative may pose her question.

Representative MITCHELL: To anyone who may answer, does this amendment eliminate mandates from those plans that one can buy? Could you speak to the mandate issue?

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I will respond in the negative, it does not.

House Amendment "B" (H-917) was adopted.

Senate Amendment "C" (S-561) was adopted.

The Bill was passed to be engrossed as amended by Senate Amendments "A" (S-553) and "C" (S-561) and House Amendment "B" (H-917) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Establish Choices for Parents and Guardians in their Children's Education" (S.P. 36) (L.D. 66) on which the Bill and accompanying papers were indefinitely postponed in the House on April 2, 1996.

Came from the Senate with that Body having adhered to its former action whereby Report "A" "Ought to Pass" as amended 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-545) in non-concurrence.

The House voted to Adhere.

ENACTORS

Emergency Measure

An Act to Make Changes to the Disability Plans Administered by the Maine State Retirement System and to Establish a Process for Further Improvements (H.P. 1238) (L.D. 1698) (H. "B" H-911 to C. "A" H-899)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow the Removal from Public Office of Certain Elected County Officials (H.P. 1240) (L.D. 1700) (C. "A" H-803; H. "C" H-916)

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.

ORDERS

On motion of Representative KERR of Old Orchard Beach, the following Joint Order (H.P. 1386)

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out, to the House, legislation concerning the Maine Rainy Day Fund.

Was read and passed and sent up for concurrence.

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

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

An Act to Initiate Education Reform in Maine (S.P. 701) (L.D. 1791) (Governor's Bill) (C. "A" S-549) which was tabled by Representative WINN of Glenburn pending the motion to reconsider passage to be enacted.

Subsequently, the House voted to Reconsider its action whereby the Bill was passed to be enacted.

Representative LEMKE of Westbrook moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: This will be the last debate, and hopefully it will be relatively short. We have had a long, sometimes interesting, sometimes tedious, but always typical of the House, conversation for many hours about this bill. We have looked at it on a philosophical grounds, and many others. Tonight we will look at it in terms of what I consider the hard facts. Then, once those have been put forth, and once those have been discussed, we will vote. Whatever way anybody votes, let your conscience be your guide, that's what always has to be the case in this room. I do want to thank all of those who have fought the good fight and have stood on this bill for so long so that we could reach this point.

I have the opinion of the Attorney General as relayed by the Assistant Attorney General, Cabanne Howard, April 2, and I will read it to you, and then maybe later we can discuss in detail what it means. "Dear Representative Lemke, I am writing to confirm the advice which I rendered to you in summary fashion earlier today concerning your inquiries regarding Committee Amendment "A" to Legislative Document 1791, An Act to Initiate Education Reform in Maine. As you know, your inquiry reached our office yesterday, April 1, 1996, as this bill was pending on the floor of the Legislature, so the response of our office to your questions must necessarily be brief. Number

one, your first question was whether the bill, as drafted, contemplates that the school administrative units of the state will have a formal role to play in the formulation of the rules contemplated by the bill. The operative section of the bill, section 2, specifies that the Department of Education, the State Board of Education and the relevant Joint Standing Committee of the Legislature shall develop recommended content standards and student performance indicators, following which the Department and Board, in accordance with the Maine Administrative Procedures Act, shall adopt rules. The section contemplates circulating these rules to the school administrative units of the state for comment, but does not accord those units any power to make any decisions, to the extent that the statement of legislative intent in proposed 21-A, MRSA, Chapter 6208, says anything to the contrary the provisions of section 2 would prevail. Thus, as it is currently drafted, the bill would not permit school administrative units to have any vote in the formulation of the rules." Ladies and gentlemen, that is a definitive answer on the issue of local control. We can debate it later, but as far as any legal ruling, it's pretty clear cut. I hope you would agree this one is. "In addition you ask whether if the school administrative units were so excluded from the rule making process, whether that would in any way be unconstitutional under the provisions of the Maine Constitution. I indicated that since the Maine Constitution does not guarantee any degree of local control over education, the bill would not violate any provision of it. You asked whether the bill, as drafted, would constitute a mandate within the meaning of Article IX, section 21 of the Maine Constitution, requiring its passage by a two-thirds vote of all members elected to each house. I indicated that as set forth in the fiscal note to the bill, the bill, as drafted, does not impose any requirement on the school administrative units of the state, but that the rules eventually adopted might, in which case the Legislature would be required under the Constitutional provision to adopt the rules itself by a two-thirds vote, or fund 90 percent of the attendant cost." Which, in simple English is, as drafted and without a preamble put on it, technically it is not a mandate, but out there, it very well could be a mandate. "Number three, you next asked whether the provisions are proposed 20-A MRSA, Chapter 6209, directing that the Commissioner of Education accommodate the religious beliefs of a student's parent or guardian in establishing course content or requirements, would violate the free exercise clause of the first amendment. I indicated that since the provision was an obvious attempt to accommodate concerns of the free exercise of religion it is not likely that it would be found to be an impediment to them. Thus, the provision would not violate the first amendment." One of the things in the Constitutional History course that I teach that we do is that we read through line and line and we look for the key words. The key words, Ladies and gentlemen, "it is not likely," that does not mean "it is not possible." "Number four, you also asked whether the provisions of proposed section 6209, 1D1, which required that each student must leave school as a responsible, involved citizen, who demonstrates participation skills, would violate the first amendment. I indicated that while it is possible that in adopting rules pursuant to the bill, the

