

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST REGULAR SESSION
28th Legislative Day
Tuesday, March 25, 1997

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

Prayer by Reverend George B. Atkinson, Westport Baptist Church.

National Anthem by the Narraguagus High School Band, Harrington.

Pledge of Allegiance.

Doctor of the day, James M. Kirsh, D.O., Falmouth.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999 (EMERGENCY) (MANDATE) (H.P. 832) (L.D. 1137) (Governor's Bill) (H. "FF" H-73, H. "HH" H-75 and H. "JJ" H-82 to C. "A" H-15) which failed of passage to be enacted in the House on March 24, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "JJ" (H-82) and Senate Amendment "W" (S-66) thereto in non-concurrence.

On motion of Representative KONTOS of Windham, tabled pending further consideration and later today assigned.

COMMUNICATIONS

The following Communication: (H.C. 106)

March 18, 1997
Hon. Joseph W. Mayo
Clerk of the House
2 State House Station
Augusta, Maine 04333
Dear Clerk Mayo:

Pursuant to our authority under 5 MRSA, Section 13122-C, we have appointed Senate Chair John Jenkins and House Chair Marc Vigue of the Joint Standing Committee on Business and Economic Development to serve as the legislative members of the Maine Science and Technology Foundation.

Please let us know if you have any questions regarding these appointments.

Sincerely,

S/Mark W. Lawrence S/Elizabeth H. Mitchell
President of the Senate Speaker of the House

Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolves were received and upon the recommendation of the Committee on Reference of Bills were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Business and Economic Development

Bill "An Act to Increase Home Ownership" (H.P. 1171) (L.D. 1648) (Presented by Representative MITCHELL of Vassalboro)

(Cosponsored by Senator AMERO of Cumberland and Representatives: CAMPBELL of Holden, DONNELLY of Presque Isle, KONTOS of Windham, SAXL of Portland, Senators: KIEFFER of Aroostook, LAWRENCE of York, PINGREE of Knox, RAND of Cumberland) (Governor's Bill)

Bill "An Act to Establish the Dirigo Higher Education Bond Program to Provide Financial Aid to Maine Students" (H.P. 1175) (L.D. 1652) (Presented by Representative DAVIDSON of Brunswick) (Cosponsored by Representatives: BUMPS of China, MITCHELL of Portland, ROWE of Portland, SAXL of Portland, STEVENS of Orono, WATSON of Farmingdale)

Criminal Justice

Bill "An Act to Allow the Attorney for the State, with the Consent of the Probation Officer, to File a Motion for Revocation of Probation" (H.P. 1170) (L.D. 1647) (Presented by Representative JONES of Greenville) (Submitted by the Department of the Attorney General pursuant to Joint Rule 204.)

Education and Cultural Affairs

Bill "An Act to Abolish the State Board of Education" (H.P. 1176) (L.D. 1653) (Presented by Representative JOY of Crystal) (Cosponsored by Representatives: BRAGDON of Bangor, DEXTER of Kingfield, LANE of Enfield)

Labor

Bill "An Act to Allow Agricultural Workers to Bargain Collectively" (H.P. 1177) (L.D. 1654) (Presented by Representative SAMSON of Jay) (Cosponsored by Representatives: BERRY of Livermore, CAMERON of Rumford, CLARK of Millinocket, HATCH of Skowhegan, LEMAIRE of Lewiston, RINES of Wiscasset, Senators: CATHCART of Penobscot, TREAT of Kennebec)

Legal and Veterans Affairs

Bill "An Act to Optimize the Utility of the 5 Maine Veterans' Homes" (H.P. 1173) (L.D. 1650) (Presented by Representative WINGLASS of Auburn) (Cosponsored by Senator RUHLIN of Penobscot and Representatives: GAGNE of Buckfield, GERRY of Auburn, LANE of Enfield, LOVETT of Scarborough, MADORE of Augusta, SIROIS of Caribou, TUTTLE of Sanford, Senator: FERGUSON of Oxford)

Natural Resources

Resolve, Directing the Department of Environmental Protection to Study and Make Recommendations on the Establishment of a Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act (EMERGENCY) (H.P. 1174) (L.D. 1651) (Presented by Representative ROWE of Portland) (Cosponsored by Representatives: BULL of Freeport, DEXTER of Kingfield, FOSTER of Gray, GOOLEY of Farmington, KONTOS of Windham, NICKERSON of Turner, Senator: TREAT of Kennebec) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.)

Utilities and Energy

Bill "An Act to Provide a Funding Mechanism for the E-9-1-1 System" (H.P. 1172) (L.D. 1649) (Presented by Representative KONTOS of Windham) (Cosponsored by Senator: BENOIT of

Franklin) (Submitted by the Department of Public Safety pursuant to Joint Rule 204.)

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following item:

Recognizing:

the following members of the Cheverus High School Boys Basketball Team, who won the State Class A Basketball Championship: Richie Ashley, Ryan Demers, Matt Cavallaro, Matt Scader, BJ Schuyler, Angelo Salvaggio, Pat Morang, Anthony Profenno, Ian Doyle, Alvin Weisberg, Pat Clark, John Hoyt, Jason Robichaud, Adam Peters and Matt Rivard; and Head Coach Bob Brewer and Assistant Coach Gary Hoyt. We extend our congratulations and best wishes to them; (HLS 212) by Representative BRENNAN of Portland. (Cosponsors: Representative MUSE of South Portland, Representative GIERINGER of Portland, Representative QUINT of Portland, Representative FARNSWORTH of Portland, Representative SAXL of Portland, Representative MITCHELL of Portland, Representative TOWNSEND of Portland, Representative ROWE of Portland, Senator ABROMSON of Cumberland, Representative O'NEIL of Saco, Representative MACK of Standish, Senator RAND of Cumberland, Representative KANE of Saco)

On objection of Representative BRENNAN of Portland was removed from the Special Sentiment Calendar.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. We are very proud today to have Cheverus High School here as the Class A Basketball Champions. I just want to tell them very quickly, they don't know that, but my father graduated from Cheverus High School in 1943 and he was the captain of the football team. That year they did not win one football game. It is a true honor for me to have this team here just to see that Cheverus has come a long way and now they are winning state championships. My congratulations to you.

Was read and passed and sent up for concurrence.

REPORTS OF COMMITTEES

Refer to the Committee on Education and Cultural Affairs

Representative AHEARNE from the Committee on **State and Local Government** on Bill "An Act to Make the University of Maine System Board of Trustees an Elected Body" (H.P. 952) (L.D. 1315) reporting that it be referred to the Committee on **Education and Cultural Affairs**.

Report was read.

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

Representative LEMKE: Madam Speaker, Ladies and Gentlemen of the House. I ask permission to speak against the pending motion. This is a bill that has been referenced to the State and Local Government Committee. It is a bill to make the Board of Trustees of the University of Maine System elected. Traditionally, bills of this nature that deal with popular election in any manner, except procedure and that would include things like election of constitutional officers, the size of the Legislature, county government and organization traditionally go to the

committee of jurisdiction, which is the State and Local Government Committee. Those that deal with election procedure typically go to the Legal Affairs Committee. There is no reason, really, for this to be referenced to education. We recently had in State and Local Government Committee a bill which would make the commission of Inland Fisheries popularly elected. That bill came to us because traditionally that comes to us. There is no more logic because this involves the education system that it goes to the Education Committee.

Therefore, I urge you to vote against the pending motion and request a roll call.

Representative LEMKE of Westbrook requested a roll call on acceptance of the Committee Report.

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

Representative JOY: Madam Speaker, Men and Women of the House. I rise to support Representative Lemke's position on this matter. Too many times this session already we have seen bills that should have gone to State and Local Government rerouted to other committees. I certainly ask your support in sending this one to State and Local. Thank you.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. This bill has bounced back and forth. Perhaps we could have somebody from State and Local Government explain what happened to this when it went to State and Local Government.

The SPEAKER: The Representative from Madison, Representative Richard has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. It was my understanding that these bills had to do with elections, as the Representative from Westbrook has pointed out. We did take a bill regarding the direct election of the commissioner for Inland Fisheries. Traditionally, the State and Local Government Committee has taken anything to do with the direct election, direct democracy initiatives and there was to my understanding some type of argument of where this bill should go. That is where we are right now.

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

Representative CAMERON: Madam Speaker, May I pose a question to the Speaker?

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Thank you. I apologize. I am a bit confused. Are we just referencing this bill or are we acting on the bill? I am not clear.

The SPEAKER: The pending question is Acceptance of the Committee Report. The Committee Report wants to refer the bill to the Committee of Education and Cultural Affairs. As a point of further clarification, if this report is rejected, the bill, we would have to refer it back to the State and Local Committee.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. Let me try to clarify this. This is a bill that was on this floor referenced to State and Local Government, which I believe by all tradition is the right choice. What we have before us now is an attempt to rereference it to a committee, which by all tradition it should not go to. Therefore, I urge you to vote against this rereferencing of the bill.

On motion of Representative SAXL of Portland, tabled pending acceptance of the Committee Report and later today assigned. (Roll Call Ordered)

Refer to the Committee on Education and Cultural Affairs

Representative AHEARNE from the Committee on **State and Local Government** on Bill "An Act to Make the State Board of Education Elected" (H.P. 962) (L.D. 1325) reporting that it be referred to the Committee on **Education and Cultural Affairs**.

Report was read.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. Here we go again. This is another bill which was referenced on this floor to the State and Local Government Committee. It is a bill which would make the State Board of Education elected with membership from each county in the State of Maine. It is absolutely, unalterably a State and Local Government issue. It should be referenced as it is now for that and I, therefore, urge you to vote against the pending motion, which is to rereference it to the Education Committee. I request a roll call.

Representative LEMKE of Westbrook requested a roll call on acceptance of the Committee Report.

On motion of Representative AHEARNE of Madawaska, tabled pending acceptance of the Committee Report and later today assigned. (Roll Call Requested)

Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Require a Revote by Referendum on a School Budget and to Clarify the Budget Referendum Approval Process" (H.P. 147) (L.D. 190)

Signed:

Senators: PENDLETON of Cumberland
SMALL of Sagadahoc
CATHCART of Penobscot

Representatives: RICHARD of Madison
BAKER of Bangor
BRENNAN of Portland
BELANGER of Caribou
DESMOND of Mapleton
STEDMAN of Hartland
WATSON of Farmingdale
McELROY of Unity

Minority Report of the same Committee reporting "**Ought to Pass**" on same Bill.

Signed:

Representatives: BARTH of Bethel
SKOGLUND of St. George

Was read.

On motion of Representative RICHARD of Madison, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought Not to Pass**" on Bill "An Act to Prohibit Rebates and Other Incentives Pertaining to Insurance Claims" (H.P. 407) (L.D. 552)

Signed:

Senators: LaFOUNTAIN of York

MURRAY of Penobscot
ABROMSON of Cumberland
Representatives: SAXL of Bangor
WINN of Glenburn
DAVIDSON of Brunswick
O'NEIL of Saco
PERRY of Bangor
STANLEY of Medway
CARLETON of Wells
MAYO of Bath
BRUNO of Raymond

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-92) on same Bill.

Signed:

Representative: JONES of Pittsfield

Was read.

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

On motion of Representative JONES of Pittsfield, tabled pending acceptance of the Majority "**Ought Not to Pass**" Report and specially assigned for Wednesday, March 26, 1997.

Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Amend the Laws Regarding the Approval Process of Budgets of School Administrative Districts" (H.P. 514) (L.D. 705)

Signed:

Senators: PENDLETON of Cumberland
SMALL of Sagadahoc
CATHCART of Penobscot

Representatives: RICHARD of Madison
BAKER of Bangor
BRENNAN of Portland
BELANGER of Caribou
DESMOND of Mapleton
McELROY of Unity
SKOGLUND of St. George
STEDMAN of Hartland
WATSON of Farmingdale

Minority Report of the same Committee reporting "**Ought to Pass**" on same Bill.

Signed:

Representative: BARTH of Bethel

Was read.

On motion of Representative RICHARD of Madison the House accepted the Majority "**Ought Not to Pass**" Report and was sent up for concurrence.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-93) on Bill "An Act to Authorize the Issuance of a Credit Card to Benefit the Scholarships for Maine Fund" (H.P. 705) (L.D. 969)

Signed:

Senators: LaFOUNTAIN of York
MURRAY of Penobscot
ABROMSON of Cumberland

Representatives: PERRY of Bangor
DAVIDSON of Brunswick
CARLETON of Wells

SAXL of Bangor
WINN of Glenburn
O'NEIL of Saco
BRUNO of Raymond
STANLEY of Medway
JONES of Pittsfield

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

Signed:
Representative: MAYO of Bath
Was read.

On motion of Representative SAXL of Bangor, the House accepted the Majority "**Ought to Pass**" as amended Report.

The Bill was read once. Committee Amendment "A" (H-93) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, March 26, 1997.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 162) (L.D. 491) Bill "An Act to Repeal Provisions of the Probate Code Relating to Depositing Wills in Court within the Testator's Lifetime" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-48)

(S.P. 474) (L.D. 1476) Bill "An Act Making Unified and Supplemental Appropriations and Allocations for the Expenditures of State Government, Highway Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999" (EMERGENCY) (Governor's Bill) Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-47)

(H.P. 405) (L.D. 550) Bill "An Act to Ensure Fairness to Merchants under an Implied Warranty of Merchantability" Committee on **Business and Economic Development** reporting "**Ought to Pass**"

(H.P. 31) (L.D. 56) Bill "An Act to Increase the Fee That May Be Assessed against a Prisoner to Help Defray the Costs of Incarceration" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-102)

(H.P. 208) (L.D. 261) Bill "An Act to Establish the Crime of Elevated Aggravated Assault" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-101)

(H.P. 381) (L.D. 526) Bill "An Act to Establish a Part-time Liquor License" Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-94)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 26, 1997 under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 286) (L.D. 350) Resolve, to Establish a Task Force to Study the Feasibility of a Single Claims Processing System for 3rd-party Payors of Health Care Benefits (C. "A" H-89)

(H.P. 638) (L.D. 863) Bill "An Act to Amend the North Yarmouth-Cumberland Town Line" (EMERGENCY) (C. "A" H-86)

(H.P. 775) (L.D. 1052) Resolve, Establishing a Task Force to Examine the Desirability of a Model Municipal Building Code (EMERGENCY) (C. "A" H-91)

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

(H.P. 554) (L.D. 745) Bill "An Act to Amend the Maine Consumer Credit Code" (C. "A" H-90)

On objection of Representative MAYO of Bath was removed from the Second Day Consent Calendar.

The Report was read and accepted. The Bill was read once. Committee Amendment "A" (H-90) was read by the Clerk.

Representative MAYO of Bath presented House Amendment "A" (H-105) to Committee Amendment "A" (H-90) which was read by the Clerk.

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

Representative MAYO: Madam Speaker, Men and Women of the House. House Amendment "A" is a very technical amendment changing one word. I would hope that everyone would allow it to go through. Thank you.

House Amendment "A" (H-105) to Committee Amendment "A" (H-90) was adopted.

Committee Amendment "A" (H-90) as amended by House Amendment "A" (H-105) thereto was adopted.

The Bill was assigned for second reading Wednesday, March 26, 1997.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Allow Municipalities to Advertise Public Legal Notices in Weekly Papers" (S.P. 18) (L.D. 16) (C. "A" S-14)

Bill "An Act to Designate Square Dancing as the Official Folk Dance of Maine" (H.P. 111) (L.D. 135) (C. "A" H-30)

Bill "An Act to Provide Authority to Close Marine Waters to Fishing in the Event of Contamination" (H.P. 361) (L.D. 506) (C. "A" H-85)

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

ENACTORS

Emergency Measure

An Act to Clarify Eligibility for State Employee Health Insurance Program Benefits (H.P. 61) (L.D. 86) (C. "A" H-11)

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

Emergency Measure

An Act to Make Supplemental Allocations from the Highway Fund and Other Funds for the Fiscal Year Ending June 30, 1997 (H.P. 206) (L.D. 259) (Governor's Bill) (C. "A" H-14)

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. 122 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Broaden the Requirements for Special Veterans Registration Plates (S.P. 29) (L.D. 27) (C. "A" S-17)

An Act Concerning the Responsibility of Prisoners for Family Support (H.P. 22) (L.D. 47) (C. "A" H-18)

An Act to Change the Method for Setting Wages for Deputies (H.P. 37) (L.D. 62) (C. "A" H-26)

An Act to Make Legislative Information Available through the Internet (H.P. 78) (L.D. 103) (C. "A" H-25)

An Act Regarding Qualifications for the Office of Sheriff (H.P. 109) (L.D. 133) (C. "A" H-27)

An Act to Allow Independent Investigation of a Complaint against a Law Enforcement or Corrections Officer upon Request (H.P. 121) (L.D. 145) (C. "A" H-20)

An Act to Increase the Penalty for Illegally Parking in a Handicapped Parking Space (H.P. 127) (L.D. 151) (C. "A" H-29)

An Act to Permit Municipalities to Restrict the Sale of Tobacco Products (S.P. 72) (L.D. 211) (S. "B" S-18)

An Act to Amend the Charter of the Madison Water District (H.P. 166) (L.D. 221) (C. "A" H-19)

An Act to Meet Federal Requirements Regarding Collection of Bias Motivation Data through Uniform Crime Reporting (H.P. 222) (L.D. 286)

An Act to Make Unlawful Possession of Firearms for Nonviolent Juvenile Offenses Either a Crime or a Juvenile Offense Depending upon the Age of the Violator (H.P. 233) (L.D. 297) (C. "A" H-22)

An Act to Provide Representation for Dentists on the Board of the Maine Health Data Organization (H.P. 237) (L.D. 301) (C. "A" H-9)

An Act to Study Job Creation for Welfare Recipients (H.P. 238) (L.D. 302) (C. "A" H-17)

An Act to Amend the Drug Testing Program Approval Laws (H.P. 332) (L.D. 454)

An Act to Abolish the Economic Development and Business Assistance Coordinating Council (H.P. 545) (L.D. 736)

An Act to Include in the Legislative and Judicial Retirement Systems the Same Provisions for Post-retirement Divorce That Are in the Maine State Retirement System (H.P. 561) (L.D. 752)

An Act to Amend the Procedure for Foreclosure by Publication (H.P. 572) (L.D. 763)

An Act to Amend the Osteopathic Licensure Laws to Clarify the Appropriate Degree Required for Licensure (H.P. 617) (L.D. 842)

An Act to Streamline the Process of Foster Child Placement (H.P. 619) (L.D. 844)

An Act to Extend the Exemptions for Farm Stands to Include Farmers' Markets (S.P. 275) (L.D. 883)

An Act to Maintain the Department of Transportation's Current Policy on Reimbursement of Consultant Costs (H.P. 650) (L.D. 903) (C. "A" H-13)

An Act Regarding Foster Parent Insurance (H.P. 680) (L.D. 932)

Resolve, to Establish the Commission to Study the Use of Pharmaceuticals in Long-term Care Settings (H.P. 122) (L.D. 146) (C. "A" H-10)

Resolve, to Establish a Study Group to Assess the Needs of the Office of the State Fire Marshal and Ensure Prompt, Effective Response to the Public's Fire Safety Needs (H.P. 295) (L.D. 359) (C. "A" H-21)

Resolve, Authorizing the Transfer of a Parcel of Land in Webster Plantation to Hazen and Theo Jipson (H.P. 479) (L.D. 650) (C. "A" H-28)

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) "**Ought to Pass**" as amended by Committee Amendment "A" (H-46) - Minority (3) "**Ought Not to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Open a Discount State Liquor Store in Calais" (H.P. 277) (L.D. 341)

TABLED - March 20, 1997 by Representative TUTTLE of Sanford.

PENDING - Acceptance of Either Report.

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

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Thursday, March 27, 1997.

SENATE DIVIDED REPORT - Majority (7) "**Ought to Pass**" as amended by Committee Amendment "A" (S-20) - Minority (5) "**Ought Not to Pass**" - Committee on **State and Local Government** on Bill "An Act to Require That a Vacancy in the Office of Sheriff Be Filled by an Appointee from the Same Political Party" (S.P. 33) (L.D. 31)

- 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-20).

TABLED - March 21, 1997 by Representative SAXL of Portland.

PENDING - Acceptance of Either Report.

