

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 SPECIAL SESSION
13th Legislative Day
Thursday, April 17, 1997

The House met according to adjournment and was called to order by the Speaker Pro Tem, Rep. THOMPSON of Naples.

Prayer by Reverend Paul F. Martz, High Street Congregational Church, Auburn.

Pledge of Allegiance.

Doctor of the day, Robert D. Weiss, M.D., Searsport.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 192)

Maine State Senate
State House Station 3
Augusta, Maine 04333
April 16, 1997

The Honorable Joseph W. Mayo

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its previous action whereby the Senate Accepted the Report "A" - Ought Not to Pass from the Committee on Judiciary on Bill "An Act to Ban Partial Birth Abortions" (H.P. 390) (L.D. 535).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Resolve, Authorizing the Exchange and Sale of Certain Public Lands (S.P. 608) (L.D. 1809) (Governor's Bill)

Came from the Senate, referred to the Committee on **Agriculture, Conservation and Forestry** and Ordered Printed.

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

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Critical Marine Infrastructure and Technology Investments" (S.P. 609) (L.D. 1810) (Governor's Bill)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Construction of the Maine Criminal Justice Academy" (S.P. 610) (L.D. 1811) (Governor's Bill)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Address Federal and State Accessibility and Public Safety Issues" (S.P. 612) (L.D. 1813) (Governor's Bill)

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

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

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$79,500,000 to Match Available Federal Funds for Improvements to Municipal and State Roads, State and Local Bridges, Airports, State Ferry Vessels and Terminals and Rail and Marine Facilities" (S.P. 611) (L.D. 1812) (Governor's Bill)

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

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

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" on Bill "An Act to Clarify Liability Coverage" (S.P. 233) (L.D. 802)

Signed:

Senators: PARADIS of Aroostook

LONGLEY of Waldo

MITCHELL of Penobscot

Representatives: KANE of Saco

PIEH of Bremen

LOVETT of Scarborough

JOYNER of Hollis

BRAGDON of Bangor

SNOWE-MELLO of Poland

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

Signed:

Representatives: MITCHELL of Portland

FULLER of Manchester

QUINT of Portland

BROOKS of Winterport

Came from the Senate with the Majority "**Ought to Pass**" Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-117).

Was read.

On motion of Representative SAXL of Portland, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-89) on Bill "An Act to Require Certain Employees of Health Care Facilities to Wear Identification Badges" (S.P. 288) (L.D. 939)

Signed:

Senators: PARADIS of Aroostook

LONGLEY of Waldo

Representatives: MITCHELL of Portland

BROOKS of Winterport

FULLER of Manchester

KANE of Saco

QUINT of Portland

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

Signed:

Senator: MITCHELL of Penobscot

Representatives: PIEH of Bremen

LOVETT of Scarborough

JOYNER of Hollis

BRAGDON of Bangor

SNOWE-MELLO of Poland

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-89).

Was read.

On motion of Representative SAXL of Portland, tabled pending acceptance of either Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Restore State Funding for Mediation Services Provided by the Maine Labor Relations Board" (H.P. 294) (L.D. 358) on which the Majority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-150) in the House on April 8, 1997.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Labor read and accepted in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Ensure Responsible Coordination of Medical Care under Managed Care" (H.P. 401) (L.D. 546) which was passed to be engrossed in the House on March 11, 1997.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-113) in non-concurrence. The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (H.C. 179)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Agriculture, Conservation and Forestry has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 128 An Act to Require Public Access to Any Public Lands Conveyed for Inclusion in a National Park

L.D. 1543 An Act to Restrict the First Day of Reservations for State Parks to Residents of the State Only

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Marge L. Kilkelly S/Rep. George H. Bunker, Jr.
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 180)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House

118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 229 An Act to Require Accountability for Bond Issues

L.D. 393 An Act to Restore Funds to the Office of Substance Abuse to 1996 Levels

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Michael H. Michaud S/Rep. George J. Kerr
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 181)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE**

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Banking and Insurance has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 785 An Act to Require Certain Practices by Managed Care Plans

L.D. 1314 An Act Concerning Costs Imposed by a Lender for Flood Hazard Analysis of Real Estate

L.D. 1489 An Act to Update the Insurance Code for Substance Abuse

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Lloyd P. LaFountain III S/Rep. Jane W. Saxl
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 182)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic

Development has voted unanimously to report the following bills out "Ought Not to Pass":
L.D. 390

An Act Requiring Masonry Work to Comply with State and Local Building and Fire Codes

L.D. 604 An Act to Amend the Maine Veterinary Practice Act of 1975

L.D. 687 An Act to Require Notification of Changes in Product Lines from Beverage Distributors to Redemption Centers and to Clarify Beverage Distributors' Obligation to Pick Up Containers

L.D. 1005 An Act to Provide for the Licensing of Building Contractors

L.D. 1177 An Act to Amend the Charter of the Northern Maine Development Commission, Inc.