Commissioner and Board might provide for some behavior on the part of a student which would violate the student's first amendment rights, there is nothing on the face of the proposed legislation which would suggest that. Consequently, I thought that the legislation was not unconstitutional on its face for this reason." Again, we will get into it later, but I think you see the relevant section there. I might say, parenthetically, number three and number four are, and can constitute very major constitutional issues which, frankly, the Attorney General's Office did not have sufficient time to fully develop. I certainly can guarantee to you that with further research I'm sure they would see the consequences of Wisconsin versus Yoda and other cases on this. As an education lawyer, and also a constitutional lawyer, pointed out to me, there is a lawsuit in practically every page in this section. "Number five, finally you inquired what the effect of this legislation would be on the provisions of the Education Reform Act of 1984 relating to the assessment of students. My response was that in view of time considerations it was not possible for us to make an exhaustive comparison of the two statutes, but that if there were any point of incompatibility between them, the court would attempt to reconcile the provisions, but if it were unable to do so, Legislative Document 1791 would prevail in view of the well-established principle that later more specific legislation must be found to impliedly repeal any earlier inconsistent legislation." Again, with number five, the same problem with three and four in terms of time consideration. Nevertheless, I think it shows clear potential on that ground as well. Finally, "I hope that the foregoing accurately summarizes our conversation."

To sum up, and staying away from the constitutional issues, although they are very important, and I will probably almost automatically would involve at least one suit, if not more, against the State of Maine upon enactment, you can take that to the bank, two key parts involving local control. I'll try to do this in simple English now. Local control is out. Local control is out. Local control is out. As far as the mandate provision, it might not be a mandate today, but it very well might be a mandate tomorrow. I would finally like to point out that given the action in Appropriations today, perhaps this is all a moot question, nevertheless it is a very important one. This has been described as an opinion that is not definitive or does not indicate potential for problem. I leave that to you to judge. I think it's pretty clear, but let us now begin the debate, if debate is necessary on this. Thank you.

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

Representative AULT: Mr. Speaker, Men and Women of the House: I would remind you, but I am sure I don't have to remind you, that we had a healthy, spirited debate over the last few days which resulted in a solid vote, 94 to 50 in favor of this legislation. I would just like to highlight some of the points that Representative Lemke just discussed. When he discussed the operative section of the bill, specifying that the Department of Education, the State Board and the relative Joint Standing Committee of the Legislature shall develop the recommended content standards, I would like to remind you that these standards would come back to the Education

Committee and the 118th Legislature for final review. There would also be scheduled at least eight public meetings in at least eight different regions around the state. I also note that he requested a ruling as to whether or not this was a mandate. I know that this bill does not constitute a mandate and I am pleased to see the bill, as drafted, does not impose any requirements on the school administrative units of the state. So, I would encourage you to vote against the pending motion and I request a roll call. Thank you.

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

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I think you have noted from the reading of the letter that what the Deputy Attorney General has indicated, or I should say the Assistant Attorney General, is that this is the advice and not an opinion from the Attorney General's Office. Second, I must point out to the Representative from Westbrook, Representative Lemke, I'm sure he teaches it in his constitutional law class that every law that the Legislature passes, or the Congress of the United States passes, is presumed to be constitutional until the courts declare it unconstitutional. No Attorney General, nor legislator, or lawyer can rule on the constitutionality of a piece of legislation. The third point I very quickly want to make to you, and what it points out is exactly what we have been saying to you all along, it's not a mandate. It allows local control and it provides for local input. I would simply ask you to vote against the motion to indefinitely postpone. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I'm not an attorney. I'm not a constitutional scholar. Some say I am not a scholar at all. I'm just a legislator, and I read the Attorney General's letter and it was very clear to me that there was nothing in the letter, or the issues that were raised by Representative Lemke, that would prevent this legislation from going forward and I urge you to vote against the prevailing motion. Thank you.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House: I have not spoken on this issue before because every time I thought I would get up to speak somebody got up and said what I wanted to say previously. Generally it has been Representative Martin, Representative Brennan, Representative Barth and many others. However, I am troubled by what I have heard this evening. I don't like to repeat this but I did serve on the State Board of Education. I was on the State Board of Education when the Reform Act of 1984 was written. I helped write that act. I trust the State Board of Education. I remember writing that act. I remember sitting in a huge room that was filled with superintendents of schools. I remember sitting there for hours, listening to their input. I remember taking that input back to a table where there were at least 20 people with representatives, oftentimes, from the Attorney General's Office, the same Cab Howard whom we have