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

The same Representative requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

SENATE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (S-28) - Minority (2) "**Ought Not to Pass**" - Committee on **Legal and Veterans Affairs** on Resolve, Authorizing the Theta Chi Building Association to File with the Secretary of State as a Nonprofit Corporation (S.P. 145) (L.D. 424)

- 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-28).

TABLED - March 21, 1997 by Representative LABRECQUE of Gorham.

PENDING - Acceptance of Either Report.

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

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

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. You will notice that there are only two of us on the other side of this issue, but I do want to call your attention to why I am there. Presently in law there is a method by which a fraternity can become a nonprofit entity. We are creating here, with this bill, a special exception for a special fraternity. I personally feel that this is opening a can of worms. Thank you very much.

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

Representative TRUE: Madam Speaker, Men and Women of the House. I, too, object to this. Thank you. I am the second person listed here on the Minority Report. For reasons that Representative Labrecque has given. Part of my objection has already been taken care of by the Senate Amendment, however, the question which was presented by Representative Labrecque when we listened to this in committee was not answered. I believe that it should be before we enter into this obligation.

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

Representative MAYO: Madam Speaker, Ladies and Gentlemen of the House. I, too, am rising this morning to speak against this particular bill. I served for over 20 years as a president of fraternity house corporation on the Orono campus. I tried to follow this, this particular L.D. since I first saw it printed. I think it is granting things to a particular social fraternity at Orono, which should, if they are going to have them, apply to all social fraternities. Therefore, I seriously question whether this particular bill should be passed. When the vote is taken, I would request a roll call.

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

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I will try to be brief on this issue. This resolve would authorize, as has been mentioned, the Theta Chi Building Association to file as a nonprofit corporation. It is currently registered as a business corporation. The nonprofit status would more accurately represent the present status of Theta Chi.

In 1907, when the organization was organized, it was not possible to organize as a nonprofit. All corporations were classified as business corporations. Theta Chi could reorganize as a nonprofit, but would lose its 1907 incorporation date. This bill, as amended, as suggested by the Secretary of State, would allow them to retain the status as one of the original chapters of Theta Chi Fraternity. It is my understanding that the Senate Amendment did address some of the concerns of the members. I would hope that we could send this bill on and, if another amendment wishes to be offered, I would suggest that. I think that would be the appropriate action of the committee. There was nobody that spoke in opposition at the public hearing and I hope that you would support the Majority Report of the Committee on Legal and Veterans Affairs. Thank you.

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

ROLL CALL NO. 45

YEA - Bagley, Baker CL, Belanger DJ, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand,

Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dutremble, Etnier, Fisher, Frechette, Gagne, Gagnon, Gamache, Goodwin, Green, Jabar, Jones KW, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, Mitchell JE, Morgan, Muse, O'Neal, Paul, Perry, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Stanley, Stevens, Tessier, Thompson, Tobin, Tripp, Tuttle, Usher, Volenik, Watson, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Baker JL, Barth, Belanger IG, Berry DP, Bodwell, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Dunlap, Farnsworth, Fisk, Foster, Fuller, Gerry, Gieringer, Gooley, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevy, McElroy, McKee, Meres, Murphy, Nass, Nickerson, O'Brien, O'Neil, Ott, Peavey, Perkins, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Sanborn, Savage, Skoglund, Snowe-Mello, Spear, Stedman, Taylor, Townsend, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn.

ABSENT - Bruno, Hatch, Pendleton.

Yes, 67; No, 81; Absent, 3; Excused, 0.

67 having voted in the affirmative and 81 voted in the negative, with 3 being absent, the motion to accept the Majority "Ought to Pass" as amended Report was not accepted.

Subsequently, the Minority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

Bill "An Act to Extend Access to Chiropractic Care under Health Maintenance Organization Managed Care Plans" (H.P. 179) (L.D. 234)

TABLED - March 21, 1997 by Representative SAXL of Bangor.

PENDING - Adoption of Committee Amendment "A" (H-23)

Subsequently, Committee Amendment "A" (H-23) was adopted. The Bill was assigned for second reading later in today's session.

Bill "An Act to Ensure Safe Abatement of Lead Hazards" (H.P. 1137) (L.D. 1593)

(Committee on **Health and Human Services** suggested)

TABLED - March 21, 1997 by Representative SAXL of Portland.

PENDING - Reference.

On motion of Representative MITCHELL of Portland, the Bill was referred to the committee on **Natural Resources**, ordered printed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (H-12) - Committee on **Legal and Veterans Affairs** on Bill "An Act Regarding Opening Hours of Voting Places" (H.P. 216) (L.D. 280)

TABLED - March 21, 1997 by Representative SAXL of Portland.

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

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

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" - Committee on **State and**

Local Government on Bill "An Act to Amend the Qualifications for the Office of Sheriff" (H.P. 609) (L.D. 834)
 TABLED - March 21, 1997 by Representative SAXL of Portland.
 PENDING - Motion of Representative MUSE of South Portland to reconsider acceptance of the Majority "**Ought Not to Pass**" Report.

On motion of Representative SAXL of Portland, tabled pending acceptance of the Majority "**Ought Not to Pass**" Report and specially assigned for Wednesday, March 26, 1997.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (2) "**Ought to Pass**" as amended by Committee Amendment "A" (H-68) - Committee on **Taxation** on Bill "An Act to Include Slide-in Truck Campers in Property That May Be Included in the Trade-in Allowance Credit" (H.P. 62) (L.D. 87)

TABLED - March 21, 1997 by Representative SAXL of Portland.
 PENDING - Acceptance of Either Report.

Representative TRIPP of Topsham moved the House accept the Majority "**Ought Not to Pass**" Report.

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

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" as amended by Committee Amendment "A" (H-69) - Committee on **Taxation** on Bill "An Act to Exempt Capital Gains from the Maine Income Tax" (H.P. 86) (L.D. 111)

TABLED - March 21, 1997 by Representative SAXL of Portland.
 PENDING - Acceptance of Either Report.

Representative TRIPP of Topsham moved the House accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Madam Speaker, Men and Women of the House. This should be a fairly simple bill. We heard the bill in committee. The result was a 12-to-1 vote. The one person who voted to bring this to the House floor did so, in his words, to have a debate on this item. The nuts and bolts of this is that it creates a \$53 million fiscal note in 1998-99, which should be a little detracting to this bill. The bill exempts from the state taxation all income derived from capital gains for individuals and corporations. This estimate assumed that the exemption is for net gains as tax on the federal return. I would urge you, men and women of the House, to support the "Ought Not to Pass" Report.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. By almost any measure Maine is a high taxed state. This is a major obstacle for getting our economy moving. In 1991, Maine passed the following tax increases. A 15-percent income tax surcharge for taxable income in excess of \$75,000 and a 5-percent surcharge for incomes below \$75,000. An increase in the general sales tax rate from 5 percent to 6 percent. A 7 percent for tourists, rentals and most restaurants. An extension of the sales tax to snack foods. A 10-percent surcharge on corporate income. A 4 cent per pack increase on cigarette tax with increases on other tobacco products as well and a 2 cent per gallon increase in gasoline taxes. Back in 1988, Maine used 5 percent more of its tax capacity than the average state and 10 percent more than

Massachusetts and about 40 percent more than New Hampshire. Today, the discrepancies would be even higher. Between 1984 and 1988, Maine's income tax efforts jumped to 160 percent of the US average. After the increases of 1991, our top marginal income rate of 8.5 percent now stands at the 4th highest in the nation.

Professor Josephine LaPlant and the excellent study of dollars and cents, *Maine state budgeting at a crossroads*, concludes that even an unsophisticated citizen or business considering relocation can easily compare the top marginal rate in Maine to other states. No one could reasonably argue that Maine's long-term fiscal prospects are not seriously compromised by our high personal income tax. Maine has a relatively high cost of living and doing business. Urban housing costs in Maine are fourth highest in the country and electrical rates are the thirteenth highest. Maine also has a relative shortage of capital for business. Maine's commercial bank deposits per capita ranked 47th in the country and business loan per worker ranked 42nd.

The capital gains tax is a major disincentive to small business. New entrepreneurship and economic growth, exactly how much, disincentive is a point of contention, but everybody agrees that the impact is negative. More important, the capital gains tax is conceptually flawed because capital gains from inflation should not be taxed. Unfortunately, all capital gains in Maine is taxed as if it were income. In fact, inflation and capital gains is neither income nor profits, the real undefflated value of the capital may remain exactly the same. We accept that inflation based on cost of living increases in money wages should not be taxed at all in order to offset fully the effects of inflation cost of living. The underlying promise of this conclusion is that increases in the market price value of something should not be taxed solely because of inflation. In fact, indexing of capital gains is widely accepted, but it has not yet been introduced into law. However, since true capital gains is entirely inflation, an honest capital gains index should be indexed to itself then to an average of all prices, in effect, abolishing the tax. In other words, a capital gain from inflation is not a real gain.

Any tax on appreciation of capital reduces the amount of real capital and prevents the capital owner from replacing the capital with something of equivalent value. As such, the capital gains tax reduces the mobility of productive resources, restrains productivity, penalizes saving, discriminates against job creation and employment and unfairly expropriates private resources for the public sector. There is no logic through which one can conclude that any proportion of a capital gain from inflation should belong to the government. The capital gains tax, through the capital gains tax, the government takes private property on grounds that are completely unrelated to changes and real personal income and, therefore, violates the ability to pay principle. Savings and capital are the means by which the have nots achieve the means and mobility to become haves, both directly and indirectly.

Capital is essential to create jobs and abolishing the capital gains tax will unleash funds for job creation. In the end it will help restore some of Maine's competitiveness. The benefits to taxpayers and employment would be widespread since small business ownership and home ownership are widely distributed. Eliminating the capital gains tax would help all taxpayers across the income spectrum because not only wealthy citizens realize capital gains, internal revenue and tax returns data shows that all income groups report capital gains. Nationally 19.1 percent of all taxpayers report in capital gains in 1993 had income less than \$15,000. Another 17.7 percent of taxpayers were from \$15,000 to the \$30,000 income group. Many elderly taxpayer citizens fall

into these lower income categories and depend on cashing in their capital gains as a source of retirement income.

IRS tax return data shows that more middle income taxpayers pay into benefits on the capital gains tax cuts than those at the upper end of the income scale. Those who are labeled rich are often done so in error because one-time capital gains realization counted as income. Therefore, taxpayers who sell long-held assets often appear to have high incomes in which they sell those assets. All Maine citizens who will benefit from an elimination of a capitals gain tax post directly on their tax returns and indirectly from an increase investment in economic growth.

Ladies and gentlemen, we must move past the class war for rhetoric against capital gains tax reductions. The economics are clear. Sharply reducing or eliminating capital gains taxes increases potential returns and investments in entrepreneurship and therefore promoting economic growth and job creation. I realize that the fiscal note on this is \$54 million for 1998-99. It would be an excellent bill to pass. We could do it in the budget in the 119th and put this on the Appropriations Table where it can compete with other reasonable measures and see if we want to fund it or not or make the tax cuts necessary to pay for this. I request a division and I hope you will vote against this Majority "Ought Not to Pass" Report. Thank you.

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

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Madam Speaker, Ladies and Gentlemen of the House. I didn't realize this bill was coming up today so I am not sure I will do a very good job on this, but I will try. Simply, this bill would help many families and elderly who sell their property from losing income that should be theirs. Capital gains is not income and should not be taxed. An example, my mother would have liked to sell her home, but if she did sell, she would not get the true value of the home and also would be hit hard with capital gains tax. I am sure that many of my fellow members have also known loved ones who have been or will be hit hard by this tax. I urge you to please vote for this bill. Thank you.

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

Representative TUTTLE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: Thank you. Does anybody know what the fiscal note on this bill would be?

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Thank you Madam Speaker. The fiscal note is \$53 million in the first year.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Mack.

Representative MACK: Madam Speaker, Great Honorable Members of the House. I urge support for this bill. It would be an excellent boost to Maine's economy to give our state's children a future in this state so they won't have to move away for a job. Further, I would ask for a roll call.

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

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I would ask you to support the pending "Ought Not to Pass" motion. This was a 12-to-1 report out of the Taxation Committee "Ought Not to Pass" as I recall. This would be a major change and I appreciate the comments by the good Representative from Bridgton with respect to his views on the importance of eliminating capital gains tax and indeed this bill would do that. This fiscal note is tremendous, but beyond that we did discuss this on the committee. Again, it was a 12-to-1 vote. It was the committees, at least a large majority of the committees, opinion. This was not an appropriate way to go at this time. We did receive information from the State Tax Assessor commenting on the bill that, for equity capital losses, should not be allowed if capital gains are not taxable. A capital gain needs clarification. Other issues that the State Tax Assessor brought to our attention about the bill concerns, I have looked at the committee amendment for the Minority Report, it is my opinion that those concerns have not been addressed and that all that amendment does is add one position in the Bureau of Taxation. For all of these reasons, I would ask you to vote for the pending motion, "Ought Not to Pass." Thank you.

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

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. This is perhaps one tax concept that is really misunderstood by most people. What you read about it in the media is generally a tax break for the wealthy and nothing could be further from the truth. We have debated this at length today. I am not going to bore you, but I want to give you two examples, one from the academic community and one from the political community, in terms of what this bill would do.

Nobel prize winner and economist, Robert Lucas, indicates that eliminating the capital gains tax would increase capital stock in this nation almost instantaneously by 35 percent. Think about that for a moment, in terms of the affect it would have on our economy. If we want an example of how it works, we can look at the State of Wisconsin. Back during the 80s Wisconsin's economy was in such bad shape that the business community was actually advertising telling other businesses not to move into the state. In the early 1990s Tommy Thompson was elected Governor and he reduced the capital gains tax by 60 percent. As a result of that, during the early 1990s, when other states were losing jobs, Wisconsin gained nearly 450,000 new jobs. The concept works. It is something that we ought to think about and it is certainly something that I would urge your support on today. Thank you very much.

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

Representative GAGNON: Madam Speaker, Ladies and Gentlemen of the House. I would also like to remind the House that there are a variety of programs out there right now to encourage economic development, the Better Program, TIFTS, ETIFTS. We have a variety of programs and exemptions within the present tax code that encourage economic development that are targeted at specific objectives that are at least marginally measurable. Thank you.

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

Representative KERR: Madam Speaker, Men and Women of the House. This bill has intrigued me. I find it interesting in that here we are again, in a discussion about tax relief. Madam Speaker, may I pose a question?

The SPEAKER: The Representative may pose his question.

Representative KERR: Madam Speaker, Men and Women of the House. L.D. 111 provides an opportunity for exemptions of

the capital gains. Can anyone in this chamber please tell me where and how you are going to find the money to fund this?

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

Representative WATERHOUSE: To answer that question, it is my understanding that this would not take effect until 1998-99, which would be the new biennium of the 119th. Hopefully, we would do the sufficient cutting or prioritizing to make this a number one priority to find the money to fund it.

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

Representative KERR: Madam Speaker, May I pose another question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative KERR: Thank you. If this does not take effect until the next biennium, which I think it creates a structural gap now, but saying that you are right, do you think that it is proper for us to pass legislation that will continue to increase the structural gap in the next biennium? Is that being fiscally responsible?

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. It was my desire when I introduced this bill that this bill would be on the table to compete with the funds for the 118th. I think it is a worthwhile measure to look at, and as far as the structural gap, it is my reading on the majority budget bill we have before us, that it will also create a structural gap. Thank you.

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

Representative MORGAN: Madam Speaker, Ladies and Gentlemen of the House. I would like to point out to you at this time that Congress is considering exemptions on capital gains and this piggybacks the regulations, the IRS regulations, we may be in here at some point in time, discussing this very thing. This may very well happen where we piggyback the regulations. There will be some exemptions then. As we know, the fiscal note on this is incredibly high. It is \$53 million for one year. It could be higher than that. This is just a guesstimate. Anything could take place. Thank you.

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

Representative VEDRAL: Madam Speaker, Men and Women of the House. It is time for us to stop this patchwork of tax incentives and actually implement a tax relief that is available to improve the economic condition of our whole State of Maine. I urge you to defeat this pending question.

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

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I would urge you to support the motion "Ought Not to Pass." The good Representative from Bridgton has brought out some real good points. We can agree with them all in concept, but we have to realize exactly what we are looking at. We went over this in our committee. In our committee we were going to be looking at tax reform and looking at a lot of things. We did talk about taking this into consideration when we talk about a whole tax reform package, but because of its fiscal note, at this time, I would urge you to join in with the 12-to-1 vote on "Ought Not to Pass."

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. Representative Morgan said something and I am a little confused. Maybe someone from the Taxation Committee can explain it to me. If they do change this federal law, will the state then automatically also change or will we have a freestanding law different from what they have at the federal level? If the answer is the latter, that answers part of my question. If it is the first thing that was suggested, that it would change automatically, then do we have a potential hole in the budget anyway?

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I think the fair answer to that is that we don't know until that legislation is passed.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I missed a perfect opportunity in responding to Representative Kerr and how this was going to be funded to give my free-market speech. Capital gains is such an onerous tax on the mobility of capital investment on economic growth, I feel very, very assured that if we eliminate this, economic growth will be such that it will pay for itself. Unfortunately up here we do a great deal of status analysis when it comes to taxes. I would like to look at tax cuts in the dynamic aspect of economic growth. I will state that I mentioned this to the committee that Mississippi went ahead and got rid of the capital gains tax and realized a billion dollars in capital investment that very same year. Thank you.

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

ROLL CALL NO. 46

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bumps, Bunker, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Berry DP, Bodwell, Bragdon, Buck, Cameron, Campbell, Carleton, Dexter, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Labrecque, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, McAlevey, Meres, Murphy, Nass, Nickerson, Perkins, Pinkham RG, Pinkham WD, Plowman, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Winsor.

ABSENT - Bruno, Goodwin, Pendleton.

Yes, 102; No, 46; Absent, 3; Excused, 0.

102 having voted in the affirmative and 46 voted in the negative, with 3 being absent, the motion to accept the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

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

SENATE PAPERS

The following Joint Resolution: (S.P. 543)
JOINT RESOLUTION RECOGNIZING
THE 100TH ANNIVERSARY
OF THE MAINE GUIDES

WHEREAS, the State has a long and proud heritage of guiding and outdoor adventure; and

WHEREAS, because much of the State is still undeveloped and looks the same as it did long ago, it is still possible to trace the journey of Henry David Thoreau on canoe trips that he made over 100 years ago; and

WHEREAS, generations of people have come to the State to explore a wide range of outdoor adventures amidst the spectacular beauty of our great State; and

WHEREAS, knowledgeable guides have helped to make the outdoor adventures of our guests a safe and unforgettable experience; and

WHEREAS, on March 19, 1897, the State Legislature required hunting guides to register with the State, the first registered guide being a woman by the name of Cornelia Thurza Crosby, better known as "Fly Rod Crosby"; and

WHEREAS, collectively Maine Guides represent a bank of knowledge of the outdoors that is priceless; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature proudly recognize the men and women who serve as guides on the occasion of Maine Guides Day, March 25, 1997, the 100th anniversary of registered guides in the State, and express our appreciation to the guides for their outstanding contributions and dedication to the guiding industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Professional Guides Association and the Department of Inland Fisheries and Wildlife.

Came from the Senate, read and adopted.

Was read.

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

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. On March 19, 1897, the Maine Legislature passed a bill requiring hunting guides to register with the state. Maine registered 1,316 guides that first year. The honor of receiving the first Maine guide license went to Cornelia Thurza Crosby or otherwise known as "Fly Rod Crosby," as she was affectionately known by friends throughout the country. Crosby first discovered her love for the wilderness when on the advice of her doctor, she left her job at a bank to seek a large dose of the outdoors. This prescription brought her to Rangeley, Maine, where she found work housekeeping in some of the larger hotels in the area. She became friends with local guides and from there she learned the lore of the woods and the pleasures of camping, hunting and fishing.