L.D. 1258 An Act Regarding People Giving Canadian Money as Change in Business Transactions

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John T. Jenkins S/Rep. Marc J. Vigue
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 183)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 356 An Act to Require Fire and Rescue Departments to Reimburse Costs of Training

L.D. 522 An Act to Clarify the Need and Time Frame for Presentence Investigations

L.D. 523 An Act to Require Law Enforcement Officers to Furnish an Affidavit of Probable Cause to Holding Facilities

L.D. 590 An Act to Require Consecutive Sentences to Be Imposed on Habitual Offenders

L.D. 996 An Act to Amend the Definition of a Juvenile

L.D. 1033 An Act to Provide Conflict Resolution Education for Juvenile Offenders

L.D. 1194 An Act Concerning Consecutive Sentencing

L.D. 1256 An Act to Permit Disclosure of the Identity of Certain Juvenile Offenders

L.D. 1312 An Act to Strengthen Parental Responsibility for Juveniles

L.D. 1396 An Act to Provide for Shock Incarceration of Juveniles

L.D. 1407 An Act to Make Habitual Truancy a Crime

L.D. 1522 An Act to Strengthen Juvenile Laws

L.D. 1573 An Act to Establish Penalty for Violation of Compulsory School Attendance

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Robert E. Murray, Jr. S/Rep. Edward J. Povich
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 184)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 67 An Act to Provide for the Position of President of the University of Maine System

L.D. 1565 Resolve, to Assist the Sanford Regional Vocational Center

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Peggy A. Pendleton S/Rep. Shirley K. Richard
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 185)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1201 Resolve, to Review Medicines in the Elderly Low-cost Drug Card Program

L.D. 1348 Resolve, to Direct the Department of Human Services to Include Vouchers for Personal Hygiene Products with Food Stamps

L.D. 1411 An Act to Facilitate Disbursement of and Accounting for Issuances of Food Supplement Benefits

- L.D. 1439 Resolve, Requiring the Office of Vital Statistics to Conduct a Study of Medical Treatment Records Disposition
- L.D. 1575 An Act to Make Health Provider Data More Accessible to the Public
- L.D. 1703 An Act to Prohibit Smoking in Restaurants

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy Paradis S/Rep. J. Elizabeth Mitchell
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 186)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 955 An Act to Permit the Joint Tribal Council of the Passamaquoddy Tribe to Change the Names of Geographical Locations within Passamaquoddy Territory
- L.D. 956 An Act to Repeal the Law Providing that State Laws Apply to Indian Lands
- L.D. 957 An Act to Require Full Faith and Credit for Decisions of the Tribal Court
- L.D. 966 An Act to Make All Persons within Passamaquoddy Indian Territory Subject to Tribal Court Jurisdiction
- L.D. 1042 An Act to Protect People with Limited Mental Capacity

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Susan W. Longley S/Rep. Richard H. Thompson
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 187)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 824 An Act to Allow Limited Partnerships between Brewers and Wholesalers
- L.D. 1563 An Act to Allow Wine to Be Ordered by Mail

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Beverly C. Daggett S/Rep. John L. Tuttle, Jr.
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 188)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1276 An Act to Require Legislative Confirmation of Chairs of Medical Malpractice Mandatory Prelitigation Screening and Mediation Panels

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

Sincerely,

S/Sen. John M. Nutting S/Rep. Douglas J. Ahearn
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 189)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TAXATION

April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 513 An Act to Broaden the Sales Tax and Reduce the Current Sales Tax Rate
- L.D. 853 An Act to Exempt the Purchase of Motor Vehicle Modifications for a Person with a Disability from the Sales Tax
- L.D. 1007 An Act to Establish Medical Savings Accounts
- L.D. 1068 An Act to Exempt Small Purchases of Special Fuel Used for Certain Off-road Purposes from the Special Fuel Tax

- L.D. 1421 An Act to Exempt from the Sales Tax Computers Used in Commercial Fishing
- L.D. 1514 RESOLUTION, Proposing an Amendment to the Constitution to Require That All Income and Sales Tax Increases Be Approved by Referendum

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard P. Ruhlin S/Rep. Verdi L. Tripp
 Senate Chair House Chair
 Was read and ordered placed on file.