heard from tonight. Always a representative from all of the different disciplines that you had mentioned on that rule-making paper you have had passed out to you before. We listened to parents. We listened to teachers and that was the way we formed the Education Reform Act of 1984. I'm not distrustful enough to think that the current State Board of Education, the Chairman of whom was the Chairman of this task force committee, who was on the State Board when I was on the State Board, and who is not a bureaucrat by the way, I have no reason to distrust them to the point that they are going to do this any differently. I have no reason to believe that they are going to be deceitful, that the schools, the teachers, the parents are not going to be involved. We know, by law, that whomever sits in this House next year is going to be involved. It will not come to you until somebody from the Attorney General's Office has said this will pass the test of law. If it won't pass they won't send it to you. If it takes another year to do it, it will take another year to do it. That is the way these things are crafted.

I will say, back in 1984, we naive people here in Maine were not quite as suit conscious as people are today. That might make a difference. I do not see L.D. 1791 as anything much stronger than a directive to the State Board of Education and the Department of Education to go out and work to write those rules and standards, and they can't do that unless this Legislature gives them the directive to do it. That's about all I see that is left to L.D. 1791. I know some other people read some other things in there, and I do not see them. They may be there but I have not seen them. I have studied this bill carefully from the time that we first got the Task Force Report. There was one section of it I highly disagreed with, and along with many, many other things that has been removed. I am disturbed by what we have heard tonight because I have more faith in the people that we are giving this directive to that they will be honest, and I know that there will be an Attorney General's representative sitting there in that room, and that person will go over this with a fine-toothed comb. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I would like to respond, briefly, to my good friend from Madison, and say that there is a little bit of a problem, I think, that exists, and there was some concern, even in Committee, even among some of the members that supported this bill. I'm going to give you an example, just so that you know that there are some real concerns out there. Part of the Task Force on Learning Results' job of collecting data included a survey of both parents and students. It was a well put together survey, it had 40 questions. I don't think anyone found any problems with that survey, but in that survey it asked to prioritize those 40 areas. One of the areas was foreign language, and the parents put the priority for foreign language, a second language, a fluency in a second language, the parents and the students rated that area as 38th and 39th. I mean they were dead last. This group, this Task Force, of good people, completely overlooked that because they had their own ideology of what kids should know. When I went back to my school systems and I talked to the teachers, they told me, "You've got to be crazy. All students in the State of Maine are going to graduate fluent in

a second language? Every one of them? You're out of touch." That's what they told me. I'm not overstating it. That's exactly what they said and I believed that. So, there was cause to be concerned and there is cause to be concerned if this goes back to rule making, and I think it will be our responsibility, I think, to oversee it and take a real close look as who ever is on the Education Committee next year, they are going to have to take an awful close look because things like this happened along the way. That's why, again, I advocated that we put it back out to the schools because then they can't say that we are out of touch. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative PERKINS: We were told yesterday, we are told again tonight, that it's not a mandate and it is local control. It seems to me that the meat of this is the fact that the local districts won't do this voluntarily when we send this out as suggestion or guideline. Local areas won't do this voluntarily, that's why we need 1791, we are told. How can it be local control then, and how can it not be a mandate? Could somebody answer that please?

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: As the legislation is currently written, and as the advisory letter that was written by the Attorney General pointed out, all 1791 does is send this to rule making. Because it is in rule making it does not constitute a formal mandate to the local schools to implement. When the rule making comes back to the legislature, and if we act affirmatively on the learning indicators, and on the rule making, at that time there may then be a discussion about whether or not it constitutes a mandate.

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

Representative STEDMAN: Mr. Speaker, Men and Women of the House: We received yesterday, prior to our vote, a list of rule making, the proposed process and the critical review committee proposed membership. I have searched far and wide in this L.D. 1791 to find where these are included in the process that will be passed if this bill does succeed. I need to ask if anyone can point out for me where this rule-making process is included in this bill so that we are guaranteed that this process will be going forward? Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: The process for rule making is found in the APA, the Administrative Procedure Act, which lays out in great detail, I believe it is Title 5 of the Maine Revised Statutes Annotated, and goes in great length as to what has to be followed through the process.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: My concern about this legislation, and I understand the difference between the language itself and this bill being a mandate, and the subsequent report of the committee on the rule making being a mandate. My concern is that it is, in fact, opening the door to a future mandate if, in fact, this is implemented. May I pose a question through the Chair? The question that I have raised with a number of people, and I'm still not satisfied with the answer, at some point this legislation, through the rule making, will require a number of areas to be defined by schools and to be met by schools. If a school board determines that they wish to spend extra money that they have available on, for example, computers, and they have not met the basic language requirement, how is the state going to intervene in that process and say, "You now have enough money to do a language program, and because you are choosing not to do a language program and you are choosing to do a computer program, that is not acceptable"? I am very concerned about how that is going to play out, and that is the local control issue that makes me the most nervous. It's not certainly part of this legislation because there are no details in this legislation, but what this legislation does is to set up the scenario for this to be played out to its fullest, and that concerns me greatly. If there is a way to get my question answered I would appreciate it. Thank you.