In 1886, a friend presented Cornelia with five-ounce bamboo rod. She became so adept at fly fishing that she once landed 200 trout in one day. She began to write up accounts of her fishing adventures and submitted them under the name *Fly Rod* to O. M. Moore editor of the *Phillips Phonograph*. That is mighty

good stuff responded Moore. Send some more right away. *Fly Rod Notebook* became a widely syndicated column appearing in newspapers in New York, Boston, Chicago and the new name stuck. Although she shot the last Caribou buck in the State of Maine, Fly Rod Crosby's most remarkable and enduring contributions to her native state happen far from the north woods. In addition to being the first licensed guide, she was Maine's first public relations genius. She arranged an elaborate hunting display at the first annual sportsman's show in New York's Madison Square Garden starring herself, rifle in hand and wearing a daring knee-length doe skin skirt. Her sensational appearance at the sportsman's show together with the popularity of her column helped to attract thousands of eager would-be outdoorsmen and woman to the woods and streams of Maine.

One hundred years later the Maine Professional Guides Association is carrying on Fly Rod's love of the wilderness by promoting conservation, education and the tradition. The MPGA sponsors conservation for camps for children, landowner relations and legislation to protect our heritage. The Maine Professional Guides Association has an elaborate display in the Hall of Flags and they invite everyone in this body to come and visit them today. I thank you very much.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I would just like to inform you that my grandmother was also a Registered Maine Guide, back in the 20s. At one time she was also the only lady deputy sheriff east of the Mississippi and was written up in *Ripley's Believe it or Not*. I have a copy of my grandmother's guide license from 1923 and it is very interesting to note that the fee on that was 25 cents. Much has changed in the days since the 1920s, but she probably was one of the most noted marks ladies in the Sherman, Macwahoc and Kingman area. I just wanted to point out that she would be very pleased to know that the Maine Guides Association is being recognized today and she certainly wore her guide's jacket with honor. Thank you very much.

Was adopted in concurrence.

HOUSE DIVIDED REPORT - Majority (8) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Prohibit Liquor Licensing of an Establishment Managed by a Person with a Criminal Record" (H.P. 367) (L.D. 512)

TABLED - March 21, 1997 by Representative SAXL of Portland.

PENDING - Acceptance of Either Report.

Representative TUTTLE of Sanford moved the House accept the Majority "**Ought Not to Pass**" Report.

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

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" - Committee on **Natural Resources** on Resolve, to Allow Donald Hebert to Retain a Certain Structure in Exchange for the Removal of Another Structure (H.P. 477) (L.D. 648)

TABLED - March 21, 1997 by Representative SAXL of Portland.

PENDING - Motion of Representative ROWE of Portland to accept the Majority "**Ought Not to Pass**" Report.

On motion of Representative KONTOS of Windham, the Bill was tabled unassigned.

SENATE DIVIDED REPORT - Majority (7) "**Ought Not to Pass**" - Minority (6) "**Ought to Pass**" as amended by Committee Amendment "A" (S-32) - Committee on Taxation on Bill "An Act to Exempt Churches from the Real Estate Transfer Tax" (S.P. 17) (L.D. 15)

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

TABLED - March 24, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Acceptance of Either Report.

Representative ROWE of Portland moved the House accept the Majority "**Ought Not to Pass**" Report.

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

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I would encourage you to vote against the "Ought Not to Pass" report so we could accept the "Ought to Pass" report. This is a very simple bill, in my opinion. What this does is, if there is a transfer between amongst church people, or from one church to another, this would exempt that tax. This is something, as I said, is very simple. I think it is very hard to argue against. We found situations where two congregations of two churches have split, or whatever, and it is only, in my opinion, the right thing to do. It was a 7-to-6 vote in the committee and I would urge to vote against the Majority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Madam Speaker, Ladies and Gentlemen of the House. This is a brief explanation on the report. Early in the session, this was one of the first bills that we heard. We were discussing how we were going to reach tax reform. At that time, we didn't have a reasonable method to do that. We were deciding that if we were going to look at exemptions later, then we should kill this bill now because we were going to consider it later. We have since had a table which we put bills like this on. I know that it is a tragic thing when you vote against churches and veterans and it happened last year, so, I would say that I am not tied to the "Ought Not to Pass." It is a reasonable bill, but I just wanted to give you the philosophy of the committee as far as how it came out early in the session.

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

Representative VEDRAL: Madam Speaker, Men and Women of the House. Unfortunately, my congregation is one of the congregations that is affected by this real estate transfer tax. I am a member of a congregation that was joined between two different denominations and then split. The property was not sold off for any financial gain. The property was not transferred with the exchange of any money, but the property was transferred in order to separate these two congregations. As a result of this transfer there were some taxes due in the amount of about \$1,000 when there has been change in the true ownership of this property. It was just deeded over to one congregation from the other.

There is a little history behind one of the churches in this congregation, too. The Tory Hill Church is the inspiration for many of the books written by Maine author, Kate Douglas Wiggin, including the *Old Peabody Pew* and *Rebecca of Sunny Brook Farm*. I don't know if anybody read those as a child, but they are wonderful books. Our church was the inspiration for those books.

This, fortunately, only occurs once every five or 10 years. It is not a major problem in our state with taxation, but it is matter of fairness towards the churches where there has been no sale

of the property, but taxes are due in any case. I would appreciate that you vote to defeat this pending motion of "Ought Not to Pass" so that we might accept the "Ought to Pass" report. Thank you.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I would request that you vote for the pending motion. I guess I do feel more strongly on this than some people. Like many of you, I belong to a church and I understand the financial problems that churches have. This bill is very easy vote for. It exempts the churches from having to pay real estate transfer tax, which, by the way, is \$4.40 on every \$1,000 value of the church building. If the church building is valued at \$50,000, you would have to pay \$220, under the law that is split between grantor and the grantee. One of my guiding principles in doing taxation is to simplify, not complicate, the tax code and to reduce, not increase, the number of exemptions, exclusions and carve out, and other things we have in the tax code.

Churches provide valuable services. We recognize that through our tax codes. Churches are exempt from property tax. You know that, churches and houses of worship. The parsonages are exempt to a certain extent. When churches buy goods they don't have to pay a sales tax so there is an exception from the sales tax on the tax code. The real estate transfer tax is basically a user fee. That fee, in part, goes to the counties to defray the expenses of the Register of Deeds. Some of that goes to the home fund, which is Maine State Housing and the other piece goes to the General Fund. I am simply pointing out that if we vote to pass this bill, we are putting into statute, we are carving out another exception that, for the Representative from Buxton, Representative Vedral, I understand appreciates your concern, but this would have a much broader implication. I am just saying as a matter of policy, I do not believe that it is great policy to complicate tax codes when, these don't happen that often, granted. But again, you are carving out an exemption when we have laws that benefit churches greatly from an economic perspective. For all those reasons, I would ask for you to vote for the pending motion. Thank you.

Representative TUTTLE of Sanford requested the Clerk read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

Representative VEDRAL: Madam Speaker, Men and Women of the House. Just a point of clarification. The exemption from the property transfer tax is only when the property is transferred between two religious organizations, not when it transferred outside of religious organizations. Thank you.

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

Representative GAGNON: Madam Speaker, Ladies and Gentlemen of the House. This is exactly the type of thing that I think Representative Rowe was talking about. If you enjoy the tax code as it presently is, with all its exemptions and all its complexities, now we are talking about adding one more exemption. It is very narrow and involves a very small amount of money overall. I would encourage you to pass the motion.

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

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I would argue that this exemption will not cloud our tax code or complicate our tax exemption list. This is very narrow. It might only happen one or twice a year and for those people that it would affect, it is a very important item. I do

not see that this will, as I said, cloud up our tax policy. Therefore, I would ask when the vote is taken for the yeas and nays please.

Representative SPEAR of Nobleboro requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

ROLL CALL NO. 47

YEA - Bagley, Baker CL, Berry RL, Bolduc, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dunlap, Dutremble, Farnsworth, Fisk, Frechette, Fuller, Gagnon, Gamache, Goodwin, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, McElroy, Mitchell JE, Morgan, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Rines, Rowe, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Ahearne, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bouffard, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Driscoll, Etnier, Foster, Gagne, Gerry, Gieringer, Gooley, Green, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McKee, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Richard, Samson, Savage, Shannon, Skoglund, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Bigl, Bruno, Fisher, Kerr, Madore, Meres, Muse, Pendleton, Perry, Plowman.

Yes, 61; No, 80; Absent, 10; Excused, 0.

61 having voted in the affirmative and 80 voted in the negative, with 10 being absent, the Majority "**Ought Not to Pass**" Report was not accepted.

Subsequently, the Minority "**Ought to Pass**" as amended Report was accepted in non-concurrence.

The Bill was read once. Committee Amendment "A" (S-32) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, March 26, 1997.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres who wishes to speak on the record.

Representative MERES: Madam Speaker, Men and Women of the House. I would like to ask your indulgence for a moment. On the last vote that we took my vote was not recorded because I was in such a hurry to talk to somebody. I have to apologize. If I were here, I would have voted in the negative. I would like that to be recorded.

The SPEAKER: The record will so indicate.

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (H-84) - Minority (3) "**Ought Not to Pass**" - Committee on **Marine Resources** on Bill "An Act to Amend the Marine Resources Special Licensing Laws to Provide for Test Marketing and Development of New Seafood Products" (EMERGENCY) (H.P. 157) (L.D. 199)

TABLED - March 24, 1997 (Till Later Today) by Representative ETNIER of Harpswell.

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

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

The Bill was read once. Committee Amendment "A" (H-84) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, March 26, 1997.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-77) - Committee on **Marine Resources** on Bill "An Act to Extend the Territorial Waters to 12 Miles for the Purpose of Marine Resource Protection and the Enforcement of Marine Resource Laws" (H.P. 212) (L.D. 276)

TABLED - March 24, 1997 (Till Later Today) by Representative ETNIER of Harpswell.

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

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

SENATE DIVIDED REPORT - Majority (10) "**Ought to Pass**" as amended by Committee Amendment "A" (S-31) - Minority (3) "**Ought Not to Pass**" - Committee on **Natural Resources** on Bill "An Act to Amend the Site Law Concerning State and Local Review of Transmission Lines" (S.P. 79) (L.D. 218)

- 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-31).

TABLED - March 24, 1997 (Till Later Today) by Representative ROWE of Portland.

PENDING - Acceptance of Either Report.

On motion of Representative ROWE of Portland, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-31) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, March 26, 1997.

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

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999 (EMERGENCY) (MANDATE) (H.P. 832) (L.D. 1137) (Governor's Bill) (H. "FF" H-73, H. "HH" H-75 and H. "JJ" H-82 to C. "A" H-15) which was tabled by Representative KONTOS of Windham, pending further consideration.

-In House, failed of passage to be enacted in the House on March 24, 1997.

-In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "JJ" (H-82) and Senate Amendment "W" (S-66) thereto.

Representative KERR of Old Orchard Beach moved the House Recede.

Representative DONNELLY of Presque Isle requested a roll call on the motion to Recede.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

ROLL CALL NO. 48

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bigl, Bodwell, Bruno, Fisher, Madore, Pendleton, Perry, Plowman, Vigue.

Yes, 79; No, 63; Absent, 9; Excused, 0.

79 having voted in the affirmative and 63 voted in the negative, with 9 being absent, the motion to Recede was accepted.

Senate Amendment "W" (S-66) was read by the Clerk.

Representative KERR of Old Orchard Beach moved that Senate Amendment "W" (S-66) be indefinitely postponed.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. There have been some discussions on where we are at and how this process goes from here. I would request a roll call.

Representative DONNELLY of Presque Isle requested a roll call on the motion to indefinitely postpone Senate Amendment "W" (S-66).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Ladies and Gentlemen of the House. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative OTT: Thank you Madam Speaker. To Representative Kerr or anyone who would choose to respond, I am just looking at this amendment. To me, it looks like a major shift in what we spent considerable time debating.

The SPEAKER: The Chair would pose a question to Representative Ott. We are discussing amendment "W." Is this the amendment that you are referring to?

Representative OTT: No.

The SPEAKER: The pending question is Indefinite Postponement of Senate Amendment "W."

Representative OTT: Thank you.

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

Representative DONNELLY: Madam Speaker, Ladies and Gentlemen of the House. Before we vote on this, I have a question for anyone who can answer it. May I pose my question?

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Thank you. Would the budget be in balance if this amendment, that was put on in the other body, was not stripped?

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

Representative KERR: Yes.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of Senate Amendment "W" (S-66). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 49

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perkins, Pieh, Pinkham RG, Pinkham WD, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Layton.

ABSENT - Bodwell, Bruno, Fisher, Madore, Pendleton, Perry, Plowman, Vigue.

Yes, 142; No, 1; Absent, 8; Excused, 0.

142 having voted in the affirmative and 1 voted in the negative, with 8 being absent, the motion to indefinitely postpone Senate Amendment "W" (S-66) was accepted.

Representative KERR of Old Orchard Beach moved that House Amendment "JJ" ("H-82) to Committee Amendment "A" (H-15) be indefinitely postponed.

Representative DONNELLY of Presque Isle requested a roll call on the motion to indefinitely postpone House Amendment "JJ" ("H-82) to Committee Amendment "A" (H-15).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "JJ" ("H-82) to Committee Amendment "A" (H-15). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 50

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW,

Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bodwell, Bruno, Fisher, Madore, Pendleton, Perry, Plowman, Vigue.

Yes, 78; No, 65; Absent, 8; Excused, 0.

78 having voted in the affirmative and 65 voted in the negative, with 8 being absent, the motion to indefinitely postpone House Amendment "JJ" ("H-82) to Committee Amendment "A" (H-15) was accepted.

Representative KERR of Old Orchard Beach presented House Amendment "KK" (H-108) to Committee Amendment "A" (H-15), which was read by the Clerk.

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

Representative KERR: Madam Speaker, Colleagues of the House. There has been a handout that is going to explain the purpose of replacing House Amendment "JJ" and Senate Amendment "W" because they were in conflict and the budget was not balanced with both of those amendments on together. Just to explain, since Representative Ott indicated that he just received this amendment. As you all know, this process has been quite lengthy and a lot of debate has been taking place on the floor to try to reach a consensus of what this body would like to see the final budget look like. In going through quite a few amendments, I think it very clear that we needed to modify the budget somewhat to reflect some of the concerns of this chamber. The immediate in "KK" sends \$5.2 million that is generated from the gross receipts tax being repealed, the class A restaurant tax, and sends it back to the municipalities. The Governor's original budget, as you know, chose to send that in the General Fund. Senate Amendment "W" chose to also go along with that recommendation. It has been very clear that this chamber wants to continue to pay its bills, so that is one change.

We continue to take the \$10 million balance that was derived from cuts that was in the original amendment "JJ." We distribute those dollars a little bit differently. We still believe and continue to fight for immediate tax relief with this amendment. What we have done is we have chosen to take \$3 million in each year to put toward the initial investment in the tax relief fund. That will create an exemption of \$50 in FY 1998-99. A million dollars will be put toward fully funding tree growth, the tax reimbursement program. We will also leave \$3 million left in unappropriated surplus on top of the Majority Report that already left about \$385,000 for those bills that we have debated today that may have a fiscal impact. You are looking at close to \$3.4 million at the end, if this budget receives passage, that will be left for unappropriated surplus that could be used for whatever bills end up on the Appropriations Table.

The remainder of the \$10 million that would come forth from FY 97 surpluses would also be put into this tax relief fund for Maine residents to provide income, property, sales tax relief or

whatever the mix will be coming out of the Taxation Committee. That is a little bit different than what was dedicated before. The funds will still go into the tax relief fund, but will be scrutinized by the Taxation Committee, and will be reported out.

The bill also in "KK" removes the emergency preamble and mandate preamble and includes a technical amendment to Part SS regarding the Northern Maine Juvenile Detention Facility because there is a mandate in the current legislation, and this would take off the mandate. I delete reference to the Legislature per diem payment for the special session. That will be addressed in a Joint Order. That is the synopsis of what "KK" does and I would urge your support.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, Men and Women of the House. I had amendment "KK" placed on my desk just a few minutes ago. I would note for the record that it is 12 pages in length. It contains about 20 separate items appropriating here, deappropriating there and changing things around. I haven't had time to absorb all of this. I doubt that anybody except those few who have worked it up really comprehend exactly what it all means. I appreciate the fact that the Chair of the Appropriations Committee has gone over the major items, but I can't tell just what all of this means in just the few minutes that we have had to consider this. I hope that somebody will make the motion to table so that we may have further time to examine just what this document means.

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

Representative KERR: Madam Speaker, Men and Women of the House. In all due respect to the Representative from Wells, it is a 12-page document, but, as you know, you had "JJ" and I am sure that you all read it. We had plenty of debate on it. The only changes in this document is what is underlined. On Page 1, it is in reference to A-Resources Appropriate. That does nothing more than just talk about the \$10 million that we appropriate. On page 2, when you see section B, those are resources transferred. Those are dollars from unappropriated surplus left in 1997 that we transfer. What do we do with that \$10 million? Those cuts that achieve that \$10 million have not changed in Section JJ. They are the identical same cuts that were in "JJ" as they are in "KK." The only other change, as I said earlier, is that we removed the emergency preamble and mandate preamble dealing with the corrections facility up North. That would be on Page 4, B4. Other than that, this document is identical to "JJ," and if it was that technical or that massive of a change, I would have requested what the Representative from Wells wanted. I think it is pretty simple and straight forward. Thank you.

Representative DONNELLY of Presque Isle moved to table pending adoption of House Amendment "KK" (H-108) to Committee Amendment "A" (H-15) and later today assigned.

The Chair ordered a division on the motion to table.

Representative SAXL of Portland requested a roll call on the motion to table.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: For what purpose does the Representative rise?

Representative GERRY: To address the House.

The SPEAKER: This motion is not debatable, Representative Gerry.

A roll call has been 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. 51

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

NAY - Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McAlevey, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pih, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Ahearn, Bodwell, Bouffard, Bruno, Fisher, Lemont, Madore, Pendleton, Perry, Plowman, Thompson.

Yes, 65; No, 75; Absent, 11; Excused, 0.

65 having voted in the affirmative and 75 voted in the negative, with 11 being absent, the motion to table was not accepted.

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

Representative CAMPBELL: Madam Speaker, Ladies and Gentlemen of the House. I was under the understanding that in Representative Kerr's dialogue with us that there was either to be or there has been a handout explaining "KK." Could I have reference to that? Perhaps he could explain either where it is, if it is here, or why we might not have it on our desks?

The SPEAKER: The Chair would inquire if the Representative from Holden, Representative Campbell would like a copy of the information, other than the summary of the amendment?

Representative CAMPBELL: Yes, I would please. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I did get a copy of the handout. I have been down to the fiscal office just to check what is involved here. If you have the handout under Number 3, the first star where it deals with the \$6 million, what this amounts to in tax relief is if you are at the bottom rate, you get \$1 and if you are at the top rate, you get \$4.25. The average is \$2. If you have a family of four, you get tax relief for a total of \$17.

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

Representative CAMPBELL: Madam Speaker, Ladies and Gentlemen of the House. It appears that some in the body have that and it would be great if we all could. Thank you.

The SPEAKER: The Chair hears the Representative and the request will be honored forthwith.

The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BUCK: May I pose a question to the Chair of the Appropriations Committee, Representative Kerr?

Representative Kerr under "KK" on Page 3, unallocated funds on line 20, represent \$3 million. I believe on "JJ" that amount is \$10 million. Are you suggesting that there will be \$7 million left in what is going to be used for tax relief under this program?

The SPEAKER: The Representative from Yarmouth, Representative Buck has posed a question through the Chair to the Representative from Old Orchard Beach, Representative Kerr. The Chair recognizes that Representative.

Representative KERR: Madam Speaker, Men and Women of the House. Through the many hours of dialog and trying to reach a compromise budget in this chamber, once again we found out that revenues exceed expectations within a budget. What this amendment does is it takes \$3 million of that \$10 million and appropriates this for immediate tax relief for Maine residents dealing with personal exemptions. It then takes another million to fully fund tree growth. That is where we get \$7 million. Then there were questions that came up about what are we going to do about the 1,300 or 1,500 bills that are still left in this chamber that may get passed from both bodies and end up on the Appropriations Table. It could be a Democrat bill or it could be a Republican bill or even an Independent bill. We felt that there should be money left on the table to compensate that. So there will be \$3 million put on unappropriated surplus along with the \$385,000 that is in the Majority Report to give you a total of approximately \$3.4 million in unappropriated surplus for the table.