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 Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: First of all let me just point out that that will come out in the rule process. Within the statute within the proposed bill there is language which will allow the school board to make a determination that they don't want to do it. Third, there is a process existing in state law now which allows for waiver requests. That's been in the books, I believe, since 1984 and it has been used by many school districts, including my own. So that is not a problem. Finally, as an addendum however, I must make this comment, unrelated to the question, related to the question but not directly, that if computers are used it would be a method, I would hope, of teaching English. Computers should not be used alone in the process of teaching. I was shocked at the school board meeting that I last went to that had a discussion about keyboarding. Finally I said, Is that typing? I guess that is a new word. It's no longer typing, it's keyboarding. Keyboarding is going to allow someone to do something with it other than simply looking at what some people are now looking at on some of these screens. So, it becomes, I think, a tool to learn English, and to learn all other subjects as well.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: Please note that I did not speak on the floor yesterday regarding this bill, so please allow me to speak on behalf of the many constituents that I represent and the many, many

people I have spoken to and listened to, most importantly, listened to throughout the State regarding this issue. I think it's important to note for the record that I did ask, several days ago I did mention, the line from Shakespeare about, "Me thinks thou doth protest too much." It continues to play through my mind. If this bill was so good why would it be so difficult to pass this? After all, the Board is behind it, the Department, the Commissioner, we had 70 lobbyists out here for a week, day after day after day, trying to tell us how good this was. I want to say for the record that one of the reasons why this bill is in such terrible shape is because we did not listen to the people. The people's input was not sought after, and I think anybody that is trying to tell you that the people were really listened to are in a state of denial. I think it's important to put that on the record. For example, one thing you can do is look at the list of membership on the task force. It was a 50 percent turnover between one year and another, a 50 percent turnover. There ended up being a core group of 10 people. Listen to their titles, Superintendent, member of the Board of Education, professor, former Commissioner of Education, Dean of a private college, principal, librarian, Chair of the Board of Education, professor and one banker and one parent. To me it was weighted much to heavily to the people who are not the consumers, are not the taxpayers, and are not the people who care the most about the educational system and are the most dedicated to changing it. That's why, if you remember, I put in the floor amendment that would have allowed more consumers, more parents, more business people to be involved in the process, and take it away from the people that are part of the institution.

I also thought I should mention, in the hopes that this next round would produce better results and I think it is really, really important to listen to the people. I have spoken to many people who tried to attend those public, so-called public hearings. It was very clear to them that the facilitators were in charge, that they had their own agenda, that they were not listening to the people, that they had plants in the audience to steer the direction of the conversation, and that if anybody dared to bring up anything that was politically incorrect they would figure out a way to silence them. I have even had board members, the Board of Education, come to me privately and say that they knew that it was a serious problem, that they acted and pretended like they were listening and soliciting input from the people, but, in fact, they were not. One example I can give you is when our Committee had the public hearing. Do you all remember that? It was all day long. We had three different rooms. We were told, the Committee members were told, do not ask any questions. Do not ask any questions during the public hearing. I had the audacity to ask a teacher for their phone number and got hammered down. I just want to bring this to the light of day because I care greatly about this issue and, frankly, I really think the only way to ever get any movement is to go to the local level and get their involvement and that there is no way we are ever going to make any substantial changes if we try to do it top down. Again, to remind you, that's what I was trying to address on the floor amendment, was to give people a model to look at immediately, now, to develop an advisory committee to include more parents and business people

and just to try to take this away from the bureaucrats and get as many people involved in it as possible. Again, my primary wish is that this next go around that the people that are getting rich out of this, because there is a whole lot of money at stake in this, don't kid yourselves, will listen to the people that are paying their salaries. Thank you.

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

Representative HICHBORN: Mr. Speaker, Men and Women of the House: This may very well be the last time I make any remarks on this House floor. It will be short and to the point. It seems to me that we are worrying about spilled milk before the cow even comes in from the pasture. We should remember this legislation does not contain any standards. The standards will be considered by a group of skilled people from all walks of life, and they will not be placed in effect until the next Legislature, the 118th, has seen them, read them, talked about them, discussed them, decided whether or not they are acceptable. Thank you.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative McElroy.

Representative McELROY: Mr. Speaker, Ladies and Gentlemen of the House: For the record, I too didn't speak yesterday. I know you all thank me very much for not undertaking that and I left those notes for you which I didn't use yesterday home. So you don't have to listen to them today either. From my perspective, 1791 has a message. The message is we need better performance. We want more accountability. That's what the message is. Representative Kilkelly asked about the local issue. What I envision, if I can go into the wild blue yonder for a minute, is that we have schools that have standards that they have to live up to. If a school is not meeting those standards that is when I see the local issue coming into play. If they are not performing, somebody in that community is going to become aware of that. They are going to ask the educational establishment, I was and am one of those people, what's going on, why aren't our kids being taken care of the way the rest of the state is? That's the local control issue.

I attended a number of the meetings that the Committee was having. I thought things were above board, but I have always lived in a rather naive world. I didn't see all those things going on out there that apparently went on. I attended the meeting that was mentioned that we were told not to speak. We were asked not to ask questions just out of common sense, because from time to time when we asked questions we made long drawn-out statements, the question gets lost, and the statement is rapidly forgotten, like we do from time to time here. Although I haven't seen that occur in this House yet. I would like to refer to the good Representative from Madison on her comments. I, too, have lived a good life. I love life. I love people. I don't look for the bad things. I don't look for the conspiracy that is being generated out there every time I go around a corner. I just put trust in people. One time they hammer me, they get a second chance, the second time forget it. What I see here in this bill is not a conspiracy, and if it was and I had the intelligence to recognize it, I would walk away from it. I would have nothing to do with it. I saw a lot of hard working people coming together for the good of the people in the State of Maine. I saw 13 people on the

Education Committee busting their butt, although from time to time we were disorganized, but we came up with a product. A product for who? For the kids in the State of Maine. Not for me, because I am beyond that stage. I'm on the downhill slant of this planet and I have enjoyed it, and I hope I go out feeling good about the people that I have lived and worked with. I hope that we pass this, go on, move into the next step in our life. We can't hold on to this and we can't hold on to yesterday for ever, and just go forward and forget about who is lurking around. I'm going to have a terrible dream going home tonight. I'm going to wonder what's over the next hill, in the next valley, what's going to jump up and grab me, who it is that's after my butt, not there's much left because it has been chewed for the last 40 years. Please, let's get this thing settled tonight and maybe the Speaker will be kind and let us go home before midnight. 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 Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: This will be the last time I will speak on this bill, in fact I will make a deal, this will be the last time I speak on anything in this session. I will keep it as brief as possible. The good Representative Hichborn said something about a cow going to the pasture. Ladies and gentlemen, that poor cow has already lost its pasture. We have taken away local control. The cows already losing milk. I don't think we should wait for rule making to deal with that. I don't know of any other metaphor except this dog won't hunt, that's what I heard when I was growing up. Representative McElroy said things about we got to have education reform. We all agree we got to have education reform. We all agree there should be accountability in the schools. That's not the question. The question is, is this the right way? He said we should be asking the educational establishment, I think that was the quote, what we want for our kids. We shouldn't be asking them folks, we should be telling them. That's democracy. He also said at all the meetings to formulate this thing on learning results, they were asked not to ask questions. That is the most strange approach to education that I have ever heard in my life. I don't think Socrates would buy that. You learn through questioning. Any kind of reform that is sold to you because you don't question, because you already got standards, that isn't reform. I never heard of reform like that. I sure as heck never heard of education as that. I guess I would go into my class and say, I'm going to tell you exactly what happened in the American Revolution, but I don't want any questions because that would waste my time. I'm not educating them if I do that. I want them to ask questions. They might ask, and they often do ask, questions I can't answer. So I learn to. Then you got something going back and forth. That's education. Finally, Representative Martin was talking earlier about the letter from the Attorney

General's Office and he pointed out that this isn't an opinion, it's only advice. When I grew up, if somebody gave you advice and you didn't take it then it's your responsibility. We have the advice. He said that if this thing doesn't work out I should know, everybody should know that since there are problems then they can be dealt with later. Ladies and gentlemen, why are you voting for a bill when you already know it has a problem? You already know it has predictable problems. Why vote for it so we have to go through the whole process and will be back here with the same debate? What sense does that make? It's learning results again, but I think we would be getting some political results if we went out to the people with this kind of approach. Everything was said about rule making, but that's exactly the problem with this bill. Why are we bothering if we are going to hand it to them to do all this through rule making. People expect us to be the peoples' task force, so to speak. I can't follow that. If the good Representative can explain it, fine, but I don't mean that as a rhetorical question to take up time. This is a to-be-announced bill. It's ill-defined. It's ill-thought out, but somehow it's going to be developed later but we are supposed to vote for it tonight. I think this is very ironic that this is presented to us as learning results. This is educational CarTest, pure and simple, but with one difference than CarTest, we know the problems. We know the problems tonight, yet we are asked to vote on it anyway. If we vote on this, knowing the immediate and predictable problems, this is going to be an issue in every district. As I said at the beginning of this very, very long debate, but I think an educational one, if you're comfortable defending this bill, this bill which is nonlocal control, this bill that cuts your people out of the rule making, which is a mandate, or maybe it's a mandate, or it might be a mandate, if you're comfortable with that then go ahead and vote for it tonight. I don't want to influence anybody and probably can't influence your opinion one way or the other, but that's up to you. If you are not comfortable with it, as the good Representative Martin pointed out to me the first day I was on the job here, if you can't explain the bill don't vote for it. I promised, and I will keep my promise, this is the last time that I will ever speak to this particular bill. I'll close by saying this isn't education reform as I understood it from my father. My father didn't learn education in colleges. He learned it in the school of hard knocks, as they used to call it. He worked for 25 years in the mills up and down the Androscoggin River. He came out of a family, we talk about diversity, English was a second language. Then, after 20 years out, after the GI bill, after he fought in World War Two, he did go to college. My earliest impression of him was hitchhiking, because we didn't have a car, all the way up to Ricker College, all those drives in the Haynesville Woods, and there are a lot of educational experiences with moose and other things on that, but that didn't work out so he decided to go to Bates College. He is a GI in his 30s, he wasn't exactly the type, but he sat there long enough that he was accepted and he did the night shift and by day he got an education. Then he went on to be an educator for many years. He did all of this, folks, without having a standardized, mandated way of teaching, because that's not the way he ever did it. I