The other \$10 million that comes from surplus, if in fact there is \$10 million there, the first \$10 million, the entire amount, would be put into the tax relief fund. The committee of jurisdiction would then determine what taxes should be reduced. They may continue to want to reduce the exemptions on personal income until we reach the federal level so there is parity or they may choose to use it for the snack tax or another tax. That is different than what was there before. Anything about that \$10 million, the breakdown of 75 percent into the tax relief fund and 25 percent to go toward the unfunded liability still remains. I hope that answers your question.

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

Representative JOY: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative JOY: Madam Speaker, to whom may have an answer to this question, I notice that both "JJ" and "KK" have an issue in here which lapses \$700,000 in unencumbered balances from the education in the unorganized territories to the General Fund. I wonder if someone could explain to me if this is the way that we still have southern Maine subsidizing northern Maine? Thank you.

The SPEAKER: 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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. The simple answer is no.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. It is true that we have had a short time to look at this and yet we are asked to approve it now as part of the budget because of some of the technicalities that the budget may be out of balance. In my opinion, I think this amendment is just a proposal to play to the audience, the citizens of the State of Maine that we are truly a body that is going to deliberate and try to pass some tax relief as we promised last year, or last session, in the 117th. If anybody really truly believes that in this House,

then I think you are also looking forward to a gift from the Easter Bunny this Sunday. To me, it is another example of just how fast we are moving this budget through this chamber and I think it does the people of this state a disservice to do so. I would ask that you defeat the pending motion. Thank you.

The Chair ordered a division on the motion to adopt House Amendment "KK" (H-108) to Committee Amendment "A" (H-15).

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. This is a complicated bill, the entire budget, never mind the 12-page amendment to it. It changes radically some things that have been talked about and talked about and talked about for nearly a week or so. It is something that probably requires a little thought on how people are going to act on it. That is not going to happen. We are going to need to vote on an issue which will have a big impact on the state on how we tax and how we don't tax, where we take money from and where we don't. Taking money from dedicated revenues to go into the General Fund and a number of other things that have happened in the past and I will admit there are a number of times in Maine history, back in 1991, probably most darkly, where those accounts have been hit in order for other things to be funded, other priorities. Usually they have been done in times of crisis. With that in mind, Madam Speaker, I would like to pose a question.

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Thank you. In here, there is a million dollars a year that is taken from the Underground Oil Storage Tank Fund, as I understand that that is a fee collected at the wholesale level of underground oil and it was dedicated to helping fund or have a loan program for getting the underground storage tanks up aboveground to help our environment. I am curious as to either does this extend that tax another million dollars a year without public hearing or does this simply take \$2 million a biennium out of that fund to slow down the process in which the environment is being cleaned up?

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

Representative KERR: Madam Speaker, Men and Women of the House. It takes \$2 million from that tank fund and it is dedicated funds.

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

Representative DONNELLY: Madam Speaker, Ladies and Gentlemen of the House. To further clarify, does it extend this \$2 million so that the fund continues to collect \$2 million more in taxes or does it take \$2 million away from the fund so that there is \$2 million less for cleaning the environment?

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

Representative DONNELLY: Thank you Madam Speaker. I cannot in good conscience vote for either an extension of a tax or taking \$2 million away from what was at one time a great environmental problem in our state and still has some challenges to it. With that in mind I move Indefinite Postponement of House Amendment "KK."

Representative DONNELLY of Presque Isle moved House Amendment "KK" (H-108) to Committee Amendment "A" (H-15) be indefinitely postponed.

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

Representative KERR: Madam Speaker, Men and Women of the House. The beauty of this budget that you are looking for, if it is just about this \$2 million, as I said earlier, you have almost \$3.4 million in surplus. Once we vote for this document and we all know that is going to happen, it is never over until we leave this chamber. It doesn't mean in March, April or May. We know we will be here. This is not a perfect document. No one has said that it is. It doesn't address all the issues, but it addresses most of the issues. I would urge you to support this amendment "KK" and vote against the Indefinite Postponement of House Amendment "KK."

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

Representative CAMPBELL: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CAMPBELL: Madam Speaker, Ladies and Gentlemen of the House. To anyone who would like to answer. Has the Natural Resources Committee looked at this?

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I want to clarify this. This is not a new proposal. This proposal was contained in House Amendment "JJ," which was negotiated last week between the parties and for which Representative Donnelly voted. I recognize that it does spend other special revenue funds for general fund purposes. It does not extend a tax or increase a tax. It was an amount of money which those involved felt could be spared from the account and was offered in the hopes of reaching a bipartisan budget. Thank you.

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

Representative LINDAHL: Madam Speaker, Men and Women of the House. I guess I am not sure as to what the amount of our surplus is supposed to be projected at the end of this year. It seems as though we are spending it in numerous ways. Could I have an account of what the projected surplus is expected to be?

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

Representative KERR: Madam Speaker, Men and Women of the House. The Representative from Northport has posed a question, which truly warrants an answer. I can only refer to February 27th when my colleagues on the opposite side of the aisle chose to have a pep rally on the second floor and unfolded their budget, which I commended them. I think it was helpful because then we found out exactly what you would like to have seen in your proposed budget that would reflect in both FY 98-99. Your projected surplus in what was presented to the press, at that time, was \$30 million. The Republicans said there would be \$30 million of surplus. In doing that, you predicated your budget on being balanced by that \$20 million.

What this amendment does is it says, if there is a surplus and if that amount is only \$10 million, \$10 million and under, all those dollars would go into this tax relief fund. That is what this amendment says. If, in fact, that surplus might be over \$10 million, say \$20 million, then you would take 75 percent of that \$20 million, which would be \$15 million and put it into the tax relief fund. The other \$5 million would go toward the unfunded liability, the teacher retirement, which is about \$2.1 million. Then there are other appropriations that need to take place. The train

gets \$1 million and it continues the account and there is a break down of that. At the bottom of that list is Sears Island. If, in fact, there is enough money that is available, Sears Island gets funded. If not, it doesn't. I hope that answers the good Representative's question.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I kind of want to propose a question, but if I answer it correctly, I don't need an answer. If I understand the amendment correctly, in the unlikely event there are \$60 million in surplus this year, we would end up going into the tax relief fund 75 percent of that. Sears Island ends up way at the bottom. If we get to Sears Island, we are going to be in the \$100 million range or something like that, if I understand that correctly. If we ended up with \$60 million, that would be \$45 million going into, I know this isn't going to happen, but going into the tax relief fund, if I understand this correctly. It is a function of how much is left as to what ends up in that tax relief fund.

Representative MERES of Norridgewock moved the House recess for 20 minutes.

The Chair ordered a division on the motion to recess.

Representative KONTOS of Windham requested a roll call on the motion to recess for 20 minutes.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is that the House recess for 20 minutes. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 52

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bolduc, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chizmar, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Hatch, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Rines, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chick, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Bruno, Fisher, Madore, Pendleton, Perry, Plowman.

Yes, 71; No, 74; Absent, 6; Excused, 0.

71 having voted in the affirmative and 74 voted in the negative, with 6 being absent, the motion to recess was not accepted.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. I guess I have a comment, then I would like to pose a question through the Chair. It seems to me that once again we are looking around for little pieces or pockets of money that we

can use, in my opinion, to fund this meager attempt at, I hate to even say the word, tax relief for our citizens. One of the pieces that I am concerned about is the \$900,000 that is being taken to fund this. It comes on Page 4 of the amendment and talks about \$900,000 from the Bureau of Banking from the Securities Division. I guess the question I have or the comment I have, is that these monies, I would presume, are there for a very legitimate reason in funding that particular operation. My understanding is that it is there to ensure that the people of this state have some protection against the S & L type financial organizations that we have come to know so well. That money is for licensing and regulating those activities for those who are holding themselves out as financial experts. I guess my question is, to the sponsor of this amendment or anybody who cares to respond is, what impact is that going to have on that particular part of our state operations that involves the regulations in the Bureau of Banking?

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

Representative KERR: Madam Speaker, Men and Women of the House. In discussions with the commissioner there was a wish to take some more money because noticing there was enough money in this account, but we backed off. The commissioner feels that there is enough money to protect the interest of Maine people. A lot of this money is due because of the bull market that has taken place.

While I am on my feet, I would like to proceed and talk about this meager attempt to provide tax relief. This is not a meager attempt to provide tax relief in this amendment nor in the budget document. I guess what we need to look at is what we call tax relief. I don't want to deviate too much from this amendment. If I do, I am sure I will be called to order. I think that there is a lot of different individuals in this chamber. We have seen through the various amendments where we would like to see monies appropriated. The reality is, people, we are restricted to the expenditures of those dollars. We have to live within our means. I, and many others in this chamber, have been trying to reach a compromise, two-thirds vote in this chamber, and hopefully would receive the same in the other chamber. In doing that, we have been putting forth amendments, not sitting back quietly criticizing, but always keeping an eye on a goal to get two-thirds vote out of this chamber. Using the committee process through public hearings to the Maine people coming before, and testifying before your committee and bringing forth a document with this amendment, to hopefully achieve that vote.

Reality started to set in to me that it is not going to happen. That is why this amendment pulls off the emergency preamble and also addresses the mandates. No matter what I believe, I propose, whether in writing, whether talking or even what the administration has proposed, nothing seems to stick. I would urge you to vote against the Indefinite Postponement of House Amendment "KK." I think it is important to get to the point, to discuss the budget in its entirety as amended. If we get to that point, then there will be a vote. Hopefully, some of your minds will be changed when you look at the budget in its entirety. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. In answer to the questions posed by the Representative from York, I just wanted to comment that once again, yes, this is not a new proposal. It was contained in House Amendment "JJ," which was offered last week as a result of bipartisan negotiations. Yes, once again it is the expenditure of

other special revenue funds. It is something that I would not ordinarily propose to do, but I feel would be worthwhile if they could bring about a bipartisan resolution to this situation. Finally, I think that the Representative will remember from discussions in the committee that there are very healthy balances in that account. Thank you.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "KK" (H-108) to Committee Amendment "A" (H-15).

Representative KONTOS of Windham requested a roll call on the motion to indefinitely postpone House Amendment "KK" (H-108) to Committee Amendment "A" (H-15).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Amendment "KK" (H-108) to Committee Amendment "A" (H-15). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 53

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Bruno, Fisher, Madore, Pendleton, Perry, Plowman.

Yes, 67; No, 78; Absent, 6; Excused, 0.

67 having voted in the affirmative and 78 voted in the negative, with 6 being absent, the motion to indefinitely postpone House Amendment "KK" (H-108) to Committee Amendment "A" (H-15) was not adopted.

Subsequently, House Amendment "KK" (H-108) to Committee Amendment "A" (H-15) was adopted.

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

Representative MURPHY: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative MURPHY: I signed an amendment about 15 or 20 minutes ago. Has that amendment come back up to the floor?

The SPEAKER: The Chair would answer in the negative.

Representative MURPHY: I would ask the courtesy of the House for someone to table this proposal until that amendment comes up to the floor.

Representative CARLETON of Wells moved to table until later today pending adoption of Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "KK" (H-108) thereto in non-concurrence.

Representative KONTOS of Windham requested a roll call on the motion to table.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

ROLL CALL NO. 54

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Bruno, Fisher, Madore, Pendleton, Perry, Plowman.

Yes, 68; No, 77; Absent, 6; Excused, 0.

68 having voted in the affirmative and 77 voted in the negative, with 6 being absent, the motion to table was not accepted.

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

Representative DONNELLY: I move suspension of the rules to allow to ask the Clerk to read House Amendment "LL."

The SPEAKER: The Clerk does not have House Amendment "LL." It is at the printers.

Representative DONNELLY: Madam Speaker, May I pose a further question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Do we have a time frame for which this amendment will be printed?

The SPEAKER: The Clerk has called. They will call him back. Does the Representative have further questions.

Representative DONNELLY: Once we go beyond this point, if the Representative is not allowed to present his amendment at this point, as was the good House Appropriations Chair, at what time will he have an opportunity to amend?

The SPEAKER: The bill will be back for Enactment. At that time he can move reconsideration.

Representative DONNELLY of Presque Isle moved the House recess for 22 minutes.

Representative SAXL of Portland requested a roll call on the motion to recess.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to recess for 22 minutes. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 55

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Bruno, Fisher, Madore, Pendleton, Perry, Plowman.

Yes, 67; No, 78; Absent, 6; Excused, 0.

67 having voted in the affirmative and 78 voted in the negative, with 6 being absent, the motion to recess was not accepted.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. This process is wide open to everyone. Representative Murphy knows clearly how this amendment process works. We have tolerated three days of amendments from the minority party. We did so tolerably, kindly, patiently and respectfully. We are at the stage of the process. It is no surprise. For it to be filed this late is unfortunate, at best, but not because the good Representative didn't understand how all of this procedure had to work. I would hope that he will be better apprised the next time this issue presents itself to him.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. I listened very closely to the Chair as we were informed and very much to the Speaker's credit, we are informed of what will happen during that day, what will happen during this week and we even get schedules for the following months or the upcoming months, which this member really appreciates. This morning I heard the Chair make reference that we would be coming back to the budget this afternoon. I instructed drafting that I needed it as quickly as we could and that we were coming back to the budget this afternoon. I didn't realize that that meant that the House would be in session past 12 noon and that we are in the afternoon. I operated on the guidance that I thought I had received from the Chair. Thank you.

Representative WATERHOUSE of Bridgton moved the House recess for 15 minutes.

The Chair ordered a division on the motion to recess.

Representative SAXL of Portland requested a roll call on the motion to recess.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recess for 15 minutes. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 56

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Winglass, Winn, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Bruno, Cameron, Fisher, Madore, Pendleton, Perry, Plowman, Wheeler EM.

Yes, 66; No, 77; Absent, 8; Excused, 0.

66 having voted in the affirmative and 77 voted in the negative, with 8 being absent, the motion to recess was not accepted.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. I would like to respond to the Representative from Windham, Representative Kontos. As the explanations have been going forth, it was not until this morning that we, the minority party, were made aware that there was going to be a move to make an amendment to this budget at this point. Fair warning to all, there were only two that worked on amendments, Representative Kerr from the Appropriations Committee and Representative Murphy from Kennebunk. Representative Murphy has worked very hard on issues that I gather are contained in his amendment and would like to present them to this body. This body's decision on how to vote, on extending the same courtesy as Representative Kerr, was extended. I understand the majority party can flex its muscles and shut it down for other members of the body to try to put forth their proposals, without due consideration, or can just simply vote them down after hearing the debate. The choice between the two, in my relatively brief legislative career of seven years, has been that members have been allowed to present their amendments. It is not the consorted effort of the minority party to put up 20 amendments to debate on 20 different issues to get roll calls and to try to slow the process. It is a member of this House that has an idea that they would like to share with this body at the appropriate time. I think that is the only courtesy being asked here.

Last session there was some things that happened about courtesy, and I had some members of the other party send me notes, when I voted another particular way and I conceded that they were right. I wouldn't do that again. I ask for those who sent me the note to extend that same courtesy to another member of this body who is only asking the option or ability to present their idea to this House, as is the common courtesy, as is common practice, in this body. In seven years, I have never seen this. I hope that someone will move either to just be at ease for a few minutes while this is being presented or to move

to table for two minutes. I don't care what it is as long as we know what the time table is for Representative Murphy's amendment to hit your desks and to get its fair shake in this house of last resort and get an up or down vote by the members and move forward with the business at hand. As I understand it, I am not aware of any other amendments that are out and around, perhaps there are, but especially in light of the idea that it was only late this morning that anybody in our party, as far as I know, was aware that there was going to be an amendment at this point, other than what the Senate had done. I think it is only fair to allow members to present their ideas at the same time in the appropriate place during the budget debate.

That is where we are now with the motion to recede, which we talked about earlier. It is the time when you kind of open up the process to peel off and add new amendments or not. It seems to be the appropriate time and not on final Enactment. I encourage the House to support some courtesy for its other members. Thank you.

Representative MURPHY of Kennebunk presented House Amendment "LL" (H-109) to Committee Amendment "A" (H-15), which was read by the Clerk.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. I am very sorry for the delay. It was not intentional. Just last week members of the other side of the aisle had approached me on what had been a very close vote on an amendment which dealt with school construction. In those conversations, many members had said that they had wished they had that to do over again. This is not the same amendment. First of all, this amendment closes the state liquor stores. Many of our constituents, when we were campaigning, said that we needed to set priorities, that Maine State Government was too large. I guess I am laying before you a choice of priorities.

The second part of this amendment raises the legislative cap \$1.2 million in the first year and an additional \$3 million in the second year. That elevates that gridlock or that jam in school construction, which has meant that our youngsters are in church basements and they are in trailers.

The third part of this bill as a result of discussions with members from the other side of the aisle rather than sending the saving of the closing of the state liquor stores to the table, put that additional money into the GPA. When you have computer printouts, you saw the effects of the cushion on elevating the pain of the underfunding of the GPA. I have asked the Department of Education for information on a number of units that youngsters are in. We have 883 leased classrooms within this state. It could be a church basement that has been partitioned. It could be double-ended trailers, but Maine youngsters go to school in 883 temporary classrooms and the number is growing dramatically. If you take an average class size of 25 students, at any given moment during this day that we have been here, over 20,000 Maine students aren't in a real classroom. They are in temporary classrooms.

On the other hand, those youngsters are in temporary classrooms, we want to maintain a system whose time has gone by. I cannot understand the reasoning for that. Over the last few decades, American and Maine drinking habits have changed on how much we drink and what we drink. When you visit those state liquor stores here in Maine, many of them are empty because they don't sell wine and they don't sell beer. Maintaining those stores makes as much sense as in the 1920s providing a state subsidy to harness racers here in the State of Maine. I thank the House again for its indulgence. This amendment is an effort to make this budget a little more reasonable, to define the consensus that good chairman from

Old Orchard was discussing. It takes savings from a state operation whose time has gone by. I cannot go and look youngsters or their parents in the face and say that your youngster has to remain in a leased basement or in a classroom because we have decided that it is a higher priority that state employees sell hard liquor. Thank you.

Representative SAXL of Portland moved that House Amendment "LL" (H-109) to Committee Amendment "A" (H-15) be indefinitely postponed.

Representative WATERHOUSE of Bridgton requested a roll call on the motion to indefinitely postpone House Amendment "LL" (H-109) to Committee Amendment "A" (H-15).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "LL" (H-109) to Committee Amendment "A" (H-15). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 57

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Cross, Davidson, Desmond, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Vigue, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kneeland, Labrecque, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevy, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, Underwood, Usher, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bruno, Driscoll, Kasprzak, Kontos, Lane, Madore, Pendleton, Plowman, Powers, Wheeler GJ.

Yes, 77; No, 64; Absent, 10; Excused, 0.

77 having voted in the affirmative and 64 voted in the negative, with 10 being absent, the motion to indefinitely postpone House Amendment "LL" (H-109) to Committee Amendment "A" (H-15) was accepted.

Representative DONNELLY of Presque Isle requested a roll call on the motion to adopt Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "KK" (H-108) thereto in non-concurrence.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. Yes, I guess we are about to take a final vote, as final as it can be in this body on this budget proposal. I would just like to share with you for a moment some things that someone said outside the circle of Augusta. It is a letter that is on your desk. I won't read the letter, but just to share with you what a president of a small company down in York County said in an address to the Speaker and the President of the Senate. "It does a disservice to the citizens of the State of Maine. There is much more work that needs to be done. To ramrod through this now, basically, is a heavy-handed maneuver and it is

contrary to the spirit of cooperation." I might add that the spirit of cooperation that we are so often told around here that exists within this body. He goes on to say, "It is a document of broken promise." He eludes to the fact that we have a temporary sales tax of 6 percent and we were promised that that would be reduced back to the original 5 percent. It also breaks that promise because we are now scrapping a law that was going to cap income taxes and provide some real meaningful tax relief. These aren't my words. These are the words of President Adrien Ayotte of Architectural Skylight Company.

My words, and I am trying to be brutally honest, is that this budget stinks. I said before that it spends something like \$665 million in monies that go to a certain extent to new programs. We are putting new monies into the Sears Island Project for Research and Development. We are saying that we need two new liquor stores. There is another bill that was tabled until later in today's session that might add a third. We are asking for a family court, two new district attorney's and all of these are good projects, but we don't have the resources to support them. We say we do. We say we can balance this budget. We can take the money from other pockets, but it is really just taking one-time monies that we think we can use to plug this two-year biennium requirement that it is a balanced budget. What happens in the out years when the next Legislature comes in? We know already from what we have heard from the Chair of the Appropriations Committee that there is going to be a structural gap, already facing us when the 119th convenes and yet we go on spending.