wouldn't be keeping faith with him if I ever, ever, ever supported a bill of this type, because it isn't education. So, that's why, people have asked me why I can be against this, you're an educator, all educators got to love it because all education is good. Who disagreed? Ladies and gentlemen, that's why I oppose it. That's why I hope you oppose it. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I object to that member who just cheered when my microphone went down. Men and women of the House, I came to the Legislature not to create a bureaucracy, I came to dismantle them. I think you ran on the same thing. We don't want to create bureaucracies. I want to give an example of what I am talking about here. My argument with the Majority Report of this bill is not learning standards. I think we need learning standards. I think we need guiding principles. We need learning standards. We need a plan for education in this State. I truly believe that, and I have been supporting it all the way through, but if you have ever seen the teacher certification process that we have in this State you know that it is the biggest evil web. Talk to some of the young teachers. Ask them what they go through. It's unbelievable and they change constantly. Why do I bring this up? Why do I make the comparison? Because we are talking about state level assessment. I don't want the state involved in any way in a comprehensive type of an exam that measures what our children in the State of Maine need to know. I do want standards. I want accountability, but if you think the State bureaucracy is going to be effective in putting together a comprehensive exam created from the MEA exam, and that all students will have to take that exam at any point in high school, they can take it when they are a freshman or they can take it when they are a senior, or anywhere in between, if you think that they can do that I am really surprised, because we don't handle things that well in state bureaucracy and the teacher certification is a perfect example of that, and so was CarTest, and so were a lot of other programs. Now, that's why I tried so hard to put together a Minority Report that kept the learning standards, but got the teachers involved in talking a little bit more about exactly what those standards should be and particularly how they should be assessed. Because it's not what you are teaching the kids, really, it's how you are controlling the assessment. We are going to have kids learning to the test and we are going to have teachers teaching to that test. That's not the way to reform education. I truly believe that. In the University at the University of Maine they teach us bottom up approach, not top down. They teach all of us that, and I believe that, I think that's correct. So, I'm asking you to vote against this motion so we can go back, reconsider the bill, get to a Minority Report, back it up, and talk about exactly how we can get the state level assessment completely eradicated from that. If that's not going to work, I might be incorrect, maybe we need to vote in favor of this and indefinitely postpone it, but all I'm saying is, please don't grant, as is in this bill, a state level assessment. It's absolutely, I believe with 100 percent of my heart, the wrong thing to do. I guess I would ask the body to vote in favor of the

indefinite postponement, so we can go on to try to improve education without a state level assessment. It's simply the wrong thing to do. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: We have debated this bill for almost nine hours. I would like to say that I have not heard one thing new tonight. I would appreciate if we would move forward and vote. I am not Representative DiPietro, but he is not on the floor, so I'm doing it. Thank you.

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I have not spoken on this bill, or any other bill I guess, for at least a few days. So some of the things you are going to hear tonight from me, I don't think are going to have been said. I feel very much like this bill, and the people that are pushing this bill, are like a cat and we are like a mouse. The mouse, I mean the cat reaches out and gets the mouse, but it plays with the mouse but never hurts the mouse. It's lulling us into a false sense of security. Then all of a sudden at the end when we think we are safe, we are going to get nailed bad. I have major problems about this bill because of the, I'm trying to catch my words so that I don't repeat myself or anybody else, my major concern is the local control issue. I think the only way we can raise the standards in our schools, in our towns, is if we work with the parents, the students and the teachers and come up with a way of finding out why our scores aren't as high as they should be. Until we figure out the whys I can't see how dumping this mandate on top of the teachers is going to help anything. I agree with Representative Winglass who spoke a couple of days ago that the teachers in Auburn are good. He has worked with a bunch of people. They have worked hard to get the kids up to where they are, but we have got a lot of problems in Auburn. We have a problem with truancy and laws to try to keep kids in school or helping parents to keep kids in schools or keeping track of the kids. The teachers try hard in the different school districts to teach the subjects, but sometimes they have to play police officer and try to keep the unruly students down. I think those are some of the things that should be addressed first. I feel this bill is like a third floor of a five-story building, there is no basement. Until we take care of the needs of our kids and find out why they are not wanting to learn, I mean is it because the little kids don't have breakfast? I know we have programs, but let's get them to the schools so that the kids are fed if that's the problem. Is it the problem about parents not listening to the kids? Maybe we should get more people involved, volunteers to at least listen to the kids. We don't need a lot of psychologists to try to handle and tell the kids how to handle their problems. Sometimes they just need a sounding board.

Growing up, I come from a split family home, not because of choice. I don't know what I would have done without my teachers being there to listen to me, not so much to solve my problems, but just to be there to hear me, to hear my needs. Today the teachers can't do that like they did for me when I was younger, because they have to worry so much about this mandate, that mandate, trying to keep this kid from beating up that kid. I really do care about my

kids down in Auburn. I care about the kids in the state, but I do not think passing this bill and sending 2 million dollars, or whatever, is going to solve that. I mean, heck, some people have been trying to pass a magnet school. Heck that money could go for that. Some people in the House are trying to push for more medical care. I can't see wasting this money for setting standards that are just piling more stuff on people. I ask humbly that you vote to indefinitely postpone this bill and all its papers. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I note that Representative DiPietro is not here right now, so I would like to say that I have heard debate on this for, I don't know, five or six hours now. I feel like I have heard it all and I guess I'm ready to vote. Thank you.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I never intended to speak on this bill, but tonight from what I have heard it leaves me very upset. This may be my last speech on this floor, but I can't leave without saying that in all the years that I have been around, and there has been a lot of them, I never saw before the blatant expressions that we don't think the people know enough to participate in the plan to handle their children. I'm not an educator, but I am a parent, a grandparent and a great-grandparent. I think it is very wrong to say to the people in this State, we are having a select group to make the decisions for your children. I hope when I leave these halls that things will be alright, however. I have always tried to do what I felt was best for the people. I hope you will. Thank you.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Men and Women of the House: I felt the need to go on record regarding the 2 million dollars. I do think that the issue I wanted to raise is new information. The point is that in this legislation there are no guidelines as to how that 2 million dollars is going to be spent. I have a real problem with that, especially in light of what is or is not going on at the Appropriations Table. I think if people were honest, and I know the people on my Committee could tell you, that the main reason why your superintendents are in support of this bill, in fact the primary reason why the teachers and the superintendents are in support of the bill is because they want that money and they know that there are no guidelines whatsoever to how they use it. Okay? I need to point out to you that we did, our Committee did pass a resolve last year directing the Commissioner to come up with a professional development plan that did not require any new money. The idea was to use existing workshop days and the Continuing Education Unit, pool them together and focus on improving the professional development in the school system. The Commissioner, instead, came back to us and said no, he didn't do that. He still doesn't have a plan but he needs 2 million dollars and we aren't to have any input as to how that money is spent. I have a real, real hard time with dishing out 2 million dollars and not having any guidelines as to how it's being spent. So just bear that in

mind. It's a big chunk of change that's going out there and that is one of the primary reasons why you have been hustled so hard to pass this thing. I just want to say, in conclusion, that I feel very strongly that we are letting down the State of Maine, that we are letting down the children, that we are letting down the taxpayers, that there is really nothing at all of any substance anywhere in this entire bill and that we are kidding ourselves, we are fooling ourselves into thinking that we are doing anything other than sending a very hollow message to our people that we don't deserve to be in a position of leadership. One of the reasons why that bothers me so is because I care greatly about the people that sent us here. I care greatly about our state and our form of government and it's my recollection that in the last days of the Roman Empire, as the Empire was falling, that they took to passing bills that had no substance whatsoever, that were nothing but pure symbolism. That's exactly what this bill is. It's papier mache. It's symbolism with a 2 million dollar price tag on it and I just wanted you all to be aware of my position on it. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I wasn't aware that we would be going to the Roman Empire to get some of the opposition to this legislation. I'm not responding to those comments because I want to tell you there was a plan. There is a plan. There will be a plan. In total respect to the Representative from Jonesboro, Representative Look, I want to respond to her comments, because those I think are worth responding to. I want to assure her that the process does call for public input. It is intended from the very beginning that every single teacher in Maine, administrator, principal and superintendent will be involved in this process, as well as parents. That is what is called for. Public hearings will be held throughout the State so that every single person in the State that wants to participate in the public process will be allowed to do so. Through the APA process, then the rules will be drafted and then you, the representatives of Maine, will be the one's making the final decision. That's where it all lies, but it will begin with the process of the people of this State. Thank you.

The SPEAKER: A roll call has been 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. 384

YEA - Ahearne, Aikman, Bailey, Buck, Carleton, Chartrand, Chase, Chizmar, Donnelly, Gerry, Greenlaw, Guerrette, Jacques, Jones, S.; Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Lane, Layton, Lemke, Libby JD; Look, Lovett, Lumbra, Marshall, McAlevey, Meres, Nass, Paul, Perkins, Pinkham, Savage, Stedman, Tuttle, Underwood, Waterhouse, Wheeler, Winglass, Winn.