To me, it just seems like we have a philosophy around here, at least for this budget process, that deliberations sort of pitted new programs versus meeting and recognizing the current expenditures to be what we should be focused on. We want higher spending, not tax relief. We mouth tax relief and I suggest to you again that the proposal that is now in this budget is not meaningful tax relief. If you don't want the future legislators to come into this body and decide how we are going to fashion a budget, then the time to act is now. Someone had given the figures, I think it was Representative Lindahl, that probably in the year 2000 or 2002, we will be focusing our debate on a \$5 billion budget, not a \$3.8 billion budget. The time to address this problem, ladies and gentlemen, is now. I urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CARLETON: Thank you Madam Speaker. How many changes in law are in this budget, which are the subject of bills still pending before this Legislature? This is for anybody who can answer.

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

Representative KERR: Madam Speaker, Men and Women of the House. During the debate I have heard that there are as many as 1,500 or 1,600 bills that are out there. There are about 1,600 bills that could possibly affect this budget bill.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, Men and Women of the House. If I have been unclear, I apologize to the Chair of the Appropriations Committee. What I was referring to were bills whose subject matter or bills that appropriated money, that are out there pending either hearing or passage, which nevertheless, have been incorporated into the budget. In other

words, the budget has kind of co-opted these bills. I am aware that there are some of them that are out there and I don't know how many. If I have been clear enough in my question, I will let whoever can answer it answer it, if not, I would try to clarify it. Thank you.

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

Representative BARTH: Madam Speaker, Men and Women of the House. I will try to keep my emotions under control. I have on my desk, as each of you have, Committee Amendment "A" as amended, which we are about to vote on. I cannot and I will not vote for this piece of paper that is on my desk. Increasing, and you have heard the numbers just previously given, government by so many millions of dollars is not my idea of tax relief nor is it the idea of my constituents. Increasing state workers, increasing new programs, some of which, including family court, is not even on the books yet in law, but we are going to provide money for it. It may be a good idea. I don't know. I sure would like to hear the public's reaction to it and have it go through the full public hearing before we provide a nickel for it. Increasing government is not what I ran on and it is not what the Chief Executive ran on a few years ago. We ran on a smaller, more efficient state government at lower costs and lower taxes to the people of the State of Maine.

We are about to vote on this. Before you vote, you look in your heart, your mind and if you can honestly say that every program that state government does now is being run in the most efficient manner possible, it is not be duplicated anywhere in the rest of state government and it is being run at the lowest cost, then certainly vote for this budget, but see me afterwards because I have a bridge over the Androscoggin River in Bethel that I would like to sell you.

The SPEAKER: The Chair would remind the Representative and other members of the House that the issue before the House is adoption of Committee Amendment "A" as amended by "FF," "HH" and "KK." The good Representative will have an opportunity to debate the budget when it comes back for Enactment. The Representative may proceed.

Representative BARTH: I am sorry Madam Speaker. I thought that is what we were doing.

The SPEAKER: We are only debating the adoption of Committee Amendment "A" with its House Amendments.

Representative BARTH: Okay. My apologies to the members of the House and to the Speaker. I cannot, again, and will not vote for this because of not only the way it was rammed through, but also the fact that it does not reduce government spending. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "KK" (H-108) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 58

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle,

Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bruno, Madore, Pendleton, Plowman.

Yes, 84; No, 63; Absent, 4; Excused, 0.

84 having voted in the affirmative and 63 voted in the negative, with 4 being absent, Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "KK" (H-108) thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-15) as amended by House Amendments "FF" (H-73), "HH" (H-75) and "KK" (H-108) thereto in non-concurrence and sent up for concurrence.

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

The House recessed until 5:00.

(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

Bill "An Act to Authorize a General Fund Bond Issue to Implement a Statewide Economic Improvement Strategy" (S.P. 539) (L.D. 1658)

Came from the Senate, referred to the Committee on **Appropriations and Financial Affairs** and Ordered Printed.

Was referred to the Committee on **Appropriations and Financial Affairs** in concurrence.

Bill "An Act to Establish the Interstate Economic Development Commission for the Northern New England States" (S.P. 538) (L.D. 1657)

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

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

Bill "An Act to Suspend Certain Licenses of Teenagers Convicted of a Juvenile Crime" (S.P. 537) (L.D. 1656)

Came from the Senate, referred to the Committee on **Criminal Justice** and Ordered Printed.

Was referred to the Committee on **Criminal Justice** in concurrence.

Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission on Hunger and Food Security" (S.P. 542) (L.D. 1661)

Came from the Senate, referred to the Committee on **Labor** and the Committee on **Taxation** and Ordered Printed.

Was referred to the Committee on **Labor** and the Committee on **Taxation** in concurrence.

Bill "An Act to Prohibit Fund-raising Efforts and Certain Contributions to Legislators while the Legislature is in Session" (S.P. 536) (L.D. 1655)

Came from the Senate, referred to the Committee on **Legal and Veterans Affairs** and Ordered Printed.

Was referred to the Committee on **Legal and Veterans Affairs** in concurrence.

Bill "An Act Concerning the Disclosure of Motor Vehicle Records" (S.P. 540) (L.D. 1659)

Bill "An Act to Amend the Motor Vehicle Laws Concerning Inspection Stations" (S.P. 541) (L.D. 1660)

Came from the Senate, referred to the Committee on **Transportation** and Ordered Printed.

Were referred to the Committee on **Transportation** in concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 26) (L.D. 24) Bill "An Act to Clarify the School Budget Approval Process" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**"

(S.P. 212) (L.D. 671) Bill "An Act Concerning Towing in Cable Areas" Committee on **Marine Resources** reporting "**Ought to Pass**"

(S.P. 265) (L.D. 873) Resolve, to Appoint a Study Group to Determine How to Consolidate and Preserve the Health Sciences Library in Maine Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**"

(S.P. 340) (L.D. 1118) Bill "An Act to Amend the Oil and Solid Fuel Board Laws" Committee on **Business and Economic Development** reporting "**Ought to Pass**"

(S.P. 46) (L.D. 156) Bill "An Act to Amend the Charter of the Loring Development Authority as It Pertains to Immunity of the Authority" (EMERGENCY) Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-63)

(S.P. 86) (L.D. 266) Bill "An Act to Conform State Laws Regarding Fair Housing for Older Persons with Federal Laws" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-59)

(S.P. 115) (L.D. 394) Bill "An Act to Preserve Senior Volunteerism" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-61)

(S.P. 129) (L.D. 408) Bill "An Act to Include Operation and Maintenance in the Life-cycle Costs Analysis Required for Public Improvements" Committee on **State and Local Government**

reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-62)

(S.P. 178) (L.D. 561) Bill "An Act to Provide the Maine Turnpike Authority with Representation on the State Employee Health Commission" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-54)

(S.P. 237) (L.D. 806) Bill "An Act to Include Health Maintenance Organizations in the Bureau of Insurance's Regulatory Assessment" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-55)

(S.P. 253) (L.D. 822) Bill "An Act to Grant Visually Impaired Operators of Government Vending Facilities Access to State Health Insurance at Their Own Expense" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-56)

(S.P. 313) (L.D. 1022) Bill "An Act to Promote Investments in Maine through the Establishment of Merchant Banking Organizations" (EMERGENCY) Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-57)

(H.P. 874) (L.D. 1191) Resolve, Regarding Legislative Review of Chapter 850, Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance (EMERGENCY) Committee on **Banking and Insurance** reporting **"Ought to Pass"**

(H.P. 271) (L.D. 335) Bill "An Act to Prohibit Certain Activities by Insurance Adjusters" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-107)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 26, 1997 under the listing of Second Day.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Extend Access to Chiropractic Care under Health Maintenance Organization Managed Care Plans" (H.P. 179) (L.D. 234) (C. "A" H-23)

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

Representative CARLETON of Wells presented House Amendment "A" (H-70), which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, Men and Women of the House. L.D. 234 allows patients to go around primary care physicians and managed care plans and go directly to chiropractors for treatment up to 36 times a year. This is the amendment that you have been receiving these phone calls about. I think everybody should know at the outset that I think this bill is bad public policy and I oppose it with or without the amendment that I propose. The complexities of health care policies are not something that can be easily talked about on the floor of this House and I will not be speaking about the merits of the bill itself today.

If we are to pass this bill, however, we ought to address one aspect of it which bothers me greatly. This bill exempts the state and its employees, including state legislators, from its mandate. No other health care mandate we have ever passed does that. This will be the first. My amendment proposes to remove that exemption. The reason that the proponents of this bill exempted

state employees, including legislators, is that it would generate a fiscal note and they were afraid if there was a fiscal note on this bill, it might not pass. Of course, that may be true. This mandate, if applied to the state, would cost \$182,000 during the fiscal year 1997-98 and \$243,000 for the succeeding year. Of course, the cost to the state is only a small fraction of the total cost to employers throughout this state. I would like you to think about this for a moment. Is it fair for us to impose requirements on our citizens that we do not impose upon ourselves? Do we as legislators really want to be explaining to our constituents why something is good for them, but not good for us as legislators. Can we look our constituents straight in the eye and say we are going to make you pay for this coverage, need it or not, want it or not, like it or not and by the way it is expensive and in fact it is expensive enough so that we think that state government cannot afford it, so we are going to exempt ourselves as state legislators from this law. If you can look your constituents straight in the eye and say that, then you should vote against this amendment. Otherwise, I request your support. Madam Speaker, I request a roll call.

The same Representative requested a roll call on the motion to adopt House Amendment "A" (H-70).

Representative SAXL of Bangor moved that House Amendment "A" (H-70) be indefinitely postponed.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I want to tell you just a very few things about this bill. One that I think you should know is that L.D. 234 was a unanimous committee report. Everyone on the committee, that is, voted in favor of this bill. The bill allows an individual to seek chiropractic services without going through the gatekeeper managed care. Why, you might ask, do we avoid the gatekeeper? That is because in experience, we found doctors often don't approve of chiropractic care and, therefore, don't refer their patients to that kind of care. That is not universally true, but that is often true and yet the public finds real satisfaction with chiropractic care and wishes to use those services. This bill enables them to do that.

The original bill concerned the extension of chiropractic offerings. In committee, the first amendment was to remove the sunset off that bill and that is what we did before. Now we have a new amendment before us and this amendment incurs a fiscal note on this bill, which would bring the bill to the table and we know that the table is very limited and it would not pass. In other words, it is a direct attempt to kill your access to chiropractic care. This is really a bill of options for you. An opportunity for you to select whether you will use chiropractic care or not. It gives you that right to do it on your own. I would ask that you support the Indefinite Postponement of this amendment and then go on to support the bill.

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

Representative MAYO: Madam Speaker, Ladies and Gentlemen of the House. Those of us who were here two years ago listened to a debate on this particular subject. It was a unanimous committee report two years ago to handle this particular issue, which allows enrollees in health maintenance organizations to refer themselves to chiropractic providers participating in the network. It was a lengthy debate, but the bill was approved. We have been operating under it since the fall of 1995. As the good Representative from Bangor stated, it is a unanimous report of the committee. The person who made the amendment, the good Representative from Wells, not from Carleton, he is from Wells this afternoon, was in that majority. He has now chosen, through this particular amendment, which I

hope you will vote to Indefinitely Postpone, to basically gut the bill that was approved two years ago. He knows, the committee knows and we all know that if that amendment was attached to the bill, the fiscal note will be difficult.

Those of us who are interested in this particular topic have talked with the state employees and they are currently involved in changing their policy and anticipate that it will increase what they currently have. Maine State Employees have a point of service option currently that allows them to choose a provider out of network and still have 80 percent coverage with a \$200 deductible. In fact, they can go out of network to a chiropractor, if they so desire by paying a little additional money. They are currently involved in renegotiating their health insurance and they intend to increase this situation to allow more chiropractic coverage.

Ladies and gentlemen, not to prolong a very long day and we have another supplement that could keep us here, I would hope that we would not turn back the clock on what the 117th Legislature did, but to go along with a unanimous committee report to adopt L.D. 234 and I urge you to vote green to Indefinitely Postpone this unfortunate amendment.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. We constantly hear the refrain that we should run state government as much like a business as we possibly can. When we deal with these mandates we keep hearing, at least I keep hearing, that increased mandate coverage of insurance premiums are not that expensive and yet we keep refusing to extend these mandates to state employees. When I made a presentation before the Banking and Insurance Committee the other day, I quoted from a study from Gabrielle and Jenson, which was a study by the National Center for Policy Analysis in Dallas, Texas on health care mandates. I quote from that study, "Interestingly, labor unions demand for mandated benefits have been quite limited. Organized labor seeks comprehensive care for their memberships. Mandated benefits limit their flexibility in negotiating for what is felt to be the most important benefit when there is a fairly mixed amount of money available for wages and benefits, mandated benefits have forced the expenditure of a certain portion of the total for a prescribed benefit of service, diminishes the amount that can be negotiated." That is the crux of it. I think if we are going to put these mandates on the private business and you can make the case for all these mandates, whether they are good or not, it comes down to what is good for the goose is good for the gander and everybody should be covered by these mandates if we are going to do that. Thank you.

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

Representative BUCK: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. If this proposed mandate is so expensive that the State of Maine cannot afford it, how in the world do you suppose that the small businesses out there that are providing health insurance premiums can afford it as well?

The SPEAKER: The Representative from Yarmouth, Representative Buck has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Madam Speaker, Men and Women of the House. This amendment is not so expensive that the state can't afford it, rather it is that the state employees have expressed to me that they are not interested in having this on the

chiropractic bill. They get their benefits through negotiations and that is where they believe are the appropriate place for them to get this. As a matter a fact, I have at times wondered about the germaneness of this amendment because this bill really deals with the extension of chiropractic services and removal of the sunset and not at all with the state workers.

Representative SAXL of Bangor asked ruling from the Chair if House Amendment "A" (H-70) was germane.

The Chair ruled House Amendment "A" (H-70) was germane.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: The amendment may be germane, but some of the discussion here has revolved around the merits of the bill itself and I suppose that is everybody's prerogative. My amendment poses the question of whether we ought to do something, impose a requirement on everybody else and exempt us as part of the State Employees Health Plan as legislators from that requirement. I think that is a very dangerous thing to start doing. I think if we start doing that, we are setting ourselves up to legitimate complaints from our constituents that we are treating ourselves in a different and perhaps more favorable manner than we are anybody else. I don't think that any member of this body wants to have to go and try to defend treating us, as legislators, any differently than any other citizen of this state. Madam Speaker, I request a roll call on this motion.

Representative CARLETON of Wells requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-70).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I rise in support of the Indefinite Postponement motion. What we have here is an issue of whether to Indefinitely Postpone House Amendment "A." I ask you to look at House Amendment "A" and tell me it passes a straight face test. It is being offered by someone who says even if you pass this amendment, I won't vote for the bill. Why is it being offered? It is being offered to kill the bill. Let him get up and give a motion to Indefinitely Postpone the bill if he doesn't like the bill. This is being offered for nothing else than to kill the bill. I would ask you to vote to Indefinitely Postpone the motion.

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

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. I rise to say that my motive is not to kill this bill. I have no intention to kill this bill personally, although I did not introduce the amendment. This, to me, is a question of fairness. May I pose a question through the Chair to Representative Saxl? I think I heard you just comment that the state workers were not interested in taking on this new mandate. I was wondering if you or anybody else polled the small business employees in the state to see if they were similarly so inclined?

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

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. I rise to ask you to vote to Indefinitely Postpone this bill. There was a little confusion on behalf of some of the committee members and I think that is one of the reasons why we have that amendment out here. I want to say four points. One, is that I don't normally support mandates. I understand a lot of the logic in the concerns about the mandates and putting it on small businesses. I see a distinct difference between the

doctors, the typical physicians, MD, and the chiropractors. There is a real battleground out there where the doctors tend to hate the chiropractors and want nothing to do with them. They are not referring any patients. There is a real problem. People are not having access to the chiropractors. You need to understand that the state employees already have access to chiropractors. They can go outside of the network, make their own referral and see a chiropractor. Representative Waterhouse, the rest of the population that has insurance is not allowed to seek chiropractors. That is why this is an important issue. It is providing access so that they can seek alternative care, to have a choice.

I tried to find out how much it would actually cost a family to be able to have this choice of alternative health care. The data from Blue Cross and Blue Shield is not very forthcoming. This should be generally neutral, in that you don't see people twice for lower back pain. You are either going to see a physical therapist or an MD or you are going to see a chiropractor. You are not going to see both fields. It should win out and actually chiropractors are much cheaper than going to see a physical therapist. If this starts kicking in and people are starting to be allowed to go see chiropractors, the bill should actually be less. It is my best guess that if you want to have a dollar figure of this is, that is \$7 per year, per family to have this. It is not a lot of money. It is \$7 per year for the family so that they can have access to something they are being denied.

The reason why, Representative Waterhouse, I know this is a real problem and that physicians are not providing access to chiropractors is because this happened to my daughter and me. My oldest daughter Lonnie, who is 16, was very, very sick once right before Christmas. She was admitted into intensive care the week before Christmas with acute kidney failure and congestive heart failure. The doctor that took care of her was wonderful, Dr. Can in Bangor. We got the health insurance policy and we hooked onto her for being our primary care physician. We were delighted that we had a great pediatrician for our daughter and what not. Then there were some reasons why it was pretty obvious that this same daughter, Representative Waterhouse, needed to go see a chiropractor and I asked Dr. Can if she could please make a referral so my daughter could see the chiropractor. Dr. Can said, No way on God's green acre was she ever going to be allowed to make a referral and that I was going to have to leave her and find another pediatrician. I encourage you all to follow my light on this one. Thank you very much.

On motion of Representative KONTOS of Windham, tabled pending the motion to indefinitely postpone House Amendment "A" (H-70) and later today assigned. (Roll Call Ordered).

ENACTORS

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999 (H.P. 832) (L.D. 1137) (Governor's Bill) (H. "FF" H-73, H. "HH" H-75 and H. "KK" H-108 to C. "A" H-15)

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

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

Representative KERR: Madam Speaker, Men and Women of the House. I am proud to rise today in support of the budget before us. This budget is a true legislative milestone. It represents the end result of long and careful deliberation process that began months ago and involved literally hundreds of hours

of work of members of both parties, Democrats, Republicans and Independents. The Governor deserves credit for giving us a good starting point. Some of you may be surprised to hear me say that, including a former member in the gallery, but it is true. Naturally, we disagreed with some of his priorities. When we did, we spoke openly about our disagreements and proposed our changes. Much of this budget reflects our shared priorities, our common understanding of the what we believe will best serve the interest of all the people in the State of Maine.

We began our work in January with public hearings and work sessions by the policy committees, which listened to public input and weighed the view of those who testified before them. They brought their recommendations to the Appropriations Committee. Four of those committees had unanimous committee reports. I mean a report. As you know, we had an A report and a B report, which is basically a wish list. The status of those committee reports, the A reports were Judiciary; Legal and Veterans Affairs, who were split on the Part L section language; Marine Resources and Transportation. For the most part, we reached a consensus and had unanimous committee A reports. Unanimous B reports were Education, Health and Human Services, Criminal Justice, State and Local Government, Agriculture, Conservation and Forestry. B reports, if you recall, were those reports that exceeded the amount of money in the Governor's net proposal.

Committees that had Minority Reports. That was even if just one member voted against those reports. They were Labor, Business and Economic Development and Natural Resources. At the time I did this, some of the committees had not finished. We know that the Taxation Committee had a divided report and also Inland Fisheries and Wildlife, at the time, had a divided report. I believe, at this time, that the Inland Fisheries and Wildlife has reached a consensus report. In nearly every case, the committees achieved, I believe, a large consensus.

The Appropriations Committee, in turn, had further hearings open to the public and often called the policy committees back to clarify and further explain the rationale for those recommendations. As we found out through our deliberations, budget making is not very easy. Each of us, as I do, have worked hard and carefully studied the difficult decisions to develop this budget. No one will ever be able to say or accuse this Legislature of having slacked off or shirked its public responsibility. This Legislature has worked more quickly, more productive and more efficient than in any Legislature in recent memory. We should be proud of that accomplishment. This budget, I believe, is a good budget. Let me rephrase that, I think it is an outstanding budget that truly reflects what Maine people want. This budget provides immediate tax relief for all Maine people. It reduces taxes by relieving the burden on the property owners and creates a new tax relief fund that will bring real help to working families in Maine.

The future prosperity, as we all know, from Maine's young people, depends on the opportunity to receive a quality education. This budget increases the funding for education over and above what the Governor recommended. This chamber decided, along with the other chamber, that we should fund education K-12 at 2 and 3 percent over the next two years for General Purpose Aid for Education. Also, that we provide a hardship cushion to help those communities that are hit by this redistribution in the Education Funding Formula. We chose to do that by providing a cushion of \$3 million each year. It increases funding for the University of Maine and the Technical College System over and above what the Governor recommended. The Governor also chose to eliminate the Magnet School and also the Access to Medical Program that provided slots for students to compete fairly in the State of Maine with other states. This body felt that they were important issues

and we provided the funding necessary to make sure the Magnet School stayed in the budget and the access program continued.

Maine people can be proud that the House balanced the budget without restoring the gimmicks that shift the costs of state services to local property tax. This budget is fiscally responsible. It fully funds tree growth now. It reduces the cost of counties for housing state prisoners in county jails. It includes funding for revenue sharing. It avoids the proposed shift in teacher retirement costs to local communities. The budget also makes progress in helping our state meet its responsibilities to our elderly and to our children, those with mental illness and those with disabilities. It includes funding for the transportation's support services for the mentally ill, for teen health and community family planning, child development clinics, nursing services, home-based care for the elderly and physically disabled adults, legal services for our elderly, homemaker services and adult-protective services. It also moves us further from welfare dependency to work fare by ensuring the pass-through of funds for families who rely upon child support collection to keep them off welfare.

As I said before, this budget addresses not all the needs, but generally most of the needs of Maine people given the resources that are available. Months of public hearings and hard work have produced a budget that I believe strikes that sound balance. It is fair, balanced and fiscally responsible. We have all worked hard on this budget and I am proud of this budget. I hope that you, on both sides of the aisle, will join me in supporting this document. Thank you.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. It is with deep regret that I stand today in opposition to this budget bill. It was my fervent hope that the Appropriations Committee would be allowed time to do our jobs. Our committee, which I am proud to be a member of, has not only moved at break-neck speed, but with little regard to the fact that the public has not been able to share their thoughts with us. As a committee, we have never had any meetings to discuss the budget after it was put into our current written form. To me, that is not doing our job to the best of our ability. I believe as Representatives we have a strong obligation to the people who elected us to look at every option and every single possibility in creating a budget. I use the word creating very purposely. A budget needs to have a creative touch put into it. As any artist would tell you, creativity takes time. We are fortunate we have time. We have the time to hash and rehash whether or not the items in our budget are the ones that truly reflect the needs of the people of Maine.

We learned last week when we looked at things a little bit differently, a little more creatively, that we can make it possible for a document to become a little more reflective of the needs of the people. I felt very, very hopeful last week that we were really, really going to sit down and try again. The Appropriations Committee has bright, talented men and woman as members and given the time, I think we could have continued in a 30-year tradition of excellence and created a budget that two-thirds of the members of this body could enthusiastically sign onto. As the good Representative from Old Orchard Beach pointed out, there are many strengths in this budget. I believe this budget is making progress in the right direction, however, it is simply not good enough. We can do better. I challenge each of us to reach deep inside and find the strength to give this budget still another attempt. Please give us the time and opportunity to go back to work and create a budget that will truly reflect the wants and needs of the people who elected us, the good people of the State of Maine. Let us not forget in our haste that we have an

obligation to create public policy to the best of our ability, not just as quickly as possible. I urge you to vote in opposition to the pending motion. Thank you.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. I have heard a lot about process from both sides of the aisle and I think, quite frankly, this process has been unfairly labeled one sided or exclusionary. As you have heard from the Chair of the Appropriations Committee, many of the pieces of the budget on which there are solid agreement, were the results of unanimous committee reports. When we began negotiating with members of leadership from across the aisle some two and a half or three weeks ago, I guess, there was probably agreement on well over 98 percent of the budget. What divided us was a mechanism for income tax relief and about a \$30 million gap, which we quite easily were able to take care of as it turned out and disagreed philosophically on that mechanism for tax relief.

I was hopeful throughout and still remain, even tonight, somewhat hopeful that that 98 or 99 percent of the budget can give us the two-thirds that we need to pass this. In large part because I think all of you realize, as I do, that this budget is a reflection of hundreds of hours of committee work and countless public hearings. The notions that the public or the minority party have been left out is simply untrue. I think the document very adequately represents the priorities of both parties and of the Governor and most importantly, the public that sent us here to do its work. That public has said time and time again that they want us to do the job that we were sent here to do. They are not the least bit happy when we bicker. They are not the least bit happy when we call each other names. They are not the least bit happy when we leave negotiations or when we break our promises.

I am one of 11 people remaining in this body who were here when the budget shutdown occurred in 1991. It was a historical moment, we were told. It was a moment I don't want to relive. If you think you are tired now, I can't tell you what it was like when I, and the 10 other members who were here at that time, were here round the clock for days at a time watching the sun come up over Capitol Park. We were exhausted. We were weary. We were mad at each other. We had trouble getting through the hallways and people were camped out in the park in order to voice their protest about what was happening. Some of us were scared. Many of our vehicles were damaged. It was a dreadful time. I vowed that if I could do anything to prevent that from happening again, I would. My efforts, as well as the efforts of other leadership, have been to prevent that from happening. A shutdown, for any reason, is not anything that I will tolerate. Quite frankly many of us thought that the threats of a shutdown were real. If we don't pass a majority budget, they become real once again. For that reason, I think it is worth our efforts to pass a majority budget, if that is what we must do to join the ranks of 44 other states in the country who follow that procedure and who do it quite comfortably and quite naturally, in fact, and then go on about the people's business as we were elected to do.

With that in mind, I will add my voice to those of others to encourage you to support this budget, be proud of the process that got us to that point, continue to have respect for the process that we are all undertaking, to respect your colleagues even when we disagree with each other and to hope that we will be able to continue to work together and still remembering that a budget is a set of priorities. It is a single snapshot in time. It is not a full video. It is a snapshot. It reflects the priorities of the people who have compiled it. It also reflects the personal concessions that each of us have made. There are many of us who cannot joyfully support certain pieces of this budget, but we

do so because the whole is better than some of its parts. Being able to support that whole moves us closer to accomplishing that goal that we all have, which is to serve the people well. I dare say our common goal is to govern well. I think we accomplished that in a budget of this time. That, as you have heard, provides tax relief to Maine families, more resources to public education and sustains essential services for government.

I urge you to join with me in passing this budget so the people of Maine can be proud of us and so they can benefit from the results of our hard work and so that we can keep faith with them in avoiding the unpleasantness of the shutdown that I experienced in 1991 and I don't want any of you to go through. I thank you very much for your attention and I believe that you will feel good when you support this budget. Thank you.

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

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this budget and for many of the same reasons that were given that we should support it. It was an expedited process that ignores many, many items that have yet to be debated. Many of you who will vote for this budget tonight know that the process has been compromised. The only part of this budget that had to be legally passed was the GPA portion of the education budget. The rest of this could have been more deliberative and could have taken into account more of the issues that are still in front of us and could have been worked into the budget in a fair process. I have a concern about how the Appropriations Committee will be operating in this working after a budget has been passed in dealing with bills. How do the members know how to deal with the bills that have been passed after the budget has been set? I would like to pose a question if I could. Does this bill require a two-thirds vote?

The SPEAKER: The Chair would reply that this bill does not require a two-thirds vote. It is not an emergency enactor.

The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. As several of you know, I have a lot of misgivings about the process. One area that I am most concerned about regarding the budget is that one-third of our budget, known as the School Funding Formula GPA. I did have two amendments that I was willing to propose to the body, but I was asked, and I agreed, actually to not bring it up at the time, but I did want to express my concerns on the record.

Two reasons why I want to express my concerns on the record are to make sure people understand how frustrated I feel about this, but most of all to try to encourage people to start to correct what I see is a very, very serious wrong. First of all, many of you have been told from most people that the problem with the School Funding Formula is that there is not enough money. I want to be very clear. That is not true. You can consider that a lie. It is not that we don't have enough money, it is because of how the funding formula is set up. That is why you have such a difficult problem. Okay? If you have a pie that is this size and you only get a tiny fraction of a serving, versus a pie this size, you are still only going to get a little portion in that serving. It is not how much it is, it is how it is being cut up. Okay? I have a printout here if anybody, especially if any of you new people, would like to look at this. Last term I served on the Education Committee and I presented an alternative plan, known as Plan 10. If you look through this, I have one for the Senate and one for the House. If you look through it, you will see that it uses the same population in every situation, the same property values in every situation and the same amount of money, but the outcomes are drastically different. It turns out that there really is

enough money for everybody, it just needs everybody to do a little give and take.

For instance, in the plan that I was proposing, known as Plan 10, Portland would have received an increase of 27 percent, but they fought for something that would give them a 29-percent increase. We were only talking a difference of about \$155,000 out of a \$9 million increase. The other thing that you guys should know is that it is more of a rural, urban disparity than a northern, southern disparity. Basically, what happens is the money has gotten sucked up so all along northern and western Maine and it gets sucked into the highway and it goes down the highway, so that basically, the closer you live to the highway and the further south you are, the more of a benefit you are getting from the current formula.

There were 90 House Districts that were better off under Plan 10 and there are 24 Senate Districts that were better off under Plan 10. It includes district 151, district 150, 149, 148, 147, 146, 145, 144, 143, 142, 141, 139, 138, 137, 136, 135, 134, 133, 132, 131, 126, 125, 124, 123, 122, 121, 120, 119, 118, 117, 116, 115, 114, 112, 111, 110, 109, 108, 107, 106, 105, 104, 101, 100, 99, 98, 97, 96, 95, 94, 93, 92 and I can keep counting and it basically goes, as I said, two-thirds of the state is getting the short end of the stick under the current formula. Twenty-four members of the other body are getting the short end of the stick. That is two-thirds of the state or 66 percent of our children. In affect, the 150,000 children, their parents and taxpayers in their towns that are getting ripped off. Now, this lovely budget that we have before us also includes \$44 million in new money for the School Funding Formula.

The way the good Democrats and Republicans in my district see it is we have worked very, very hard for that money. Often for \$4.50 an hour with many people working two or three jobs and families splitting apart to come up with that pool of money of \$44 million. It is going in the wrong places. There is a revolution at the local level over this issue and it is hurting the children, but my question is, why isn't there a revolution at the State House? Why are these 90 House members sitting here and letting this happen? Why are the 24 members in the other body not uniting together demanding a fair funding formula? The proposal that I had as an amendment basically said to eliminate what is known as the COLA, the cost of living. If you talk to any economist, they will tell you that Maine does not have a serious difference in the cost of living between the north and south, neither does New Hampshire or Vermont. Okay. A place like New York, where you have Manhattan and upstate New York, yes, they do have a cost of living difference, but Maine doesn't. I wanted to see what would happen if we took out the cost of living.

The other issue is the difference in the reduction methods. The original School Funding Formula in 1985 basically worked very straight forward. Everybody said it was very fair and simple. Okay. If you had \$100,000 bill for transportation and you are an 80-percent receiver, you turn that \$100,000 bill in and you get 80 percent of it. That is \$80,000. If you are a low receiver of let's say 20 percent, you would get \$20,000 back, pretty straight forward. Then in the early 90s it changed and became known as the percentage reduction method. That is when the state started this really clever idea of taking about 20 percent off the top and pretending it doesn't exist. You talk about gimmicks, this is the gimmick of all gimmicks. You take 20 percent off the top and pretend that doesn't exist and then they compensate you. This hurts high receivers the most. Your \$100,000 bus bill magically turns into only \$80,000 then you get 80 percent of that and that knocks you down to \$64,000. You used to get \$80,000 and now you get \$64,000. That is right off the top, you lose \$16,000 if you guys can follow me. Okay. The lower receivers get hurt, but not as much. They would have gotten \$20,000 for busing and it

knocks it down to about \$16,000 so they lose about \$4,000. In effect it hurts the high receivers four times as much as it hurts the low receivers.

One of the members of my leadership suggested a few days ago that I take a look at the impact on my towns in the School Funding Formula thinking that I would be thrilled by this to see how much money I was getting. I told them I really wasn't all that much interested and that I had a pretty good idea of how messed up the formula was. A few days later, I did take a look at it. Guess what I get. Out of \$44 million in new money, I get \$16,000. That is .0003 percent of the money. That is what I get. It is less than one-tenth of 1 percent of that pie. If you had taken that same pool of money of \$44 million and divided it up among 151 House Districts, if we all got an equal piece of that pie, it would be \$291,000. I figure, with my best guess, that my district has lost about \$1.6 million in the last few years. If you had taken that same \$44 million and ran it through revenue sharing, it would have reduced the property taxes 1.3 percent across the state. My district would have gotten \$567,000. With that same pool of money, I bring home \$16,000 or \$567,000.

Actually, what is funny is the decision that was made in the middle of the night to throw \$5.2 million into revenue sharing. I get \$70,000 of it. I am rich. Now if we would just work on the School Funding Formula a little bit, do a couple of late nights on fixing that, maybe I would be all set. One thing that has been so frustrating about this is the process. Last year we were not allowed any printouts. I have to file the Freedom of Information twice. I finally got the material and the committee locked it in committee and would not release it. I had to submit a Joint Order forcing the House and the Senate to force the committee to release it. For those of you who were here last time, you will remember that they tied it in with the budget and it was too late to deal with it and everybody said they would fix it later. I am tired of these *deja vu*. I want it fixed. We are still not being allowed to get any printouts. It is very irritating to know that you guys are sitting here voting on something seeing one printout and nobody is showing you any alternatives. Nobody is showing you what you should be getting. You are basically voting blindly. You don't know what you are deciding on.

At this point I really don't have any faith that the funding formula is going to be changed. After all there were 80 superintendents that sued the state and that still didn't teach us to fix things. I really don't think that the executive cares about this or otherwise you think he would have done something. I really don't think the commissioner cares either or he would have proposed some changes. The committee doesn't have a proven track record of fixing this, otherwise they would have fixed it a long time ago. I don't see any real commitment on behalf of leadership to take this seriously. What I really want out of all of this is for a bunch of you guys to be able to say, I told you so. We did fix it. What I want is for the School Funding Formula to be taken seriously, for everybody to work on it like ladies and gentlemen, and come up with something that is fair for the state as a whole. When I think about how much money, time and energy has been spent on things like gay rights, CarTest, reformulated gas and forest compacts and why those issues are taken so seriously and fixed and yet nobody pays attention to the children. I ask myself why are cars and trees more important than these 210,000 school children.

Again, all I really want is, one thing that I would like to do is, see a printout with not COLA and then the proposition was to do half percentage-reduction method and half mill-rate method, which is the original School Funding Formula. I would be very interested in seeing if we got rid of the cost of living and did a 50/50 split. Half percentage-reduction method, which is what the low receivers what the south wants and half original School

Funding Formula that worked so well in 1985. I would like to see that printout and see if it is something that we could live with. I would really, really like to have a decent chance to change the formula, for the leadership to take it seriously and for us to come up with a fair formula and have a fair fight about it, on the floor and not have it sneaked into this budget that is 445-pages long.

Again, like I said, what I really want out of this is for all of you to join together and demand a fair funding formula. Remember, there is 90 of you out there that are losing out on this deal. What I want most of all out of all of this is for someone very, very soon to stand in this chamber and say, Representative Winn, I told you so. We did fix it and now we have a fair funding formula. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative FOSTER: Madam Speaker, Men and Women of the House. I am having a little difficulty with this budget and I am certainly having difficulty to vote for it. I would just like to illustrate a couple of reasons why.

One, is I don't understand how a budget increase of this magnitude is tax relief for our citizens and two, I don't understand why we would rather build liquor stores than school buildings. The third one is there was a man who testified about a week ago before the Education and Cultural Affairs Committee who said that he used to run a business and he had six employees. The taxes got to the point and the rules and regulations got to the point where he dissolved his business and he now works for somebody else. From what he said, I assumed his wife works also, so they sat down and they figured up all the taxes that they spent or paid to the federal, state and local government along with all the fees as well. They came up with 53 percent of their income. I don't know how this fellow is going to feel about this particular budget and he probably is not going to be able to do anything about it, but it seems to me that that is a pretty good chunk of a person's money. I don't think this budget does anything to help that person or anybody else, for that matter. I guess the other thing that bothers me a little bit is we have essentially ignored some of the important work of the 117th Legislature when it came to taxes.

Finally, there are some, I guess, who think we can tax ourselves into prosperity, but I rather doubt that.

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

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

Representative SAXL: Madam Speaker, Men and Women of the House. It has been a long journey to bring us to this night. I want to pause and speak for a moment about and respond to my good friend from Gray's concerns. I think this budget does a lot of those good things and I think Representative Foster can be very proud and very happy about the things that are in this budget. He can bring those home to the people in his community because this is a budget to be proud of. The Representative mentions issues involving tax increases or how we are helping working people or increasing tax burdens, I say this is an excellent budget for you. This budget begins to look and take seriously the issue of taxation in the State of Maine. First, this budget takes seriously the issue of income tax in the State of Maine by beginning the process of raising the standard exemption to the federal level. Over this biennium we will raise it. We will go at least \$50 towards that. We have the opportunity

to go much, much further. More than that, this budget respects the acts of previous Legislatures and pays the bills that are due.

In the 117th Legislature, we adopted a hospital tax. This budget begins the process of paying for the 117th Legislature's act. It puts \$116 million into that hospital tax. In the 117th Legislature, we adopted a nursing home tax. This Legislature begins the process of paying for that by putting \$25 million into that program. We adopted the Better Program to help businesses grow and prosper in the State of Maine. This budget puts \$29.3 million into that program. We do more than that. The *Kennebec Journal* recently wrote that property taxes are the top concern with most voters for the very sensible reason that property taxes have increased faster since 1987 than any other tax in Maine. A petition initiative to abolish property tax funding of schools that nearly made it to the ballot last year showed where popular sentiments lie. This budget does what really matters. It helps the property tax payers in the State of Maine. It does that by funding things like tree growth to an unprecedented high level. It begins to fund community corrections in our county jails. It begins the process of doing what the good Representative from Glenburn wanted so much by looking at issues of revenue sharing. It prevents the shift of teacher retirement costs to our municipalities and it pays, like the good Representative from Sanford wants, for district attorney's the right way.

Moreover, this budget puts real money into the Circuit Breaker Program, of which we all can be very proud. This budget does one other thing that is very, very important. This budget puts education first. This budget increases GPA to the people of the State of Maine by over \$44 million, which is over \$22 million more than the Governor's original budget, with \$6 million in cushion, to help the cushion to help the people from low-receiver towns, people in Washington County, Aroostook County and people in Piscataquis County to take the sting out of rising evaluations and lower student populations. This budget begins to meet our commitment to higher education and access to higher education for all of Maine's students. It helps fund the Maine Technical Colleges. It helps fund the University of Maine. It helps look at how those programs work with our business community by beginning to look at R and D where Maine ranks pitifully low at 49th. This budget is a good budget, Democrat or Republican, this is a budget we all should be very proud of. I hope that you will look past what may have been our differences and see that 98 or 99 percent of this budget is exactly what is good for Maine. I thank you very much.

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

Representative LINDAHL: Madam Speaker, Ladies and Gentlemen of the House. The previous speaker said that this budget respects the acts of previous Legislatures. Is that what happened to the income tax cap? No. Also, it was made mention that the hospital sick tax, the previous Legislature voted to repeal, effective in 1998. This budget increases the hospital sick tax by about 48 percent for the next year. Is that a gimmick? I thought there weren't any more gimmicks in this budget. In the previous Legislature, we raised appropriations by \$277 million. That was to take care of a lot of these gimmicks, the payroll pushes and pulls, old phone bills and those types of things. That was taken care of in the previous Legislature. This should be new money now. We should be using that money that we appropriated last for these new programs, not raising spending beyond that rate. I would like to know if new taxes that haven't been voted on yet are figured in this budget. The new tax on services that are proposed, the new tax on cigarettes are those figured in this budget and where is that money going if, in fact, those taxes do pass? This is about keeping promises. I don't

believe that funding the tree growth tax can be called tax relief. We are supposed to be doing that, anyway. We were supposed to be doing that right along. How can we call this now tax relief because we are finally fulfilling our obligations to fund the tree growth tax. These are some of the problems that I have with voting for this budget. I don't believe I will be able to. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. One of the refrains that I constantly heard since I have been up here and this is my second term is about the structural gap. You heard it in the halls. You heard in committee and you heard on the floor today. We have been dealing with it. I would like to pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Thank you. To anybody who can answer. Does this majority budget have a structural gap in the next biennium and is it somewhere near \$152 million? If it is not \$152 million, could somebody tell me if there is one and what it is?