NAY - Adams, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Cameron, Campbell, Chick, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Hartnett, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Lindahl,

Madore, Martin, Marvin, Mayo, McElroy, Mitchell EH; Mitchell JE; Murphy, Nadeau, O'Gara, O'Neal, Ott, Peavey, Pendleton, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Vigue, Volenik, Watson, Whitcomb, Winsor.

ABSENT - Birney, Bunker, Carr, Daggett, Dexter, Dunn, Libby JL; Luther, Morrison, Nickerson, Plowman, Poirier, Saxl, J.; Truman, The Speaker.

Yes, 42; No, 94; Absent, 15; Excused, 0.

42 having voted in the affirmative and 94 voted in the negative, with 15 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Representative GWADOSKY of Fairfield requested a roll call on passage to be enacted.

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

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

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

ROLL CALL NO. 385

YEA - Adams, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Cameron, Campbell, Chick, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Hartnett, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Madore, Martin, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Murphy, Nadeau, O'Gara, O'Neal, Ott, Peavey, Pendleton, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Vigue, Volenik, Watson, Whitcomb, Winsor.

NAY - Ahearne, Aikman, Bailey, Buck, Carleton, Chartrand, Chase, Chizmar, Donnelly, Gerry, Greenlaw, Guerrette, Jacques, Jones, S.; Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Lane, Layton, Lemke, Libby JD; Lindahl, Look, Lovett, Lumbra, Marshall, Meres, Nass, Paul, Perkins, Pinkham, Savage, Stedman, Tuttle, Underwood, Waterhouse, Wheeler, Winglass, Winn.

ABSENT - Birney, Bunker, Carr, Daggett, Dexter, Dunn, Libby JL; Luther, Morrison, Nickerson, Plowman, Poirier, Saxl, J.; Truman, The Speaker.

Yes, 94; No, 42; Absent, 15; Excused, 0.

94 having voted in the affirmative and 42 voted in the negative, with 15 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

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

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-796) - Committee on Utilities and Energy on Bill "An Act to Facilitate Sewer and Water Main Extensions" (H.P. 1123) (L.D. 1567) (Governor's Bill)

TABLED - March 21, 1996 by Representative GOULD of Greenville.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted. The Bill was read once. Committee Amendment "A" (H-796) was read by the Clerk.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: This is a unanimous Committee report, for the record I want you to understand what is before you, and I hope it encourages you to help resolve local issues at home before you bring them to this body. L.D. 1567 was a carry over bill that came to the Utilities Committee last session, late in the spring. The bill was designed to remove an obstacle of the elimination of a large overboard discharge in York County. Because we hoped, in the Utilities Committee, that we could encourage the local selectmen and the trustees of the sewer district to work out their differences we carried the bill over, hoping that we would no longer need it. Regrettably they were not able to work out those differences and this issue is now in court. What I want you to understand about these kinds of issues is that very often we, in each Committee but in particularly in Utilities, are faced with a major dilemma, and this is a perfect example. We hope very much that you encourage the people that you represent at home to do all they can to abide by the intention of the law, in this case comprehensive planning, in order to comply with State policy, which is to reduce overboard discharge. The reason for that is quite simple. These sewer projects, sewer infrastructures are generally regional in nature, and they are often regional and cross several town boundaries. Very often that may conflict with some town's comprehensive plan, which is exactly what happened in this case. What the Committee did in Committee Amendment "A," which was our best effort to try to provide a mechanism to deal with these issues in the future, is to refer these kinds of local controversies to the State Planning Office who has control over comprehensive planning. For the record, we want all of you to understand that we are not happy to be faced with those dilemmas, felt frustrated by the situations that we were presented with, and hope very much that these issues can be resolved locally without going to court, which is the case with this particular situation. We'll be happy to talk further if any of you have particular questions. Thank you.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I will be extremely brief at this late hour, but there are two points that I would like to make on this issue, because it did deal with the Natural Resources Committee that two years ago passed a bill out to the legislature, and the

legislature passed it, saying that boards of selectmen and sewer boards should talk to each other. The whole idea was to get them to talk so that they would understand where sewage was going and why it was going there and it wouldn't go into areas where it wasn't supposed to go. The whole purpose of this was to get them to talk to each other, not to fight with each other. It seems that this didn't work out quite the way we had intended it to. So, I hope that in the future we will be able to clarify this so that we can get people to talk to one another, rather than fighting with each other.

The second thing that I would like to point out, as the good Representative from Windham, Representative Kontos said, one of the things we are trying to do, and have tried to do since I have been on this Committee, and Representative Jacques probably could say even further back, we have tried to eliminate overboard discharge. I hope that we can get to the point where we can resolve these issues so that we can fulfill our statewide mandate of cleaning not only the fresh waters, but the ocean waters of this state. Thank you.

Committee Amendment "A" (H-796) 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" (H-796) and sent up for concurrence. Ordered sent forthwith.

On motion of Representative CROSS of Dover-Foxcroft, the House adjourned at 10:59 p.m. until 9:00 a.m., Wednesday, April 3, 1996 in honor and lasting tribute to the memory of Anthony Joseph Zullieve of China.