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

Representative KERR: Madam Speaker, Men and Women of the House. That answer deserves a little discussion. The budget that was proposed by the Governor and in its task says it would have had a structural gap in the next biennium of about \$115 million in the general fund and almost \$50 million in the highway fund. Structural gaps have been a problem since the early 90s. It has not been unusual to have a structural gap moving into the next biennium. The budget, my good friend on the other side of the aisle brought forth, would have had a greater structural gap than the majority report. We can get involved in whether or not it is right or fiscally responsible to vote for a document that has a structural gap in the next biennium. I think that we can find excuses why not to support this document. Frankly, I look at that as being the easy way out. It is very easy to say no to something. We spent a lot of time and energy. We can talk about tax relief and then we can debate the definition of tax relief.

If, in fact, giving money back into revenue sharing is truly tax relief for the property tax, I think if you go home and you ask your constituents that elected you that they would say, yes, that is tax relief. I think that if you look at what we have done in this document, some of the expenditures in growth that we have incurred before we even sat in our seats that were brought forth by the 117th Legislature, which I was a part of. We have heard the Representative from Portland talk about the tax and match and the cost if you look from biennium to biennium the growth in spending has increased by about \$265 million. That is not a secret. I have said it on this floor and I have said it away from this building. That is a true statement.

In looking at this document, I think you have to look at what the people of this state want to see. They have come to this place in Augusta and in your committee rooms and in my committee rooms and voiced their opinions on what they would like to see the final outcome in the budget. Through that debate we built a consensus as I said earlier. I think we have come a long way. I don't want to get tied up in rhetoric because I think that we can and have heard all about this budget. I am urging you to support this budget because under what I consider a definition of tax relief, this budget provides it. This budget

provides tax relief in the form of property tax relief. The section dealing with revenue sharing, the Governor chose not to fund revenue sharing. This chamber, by bipartisan support, supported it. We are going to return that money back to the municipalities.

Revenue sharing, for you people that are new and not familiar with it, was developed almost 20 or 25 years ago. It is 5.1 percent of the sales, corporate and income tax that is collected. Prior to the gross receipts tax that was created, some would call it a gimmick and again that determines on what your definition is and who is the Governor at the time. When the gross receipts tax was repealed, those dollars that created that gross receipts tax went to revenue sharing. We are now returning that money back to revenue sharing. Teacher retirement, the Governor proposed to let the local municipalities pick up the expense, which is about \$4.8 million for teacher retirement. We collectively agreed and said, no, we are not going to shift the burden brought back to the property tax. Those are the areas that we are talking tax relief. We have also had a policy change here.

We have often balanced the budget using the Highway Fund. We have chosen, through a unanimous committee report and I thank that committee for its hard work, the Transportation Committee, to fund the State Police at a 60/40 split rather than the 80/20. That costs money people. That costs us \$11 million. We are not all the way there yet. The split should be 50/50 General Fund and Highway Fund. We have made an honest attempt to try to get there. This problem has not been created over night. We talked about district attorneys. We have always funded the district attorneys using the Highway Fund by taking the money and putting it in the General Fund. We have chosen not to go along with the past policies. There is cost to doing that. It is almost \$3 million.

Two years ago, we embraced this Governor in developing a tax reduction on business and equipment. There is a cost to doing that. That is what I refer to as corporate welfare, but we chose to embrace it. I am in business. I am one of those people that go out and hire people to create those jobs. I know what it is to pay a CMP bill or a workers' comp. I am not immune to those paying license fees as they have increased. There is a cost to that. It is \$28 million plus. It has a long tail on it. It is going to cost you more in the next biennium. To do business and try to balance the budget isn't often easy. I stated earlier, it has been almost a week now that the budget, like every other budget that has preceded it, is not complete in the minds of each of us as individuals. That is not why we are here. It has been, and I hope continues to be, an honest effort of consensus based on the resources that we have.

I think that this document is, frankly, a very good document. I can stand up here and tell you everything that is wrong with it and everything that is right with it. We come to the income tax cap. I stand before you as Chair of the Appropriations Committee in the 117th Legislature and I supported the income tax cap. It came up this year in the Appropriations Committee to fund the income tax cap. I voted to fund the income tax cap, people, much to no one's surprise. When it came down to crunching the numbers, I, like members of the Republican Party, found out that we couldn't fund it at the level that was voted on in the 117th Legislature. Decisions had to be made. When the Republicans brought forth their budget, as I said earlier today and last week during these deliberations, I think there was an honest attempt to let everyone know what they wanted to fund or see funded. We were trying to build a consensus. In that budget, they, the Republican Party, could not fund the income tax cap. In putting that budget together, they had to raise the cap to almost \$690 million or thereabouts. In doing that, they

also had to fund their budget by using surplus revenues in FY 97. We all know that you cannot balance or predicate a budget on revenues that aren't here. That is the 1997 revenues.

In that budget that was balanced or predicated on \$30 million in surplus revenue. At that time, I offered, in disgust, a compromise. I put the income tax cap in at FY 98 levels. That would be \$724 million or thereabouts. That failed. We then proceeded to go over to the administration and it was rejected, not by my party, the Democratic Party, but by the Republican Party. Then, as we continued to work together in trying to reach a consensus, the Chief Executive invited us to go over and try to resolve this issue. There almost \$70 million was put on the table and, frankly, I was scared. It involved taxes, increasing the cigarette tax and other items. Frankly, that wasn't something that I wanted to predicate the budget on. I am glad, for myself, that the Republican Party rejected that. If I was a member of your party, it would have been an excellent opportunity to capture those dollars and I relayed that to the good Representative Donnelly from Presque Isle.

Here we are today, continuing to listen about the income tax cap and what the 117th Legislature has done. Let's talk about what we are going to do and what is contained in the majority budget. It was built on consensus from both sides of the aisle and I see people shaking their heads, but that is truly what happened. You may not want to believe it, but that is what happened. I shared those reports with you. Whenever I have risen to this mic, I have spoken to you and told you what actually happened. If you don't want to believe it, that is your choice. This budget provides immediate tax relief. The budget in the 117th Legislature did not do it. Even if the income tax cap was in place, that didn't take affect until FY 99, the second year of this biennium. This budget provides immediate tax relief. It may not be as much as you want, but I think it is truly an attempt to move in the right direction.

This budget chose to fund education. If, in fact, you wanted to keep the income tax cap on, even at the FY 98 level that I recommended, you would still have to go into this document and cut almost \$65 million. Where would those monies be cut from? Education, the university, the mentally ill, the children with disabilities. Well, that is the reality people. You can sit here tonight and talk about how bad this document is, but it is the only document that you have before you that is balanced and I truly believe represents what Maine people want. That is why I stand here tonight in support of this document. I truly believe that it represents not all of what we want, but generally most of what we want. I urge your support for this document.

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

Representative CAMPBELL: Madam Speaker, Men and Women of the House. I could go on this evening about the experience I had in negotiations. One of the things that I continue to hear is this, I'll call it "phantom concept" of the state shutdown. We all know that we have three months left to pass a budget. The traditional budget where we have support of 101 votes in this body. To be talking about the shutdown as my fine colleagues on the other side of the aisle presented it and Representatives from the executive branch presented it to us. I began to think as the words became aired, I said to myself, Gee, I didn't say that. Had some of my colleagues from the Republican Party said that? I started asking and not one said it. I asked, Did you think it? Not one thought it. To come to the conclusion of this budget and state even as recently as this evening in floor debate that we are doing this to prevent a shutdown makes no sense to me. If this so-called collaborative effort or deliberation or negotiation is a substitute for the Maine tradition of open and ample debate, I feel it is flawed. I want to

be on the record this evening stating that never once did my colleagues in the House or in the other body have any words passed through their mouths or even through their heads about a shutdown of state government. I believe that many at state level and the federal level have learned of the destruction that could occur with another shutdown. At this point, we would really like to wipe the slate clean and be on the record that the Republicans, here in the Legislature, have never thought, spoken or threatened a shutdown. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I wholeheartedly support this budget and I am proud of the work we did on it and of the process in which it was created. I wanted to speak to respond in particular to a couple of comments that I thought were legitimate concerns which were raised by members on the other side of the aisle.

First, I want to say that the Representative from Gray questioned why the growth in this budget? It is a legitimate question. The budget has grown because we are paying our bills. We are, for the first time, repaying the Highway Fund. For the first time since I have been a member of this Legislature, we eliminated that gimmick. We are meeting our obligations in terms of the state employees. We are meeting the document which was recently collectively bargained to, which we agreed. In a second category of paying our bills we are meeting our obligations to the local communities, which will in turn reduce the pressure on the local property tax. We are doing that in the following ways. We are fully funding tree growth for the first time since I have been a member of this body. We are eliminating the gimmick which applied to revenue sharing as a result of the gross receipts tax and, therefore, providing the communities with their full share of revenue sharing. Again, for the first time since I have been a member of this body. We have done an awfully good job of meeting our obligations to the communities on community corrections. We are paying our bills in that area.

We did not go along with the proposal to shift the burden to the communities for teacher retirement. That burden will not land on the communities and on the property tax. We fully funded, I can't say we fully funded GPA, that would be wrong, but we did our utmost to put as much money to General Purpose Aid to Education as we possibly could. Furthermore, we responded to the citizens of the State of Maine. There were some areas in which we were lobbied heavily and we received extensive phone calls and letters not to eliminate certain programs, such as the medical access program. We agreed with that. We funded it. We continued it. Again, we received extensive lobbying, letters and phone calls asking us to support our university system and we have done so.

I want to say further that we have supported the work of the committees. I think that there has been tremendous work done by the policy committees. We did our utmost to follow the recommendations of the Committee on Education. Did we fully, fully fund their every recommendation? No, but we did pretty well. The Criminal Justice Committee, I thought, did a remarkable job this year in analyzing the proposals put forward in making cuts where they could be made in order to move funds into other programs. I was proud that we did as much as we were able to fully fund their recommendations. That leads to a side issue. I want to say there are programs in here which are not my priority. The Northern Maine Juvenile Detention Facility being one of them. I have heard an awful lot about how we ought not to begin new programs, but I have not heard anyone say that we ought not to start that program. It is not my priority, but I recognize that in order to pass a budget, there needs to be give and take. I am willing to fund that program in order to gain,

hopefully, bipartisan support. There are other programs in this budget which are not my priority. I personally do not support magnet schools and I would not, personally, continue the funding for the Magnet School, but I recognize it is a high priority for many, many Mainers, for the Education Committee and for the majority of the members of this body. Therefore, it is included, another such example is the Maine Career Advantage Program. It is not my priority, but it is a priority for some and so it is in this bill.

I wanted to respond to a couple of other comments. One had to do with liquor and the remark has been made, we have often heard the remark made about valuing liquor over school children. I don't feel that is what is going on with this bill. First of all, the prude that I am, I don't have a problem with making liquor hard to get. Second of all, we have heard an awful lot said about respecting the committee process. The bill does that in this area, rather than simply adopting a proposal. It sends it to the committee and asks them to fully analyze it with public input and arrive at a solution. I am extremely confident in that process and perfectly comfortable with voting for it.

I wanted to respond to some questions asked by the Representative from Northport, one was about the hospital tax. Is it a gimmick? Sure, unfortunately it is. That proposal was brought forward to us by the Maine Hospital Association and it was signed onto by a letter signed by each and every acute care hospital in the State of Maine. They asked us to increase the tax on hospitals. I guess that is an indication of how much can change in two years. No, it is not predicated on new taxes. I want to be absolutely clear about that. Should this body decide to expand our tax base or raise the tax on tobacco, which I will not only vote for but cheer for when it passes. We will decide together how to spend that money, but this budget is not predicated on that money.

To summarize I want to say this. Although this budget contains some items which I don't care for, it is not the budget I would have written myself. I recognize that we can only pass a budget through a compromise. I am proud of the work that we have done. I am glad that we have included the recommendations of so many members. We have recognized the priorities of the State of Maine and I am delighted to vote for it and I hope you will join me.

Representative KONTOS of Windham requested a roll call on passage to be enacted.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. We can talk all evening here about how this budget is what has been characterized as the best plan to serve the needs of Maine people. That seems to be the position that is being taken by my colleagues in the majority. First we pay our bills, provide the necessary services for our people and then we get a bonus because this budget supposedly offers tax relief. I support both those concepts. To me, you pay your bills with the money you generate to meet those obligations. If you don't have sufficient revenues, you have to prioritize the importance of the service so that you live within your means. What we do seems to be just the opposite. It seems as though we think it is an appropriate function in state government to first look at the expenditure side without any, or very little, consideration given to our revenue side. Beyond that, we say that we are also going to engage in new spending to the tune of \$265 million that we are going to spend that is over and above the past biennial budget. Never mind that in the process we are going to create a structural gap which I don't believe was ever specifically

answered by Representative Kerr, but my opinion is it is somewhere around \$150 million that we will be facing in the 118th. We say that is okay, because we have something that will be acceptable to the people of this state and that is the tax relief that is being offered.

I would just like to hearken back to a letter that I alluded to earlier today from the President of the Architectural Skylight Company, Adrien Ayotte. One of his comments which I didn't mention this morning or early this afternoon was, "Your claims of built in tax savings in this inflated budget are an insult to everyone's intelligence." Doesn't that ring true in light of Representative Lemke's comments earlier about what this tax relief program would mean to our citizens? It may be a dollar or a dollar and a half, the maximum somebody said was \$4. That is not real tax relief. Ladies and gentlemen, I don't think this is an outstanding budget. I don't even think it is a good budget. It is an effort. I think we will continue the spending that has characterized our budgets for the past decade. It will increase the burden on our taxpayers. We are already in the unenviable position of being in the top ten in the country. Yes, it is a budget, but it is being passed, I think, with the power of the majority, which I think only victimizes the people of this state. I urge you to vote against the pending motion. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I really appreciate the candid and lucid response by Representative Kerr in answer to my questions, but I have to agree with the previous speaker, Representative Ott. I can't support any budget that does not cut enough choice new government programs and increases spending by 7 percent. This budget does not live within the means that Maine citizens can afford, all those good things mentioned notwithstanding. At some point down the road, we are going to have to realize we can't keep projecting the structural gaps into the future. We say that we have had them and it has taken us a long time to get here. When I look at what was done in the 118th, I don't see any reduction in the size of state government. I see increased employees being put into the budget. I see increased programs being put into the budget and I don't see prioritization, at least not what I would consider priorities and I am sure there is going to be a matter of disagreement. There certainly has been.

The bottom line, again, comes down to when I go back home to the citizens in my district and they ask me if we are spending less money or is state government getting smaller. My answer to this budget is absolutely no. I urge you to vote against this enactment.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. Back in early January we bought a ticket and we boarded a train and now in midjourney we have found the tracks have been torn up. The first session of the 118th Legislature is about ready to come to an end. If we can think back to January, when we debated, discussed and voted on the supplemental budget, although there had been no caucus, no prior discussion, I think probably 95 percent of the Republican House Caucus voted no on that supplemental budget. If there was ever a message that would help shape the beginning of a Legislature that came out of that vote and debate was pay the bills. Address the broken promises and address the failed partnership and we, together, began working along that common scene. The tree growth, the county jail, the revenue sharing, that was we, together, working in the traditional and working toward a consensus resolution.

A short while ago the hammer came down and we were beginning to address education funding. Both parties had laid out their positions. I think the consensus was 2 and 3 percent. That would have been the point that we would have begun the process of building a much stronger education budget. We have been told by the Assistant Majority Leader that we should pat ourselves on the back for what we have done for education funding. This budget proposes an increase in funding that is below the projected inflation rate for each of those two years. So what is tree growth, county jails, revenue sharing in the initial stages of education? We were in agreement.

I think where we parted paths was at this snapshot in time. We looked back at our constituencies and we see two different pictures. The focus is on the income tax. The majority party in this budget maintains the status quo. They maintain the current income tax burden. There is a token \$10 million, in a \$3.8 billion, that is directed toward relieving that income tax burden. The minority party argues that we must begin seriously reducing the income tax burden on our citizens. We see two different things when we look at the Maine economy. We see two different things when we look at what is happening to our constituencies.

Another highlight along that journey that started back in January was the Chief Executive's State of the State. There was a lot of snickering when he brought out his Ross Perot type graphics and we saw three lines on a chart, but he pointed out to us very accurately, on Maine growth and jobs, very flat on Maine growth and income, even flatter. The growth of revenues or taxes here in Maine and then another line showing the growth of spending. When you looked at that very primitive graphic and we got past the snickering, you began to see that in a stable population the growth rate for spending for government and the growth of taxes has grown beyond the ability of the people in this state to pay for it. It has gone beyond the ability to pay. The Governor that evening had indicated that Maine taxes were too high and that burdens had to be reduced. It reminds me of a story. Talk about us being noncompetitive because of our tax burden with New Hampshire.

It reminds me of the story when you walk into a bar and you see two people sitting at the bar. One person is represented by the State of New Hampshire and that state has a glass of juice or milk in front of it. I was going to include cappuccino, but I think there has been a warning on cappuccino so I withdrew from that. New Hampshire's cheeks are rosy red or pink. The economy is very strong. You look farther down the bar and the majority budget is sitting at the bar. That majority has its hand on the whiskey bottle. If you can't capture the symbolism of that, the addiction to that bottle. We look down the bar and we see healthy New Hampshire because of the lack of taxes and we say if only we could be like them, we could reduce that burden. The reality is that this majority budget is kind of like Scarlet in *Gone with the Wind*. We can't take our hands off that addiction and maybe tomorrow, tomorrow.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. I will just take a moment to say, again, thank you to all members from both sides of the aisle that have tried to craft something that is acceptable to everyone. It hasn't happened, but there is some real effort in this last week. As previously stated by several in this body, all of whom I respect greatly, there is good in this budget. We are finally fully funding the corrections act, tree growth, education, but I cannot vote for this budget. I am very bothered again by the fact that the process has been flawed. There are items in this budget and we have asked for, an enumeration of those that have not had a public hearing. They have not had their say. To me, this does

not feel right. Those of you who know me know that this is not political arm twisting. Ask my husband, I cannot be told what to do. It just feels wrong to me. I need to go on record as saying that and I would urge all of you to look very, very closely at this. There are many items that I have said previously that I probably would support, but it needs to go the right route. It needs to go to the public, the public hearing, the committee, the work session and then brought before us. I cannot support a budget that includes many items that that has not been the case. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr. 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 KERR: Madam Speaker, Men and Women of the House. It is difficult for me, after spending so much time trying to reach and get a consensus and get a two-thirds vote on the budget. It is difficult for me to hear members stand up and talk out of both sides of their mouth. Frankly, I want you to know that you can't have it both ways. When you talk about keeping the income tax cap in place and you talk about giving more money for education and you talk about not going along with the Governor's recommendation and shifting the burden to the property tax, those items cost money. When you say you can do both, you can't. That is what I find appalling here. It really has become very bothersome to me because I have worked with my colleagues on the other side of the aisle and tried to take care of your concerns, our concerns and the public's concerns.

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

Representative VEDRAL: Madam Speaker.

The SPEAKER: For what reason does the Representative rise?

Representative VEDRAL: Point of order.

The SPEAKER: Please state your point of order.

Representative VEDRAL: Could you rule on whether this lecture is germane to the question on Enactment of (10-1)?

Representative VEDRAL of Buxton asked ruling from the Chair if debate was germane to the enactment of the Bill.

The SPEAKER: The Chair would reply that the Chair has listened to hours of debate about the process and since the process has become the subject of debate, I would rule that the Representative is in order. I would encourage him to make it brief.

The Chair ruled that the debate was germane.

Representative KERR: Madam Speaker. In respect to every member of this body, I have said everything. Thank you.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. This evening we are about to set another historical stand point. This evening, part of this House is about to break with the long standing tradition and vote through a single majority budget. It seems to me to be a process that has failed and I won't say by design. I am not that cynical. It was not set up, necessarily, to succeed. Normally, why the budget, other than the fact that it is a big item and it takes a long time to go through. The budget usually takes longer because there are a lot of issues that get flushed out as we work on it. There are a lot of issues that you learn about as you ferret out those problems in state government that either someone has forgotten about or is hiding or someone just doesn't know how to solve and are afraid to talk about it in the open.

Last session when I served on the Appropriations Committee we encouraged people to come forward with those bills and

those hidden problems. Rather than scold them for doing the wrong thing and hiding it. We were glad to get our bills paid and catch up and begin the process of continuing to heal the partisan scars of wars gone past. This budget does not continue the healing process and the process that we got to it. It seems to further divide. Getting the budget done quickly is something to be proud of, in one sense, because we are done our work early, but I think if anything has been clear, on our way home Friday, I heard on the news that there is a part to this budget that requires two new liquor stores to be opened on the turnpike. When the Executive Director of the Turnpike Authority was called to find out just how that would work, it was the first he heard of it. That is not a deliberative process. That is not the process that uncovers problems and solves them. That is a process that is rushed and that is a process that creates a flawed document. When I was growing up, Mom always said that a stitch in time saves nine. I always wondered what she meant.

I see some problems in this budget that we will be trying to fix for the next three months. Not to say that I didn't think the budget that we did the last term was perfect either. I agree with Representative Kerr on that respect. When there are other public policy issues that had not seen the light of day until the budget was printed, there is a problem. Are they priorities? Yes, I suppose they are. They are in the budget. Would they have gotten funded anyway with full public debate? Maybe. Should they have full public debate? Absolutely. These are issues that Maine people do care about, as well as things that are funded properly in the budget, as well as things that we do agree on in the budget. The process is not the thing to get hung up on, although it seems to be just part of the stumbling block here. It is what is the product. We talked earlier about taking \$2 million from the underground storage tanks and \$900,000 from securities. We were gathering nuts from all corners of state government. I don't believe at all it is talking out of both sides of your mouth when you have a \$3.8 billion budget. You think education is a priority and so are tax cuts; you have to balance them; it is not always an either or; it is a choice of at what level.

I think it is imperative, that as we vote this final vote this evening, that we keep in mind that there are great lengths that we have to go to to finish this race yet. I read in a newsletter earlier that someone had said not to worry about the learning results, we will just fund them later. That kind of concerned me. I guess usually we fund the budget at the end of the year and you are not worried about what is in there and what is going to be undone and redone and reworked and taken out and put back in later because you are really out of time. This presents a new quandary for me because it was a member of the Appropriations Committee on the majority side that said that. I am curious as to how many things are planned to be undone in here. Maybe if they are spelled out, we could probably work to get some more of the votes of the folks that are concerned about this budget. There are a number of issues that I see in there that if they were taken care of, we might continue that discussion. I would ask, if I may pose a question, if there are issues like that that are being told to special interest groups outside of this hall, don't worry about it, we will defund that later or we will fund that later, if we might have a list of those things that are also planned for the next budget. Thank you.

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

ROLL CALL NO. 59

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher,

Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pih, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bodwell, Bruno, Dutremble, Pendleton.

Yes, 83; No, 64; Absent, 4; Excused, 0.

83 having voted in the affirmative and 64 voted in the negative, with 4 being absent, 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 following item was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-104) on Bill "An Act to Protect Traditional Marriage and Prohibit Same Sex Marriages" (I.B. 1) (L.D. 1017)

Signed:

Senators: LaFOUNTAIN of York
BENOIT of Franklin

Representatives: THOMPSON of Naples
JABAR of Waterville
MAILHOT of Lewiston
PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton
WATERHOUSE of Bridgton

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

Signed:

Senator: LONGLEY of Waldo
Representatives: WATSON of Farmingdale
ETNIER of Harpswell
POWERS of Rockport

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Madam Speaker, Ladies and Gentlemen of the House. I rise to oppose the current motion to accept the Majority "Ought to Pass" Report. As a returning member of the Judiciary Committee in this 118th Legislature, I

feel a certain pride and honor to be part of a deliberative body that has jurisdiction over issues concerning areas of law overseeing some of our most basic of human and civil rights. We, as legislators, have the awesome responsibility of bringing forth, through legislation, some of the most heartfelt conflicts that arise between human beings especially in families. We, as thoughtful Representatives of our districts and the entire state that we all serve, are constantly reminded of how the decisions that we are asked to make impact every man, woman and child in the state.

This initiative before you, An Act to Protect Traditional Marriage and Prohibit Same-Sex Marriage, I cannot support. I can never support legislation that intends to single out and blatantly discriminate against any group of people based on a religious prejudice, in my view. History is loaded with examples of witch hunts and persecutions. Fear and hate, in my mind, have no place in rational policy making. I urge my colleagues to support my opposition to the Majority "Ought to Pass." Thank you.

Representative PLOWMAN of Hampden requested a roll call on the motion to accept the Majority "**Ought to Pass**" as amended Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Powers.

Representative POWERS: Madam Speaker, Men and Women of the House. When I considered my choices on L.D. 1017, I find myself in a position I have never been in before. Because this is a citizen initiated bill, I have had to imagine what I would do in the voting booth. I have also, like you know, had to decide what to do as a legislator since there are different consequences of voting on this bill than the bills we usually vote on.

Finally, as a member of the committee of jurisdiction I have had to declare my position once already. I will leave it up to you what you will do as a citizen if you find this bill on the ballot in November. Concerning your roll as legislators and I may be being repetitive for you here, I will remind you that other than the fiscal note, you see no amendments on this bill because being initiated by citizen petitions it is unalterable. As legislators, we may either pass it or not. If we pass it, the process is almost complete. The bill becomes law as signed by the Governor. If we do not pass it, the bill is not killed as we are accustomed to having happen. It must go to the public for the vote. You are faced with needing to decide on what basis you will vote, the substance of the bill or the process of enactment, mainly by this body or by citizen vote. I finally made my decision on the basis of the substance of the bill. When I read the text of the bill, I am stunned. This bill is loaded with moralistic language and cultural bias. I think this has occurred because when it comes to referencing homosexuality there is enormous fear stirred up, both of sexuality and of difference. I also think the text of this bill is bias because as a culture most of us have not yet broadened our language, let alone our thinking enough to address the possibility of two people of the same gender loving each other so much that they wish to make a public statement of commitment and have that recognized as legitimate by civil law.

I am reminded of the difference between white people and the Inuits. As a white person, I have a very limited vocabulary for the concept of snow, lots of modifiers, but not much more than the word snow. The Inuits for whom the world of snow is very important and very complex have 20 or more different words for that experience of the cold, white stuff on the ground. What I am suggesting is that our society have pressed beyond the boundaries of its language to have only the word, marriage, to

describe a committed union between two people. I can think of several grounds on which this term is too narrow. The word is very suggestive of religious ceremony and that aspect of marriage is generally outside the purview of this branch of government. There are a number of denominations which offer celebrations of union or devotion between two members of the same gender and the state would not presume to interfere with this religious right. We need to separate the religious and civil aspects of unions and having only one word, marriage, doesn't help us do that.

Second, the term marriage leaves out many, many heterosexual couples who chose to live together in commitment even if they never performed illegal acts to demonstrate that. Eventually, after a certain period of time, the law in some states recognizes marital rights and privileges to such a couple. That is not an option available to homosexual couples.

Third, in the minds of some people and certainly the authors and supporters of this bill, the term, marriage, is linked to procreation. Can you tell me though, that couples who do not have children, for whatever the reason, who have formerly and legally declared their commitment, are not married. Be they infertile, emphatically disinclined, too old or whatever. I say that not even the authors of this bill would dare to claim that they are not married. Maybe the authors of this bill could extend their thinking to find a new term that means united without children.

Finally, as we have heard about in committee, there are same-gender partnerships which demonstrate all the best qualities, the best qualities, of what, in this bill, is called traditional marriage. Partnerships of devotion and duration, which dutifully execute all the responsibilities so elevated, but which receive none of the rights of such a union. Here is where I must tell you, my friends, I cannot support this bill. This bill denies a civil right. Civil rights such as spousal benefits, custody and medical authority of same-gender partners. This denial is not because they are not manifesting the responsibilities any other domestic partnership may demonstrate. It is solely because they are of the same gender. This is the denial of basic rights. I do not support such bias any more than I would dream of denying an inner racial or inner religious union. Remember, these were once outside the language of acceptable marriage in our culture also. I ask you to seriously consider if you wish to be known as being one to deny a basic human desire and civil right in this day and age.

In my stand for justice, I do not. I will vote no to protecting traditional marriage and prohibiting same-sex marriages. Thank you.

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

Representative DUNLAP: Madam Speaker, Ladies and Gentlemen of the House. I have been greatly exercised as to the content and intent of this bill and intent of the strictest engine of construction of the law, as often it is that knock which we seek to diagnose. In this bill I find many strange inferences over what the intent of the writers are. All I can justifiably construct from those inferences are provisions which fully strip a segment of this population of its civil rights, not in terms of previously stated objects, such as benefits and what not, but the most fundamental of civil rights guaranteed to us under the Constitution. In these constructs I totally am blinded by the entire purpose of this bill concerning gay marriage. Instead I see more fluid the constructions which deny a group of people the right to petition their government because a prior group has gagged them. That prior group, who has presented this bill before us, through great work in a citizens petition, must have the best of intents. It is, in their view, a very moral issue. A view to save traditional marriage. I fear to say traditional marriage and I have bandied

this about with my colleagues, jokingly, to bring back arranged marriages. Let us bring back forced dowries. Let us go back to the time of Chaucer and outlaw what we would call clandestine marriages then, but today common law and force these people into the light of day. These are all traditional marriages. Times have changed greatly and they are changing faster than we can keep pace with our traditional concepts of marriage.

I think the purpose of the citizens referendum is truly the greatest implement of democracy. This particular vehicle, I believe, does not quite meet that test. The framers of our national Constitution drew upon a great body of historical work in their deliberation. Many of us might remember that there was talk in the 1960s and early 70s about a popular referendum, a nationwide referendum, to withdraw United States forces from the conflict in Vietnam. Guess what, you can't do it. You can't have such a referendum deciding national policy. Why not? Because those revolutionary constitutional scholars who drafted our great document recalled an instance in the 4th Century, BC or 5th Century, BC, actually to be a bit more precise, give or take 100 years. When the cradle of civilization was embroiled in a great conflict and arising was a battle that would decide the outcome of that conflict and their greatest General was in the head of the fleet, a man named Alcibiades. The Athenian General was called back to the City of Athens to face charges of immoral behavior. There was a popular referendum to bring him back in ostraka, and he was ostracized for a year. A weaker man was put in his place, the battle was lost and Greek civilization as we know it was destroyed. The lesson there is, don't put the hands of the popular vote upon matters of national importance.

I think to so do would, in the words of Madison, be the accumulation of all the powers of legislative, executive and judiciary in the same hands and may justly be pronounced the very definition of tyranny. I guess that is the summation of what this bill is. It is not a stand for morality, it is the very mask of bigotry. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Colleagues of the House. I respect dignity and diversity and truly wish everyone did. It is unfortunate, truly, that we are faced with this issue before us here today, which does not allow flexibility in modifying the specific provisions in the bill. Having attended the public hearing for this legislation and having been contacted by many constituents on this issue, there is, obviously, a great deal of concern to extend the institution of marriage to same-sex couples. As my colleague from Rockport said, marriage means different things to different people. It is both a religious ceremony and a civil legal contract. There is, I believe, strong support throughout our great state for respect of individual rights and for the right of two people to live their lives together. I believe there is support for a legal contract between two individuals of the same gender, but because this legislation is the result of a citizen initiative, we are bound by its terms and we do not have the opportunity to initiate any changes. I think this is unfortunate. I urge this body, in the future, as we continue our deliberations in this Legislature to continue efforts to provide equal rights and opportunities to all people. As we all said the Pledge of Allegiance this morning which said, "With liberty and justice for all." I will reluctantly be voting in support of the prevailing motion in order to avoid this issue going out to a divisive state-wide referendum and to allow the identification of the word marriage with opposite gender unions. At the same time, however, I urge my colleagues to join me, as leaders in our state, to develop equal rights including legal unions for same-gender couples.

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

Representative VEDRAL: Madam Speaker, Men and Women of the House. This is a very divisive and emotional issue for just about everybody in the State of Maine. Here I am standing to show some of my libertarian routes. A lot of my colleagues may be surprised at what I am about to say. I support this legislation to prohibit same-sex marriages in order to preserve the institution of marriage that has deep, deep routes in our society and in all societies. It goes back many thousands of years. I do believe that two people, whether they are the same sex or whether they are two elderly people who decide to spend the remainder of their life together who decide to make a commitment to each other and would like the protections of law that are allowed to two people who are married in the traditional sense of the word. I believe that these people could be joined in some other manner, some other legal contracted union. I think they should have the same protections as the rest of us. I do not believe that the current institution of marriage is the proper place for this. I would support and I would be willing to sponsor legislation that would allow a contracted union that is strictly civil and has limitations upon it that are similar to the institution of marriage. I urge you to vote to support the Majority "Ought to Pass" Report.

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

Representative STEDMAN: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Men and Women of the House. My two questions are, does this bill change anything in current law and if so, what are the new restrictions imposed by this bill?

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 Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. What it specifically does is to set forth a prohibition against recognizing marriages that may be recognized out of state.

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

Representative BULL: Madam Speaker, Men and Women of the House. I rise tonight in opposition to this motion to accept the Majority "Ought to Pass" Report. It is deeply disturbing that this issue had to be brought forth for discussion in this state. By banning the recognition of same-sex marriages is on par with discrimination. We are singling out a sector of society for discrimination with this act. It is disturbing that this body would condone that discrimination for all the country to see. I feel very strongly that if this body passes this law and if it is signed into law by the Governor, it will give this state a black eye for all the country to see.

I am really not sure why this issue is even upon us for discussion. This is not something that has been pushed, but it is something that has been brought up by the people who are opposed to recognizing same-sex marriages. The truly important issue here, in any marriage, in any contract between two people, is a foundation of love, caring and compassion. Ladies and gentlemen, heterosexual couples do not have a monopoly on these values. By passing this measure, we will, in fact, be saying that, yes, heterosexuals do have a monopoly on these values and that is tremendously disturbing. Ladies and gentlemen, I urge you to please vote not to accept the Majority "Ought to Pass" motion. Thank you.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. I also rise to ask you to vote against the pending motion. This is the politics of symbolism. It is not policy of substance. As Representative Bull already pointed out, there is not legislation before us not asking us to recognize same-sex marriage. Nobody has gone to court asking for that. This is not an issue before the state. Across the state though, school buildings are crumbling, children are going to sleep hungry and students are graduating from high school and cannot afford to go to college. Those are real issues. Those are real problems and that is what we should be addressing in this Legislature. Each day that we are here we make history. Some days the history that we make is more significant than other days. Today, the history in this vote is significant. I hope that all of us can look back in five years or 10 years and see that we voted for something that is probably unconstitutional, unnecessary and almost certainly discriminatory. Thank you.

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

Representative JONES: Madam Speaker, Men and Women of the House. I rise tonight because I believe I am the only attorney in the state to have ever performed a male male divorce in court. I don't do that to get a joke from someone or a laugh, but to point out that this state has legally recognized same-sex marriage in a court of law in this state. Since it has done so, to say it is illegal violates the equal protection clause of the United States Constitution in the Fourteenth Amendment. It also violates 6A of the Maine Constitution. I would ask you to vote no and support the Constitution. I know you have heard me many times rise and talk about the Constitution so let's support it tonight. Constitutional issues, not hate. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Madam Speaker, Men and Women of the House. I rise also to urge you to vote no because I see this as a dead issue. There exists a federal pre-emption of sorts that would save, I think, the proponents of this bill from a lot of their anguish. The anguish, as I understand it, is partly due to a perception that we, in Maine, will have to recognize marriages performed in other states when, in fact, at the federal level, the Defense of Marriage Act, as I understand it, says that no state shall have to give effect to marriages performed in other states. That being said, I think that takes some of the wind out of the sails of this argument. I urge people to vote no against the Majority "Ought to Pass" Report.

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

Representative FARNSWORTH: Madam Speaker, Men and Women of the House. Yesterday, I received a letter that is fairly short and I think it comes right directly to the point. I thought I would share it with you because I think that it does help to zero in exactly what the problems are.

"Dear State Representative Farnsworth: I am an eighth grade student at King Middle School in Portland, Maine. I am writing to you about gay rights. I feel that this is an important issue and deserves attention. I don't feel that gays should have special rights, just equal rights. I believe that gay rights need to be enforced more strongly. One way to do this is to have stricter punishment for the offenders of discrimination. Discrimination of any sort is a major offense and should be punished severely. A way to help end discrimination is by passing more anti-discrimination laws. I know that there is a law in Maine stating that you may not discriminate in the workplace, but I feel that should be broadened to include more things such as,

extracurricular activities and housing. I have a friend who's mother wanted to be a cub scout leader but was not able to because she was a lesbian. This sort of thing should most certainly not happen and I feel it is your job to see that it doesn't." That is a rather heavy load, I might add. "In addition to discrimination, I would like to propose that gay marriages be legalized. It is not fair to give some people this right, but not others. Gays are citizens too and they deserve the same rights as everyone else. I hope you feel the same. Thank you for your time and I would appreciate your prompt response."

I think the insight of youth is somewhat refreshing. Right directly to the point. I would urge you to vote against this bill. Thank you.

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

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. I rise today to just mention some frustrations that I am feeling. I have listened very closely to this. My personal feeling is that this bill should not be here, period. It is frustrating to me to have deal with it, but after listening to the discussion, sometimes yes means no and no means yes. I listened very closely to our colleagues, Representative Cowger, who has explained how important it is to have a unified approach, long-term, and talked about some of the negative sides to having this debated on referendum. It really meant something to me. I can address my libertarian views too and realize that as I stand here to support a yes vote, I am also going to commit to working together on a civil bill that will protect the rights of all because I think we have to get past the negative here and get on with life. Thank you.

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

Representative BARTH: Madam Speaker, Men and Women of the House. Just a couple of quick comments to say there is no legislation pending before us is not quite true, because obviously, enough people across the state signed a petition to bring this before us. Therefore, we can either pass it or we can defeat it, which it will then go to public referendum. I feel, and apparently the Gay and Lesbian Alliance, because I read in the paper that they feel the same way, they would like us to pass this because they are going to take it to court, either way. My personal feeling is if we avoid a costly and divisive referendum which will give Maine a bigger black eye than the mere passage of this tonight. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage of the Majority "Ought to

Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 60

YEA - Ahearne, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bouffard, Bragdon, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Desmond, Dexter, Donnelly, Driscoll, Fisher, Fisk, Foster, Frechette, Gagne, Gerry, Gieringer, Gooley, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Morgan, Murphy, Nass, Nickerson, O'Brien, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Poulin, Richard, Samson, Sanborn, Savage, Shannon, Sirois, Snow-Mello, Spear, Stedman, Taylor, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

NAY - Baker CL, Brennan, Brooks, Buck, Bull, Clark, Davidson, Dunlap, Etnier, Farnsworth, Fuller, Gagnon, Gamache, Goodwin, Green, Hatch, Jones KW, Kane, McKee, Mitchell JE, O'Neil, Perry, Pieh, Povich, Powers, Quint, Rines, Rowe, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Townsend, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Bodwell, Bolduc, Bruno, Dutremble, Muse, Pendleton.

Yes, 106; No, 39; Absent, 6; Excused, 0.

106 having voted in the affirmative and 39 voted in the negative, with 6 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-104) was read by the Clerk and adopted

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

Under further suspension of the rules, the Bill was Passed to be Engrossed as amended by Committee Amendment "A" (H-104) and sent up for concurrence. Ordered sent forthwith.

On motion of Representative KERR of Old Orchard Beach, the House adjourned at 8:00 p.m., until 10:00 a.m., Wednesday, March 26, 1997.