The following Communication: (H.C. 190)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION
 April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
 Honorable Elizabeth H. Mitchell, Speaker of the House
 118th Maine Legislature
 State House
 Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1298 An Act Regarding Restrictions Placed on Certain Motor Vehicles That Travel on a Public Way
- L.D. 1331 An Act Regarding Show Lights on Motor Vehicles
- L.D. 1346 An Act to Prohibit the Department of Transportation from Spraying Herbicides Along Highways
- L.D. 1422 An Act to Abolish the Maine Turnpike Authority
- L.D. 1441 An Act to Amend the Laws Regarding Commercial Driver Education Instructors
- L.D. 1451 An Act to Encourage the Planning and Implementation of Municipal Ordinances Concerning Bicyclists and Pedestrians
- L.D. 1505 An Act to Preserve the Privacy of Commuters

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. William B. O'Gara S/Rep. Joseph D. Driscoll
 Senate Chair House Chair
 Was read and ordered placed on file.

The following Communication: (H.C. 191)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY
 April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
 Honorable Elizabeth H. Mitchell, Speaker of the House
 118th Maine Legislature
 State House
 Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1215 An Act to Restrict Telephone Solicitation
- L.D. 1423 An Act Regarding Sewer District Upgrades

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard J. Carey S/Rep. Kyle W. Jones
 Senate Chair House Chair
 Was read and ordered placed on file.

The following Communication: (H.C. 193)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
JOINT STANDING COMMITTEES ON
AGRICULTURE, CONSERVATION AND FORESTRY &
MARINE RESOURCES
 April 14, 1997

Honorable Mark W. Lawrence, President of the Senate
 Honorable Elizabeth H. Mitchell, Speaker of the House
 118th Maine Legislature
 State House
 Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committees on Agriculture, Conservation and Forestry and Marine Resources have voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1235 Resolve, to Convene a Study Group to Identify Access to Public Landings and Their Facilities by Persons Engaged in Commercial Fishing

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

Sincerely,

S/Sen. Marge L. Kilkelly S/Rep. George H. Bunker, Jr.
 Senate Chair House Chair
 S/Sen. Jill Goldthwait S/Rep. David Etnier
 Senate Chair House Chair
 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:

Health and Human Services

Bill "An Act to Amend the Laws Governing the Maine Health and Higher Educational Facilities Authority" (EMERGENCY) (H.P. 1280) (L.D. 1817) (Presented by Representative MITCHELL of Portland) (Cosponsored by Senator CAREY of Kennebec and Representatives: FULLER of Manchester, JOYNER of Hollis, KERR of Old Orchard Beach, MITCHELL of Vassalboro, ROWE of Portland, SAXL of Portland, STEVENS of Orono) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Legal and Veterans Affairs

Bill "An Act to Strengthen Existing Lobbying Laws" (H.P. 1281) (L.D. 1818) (Presented by Representative ETNIER of Harpswell) (Cosponsored by Representatives: AHEARNE of Madawaska, DAVIDSON of Brunswick, MITCHELL of Portland, TRIPP of Topsham)

Taxation

Bill "An Act to Increase the Excise Tax on Cigarettes to Support a Tobacco Prevention and Control Program and Reduce the Individual Income Tax Burden" (H.P. 1279) (L.D. 1816) (Presented by Representative CAMERON of Rumford) (Cosponsored by Senator RUHLIN of Penobscot and Representatives: BRUNO of Raymond, DAVIDSON of Brunswick, ETNIER of Harpswell, VIGUE of Winslow, WINGLASS of Auburn, Senators: CLEVELAND of Androscoggin, GOLDTHWAIT of Hancock) (Governor's Bill)

Bill "An Act to Modernize Maine's Financial Institution Franchise Tax" (H.P. 1282) (L.D. 1819) (Presented by Representative TRIPP of Topsham) (Cosponsored by Representative: KERR of Old Orchard Beach, Senator: RUHLIN of Penobscot) (Governor's Bill)

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

ORDERS

On motion of Representative GAMACHE of Lewiston, the following Order: (H.O. 24)

ORDERED, that Representative Christina L. Baker of Bangor be excused April 10 and 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph G. Carleton, Jr., of Wells be excused April 7 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Patrick Colwell of Gardiner be excused April 4 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Ruel P. Cross of Dover-Foxcroft be excused April 10 and 11 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas J. Kane of Saco be excused April 10, 11, 14 and 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Vaughn A. Stedman of Hartland be excused April 15 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Refer to the Committee on Education and Cultural Affairs

Representative VIGUE from the Committee on **Business and Economic Development** on Bill "An Act to Establish the Dirigo Higher Education Bond Program to Provide Financial Aid to Maine Students" (H.P. 1175) (L.D. 1652) reporting that it be referred to the Committee on **Education and Cultural Affairs**.

Report was read and accepted and the Bill referred to the Committee on **Education and Cultural Affairs** and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act Relating to Consumer Rental Vehicles" (H.P. 276) (L.D. 340)

Signed:

Senators: O'GARA of Cumberland
CASSIDY of Washington

Representatives: FISHER of Brewer
JOYCE of Biddeford
CLUKEY of Houlton
DRISCOLL of Calais
BOUFFARD of Lewiston

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

Signed:

Representatives: WINGLASS of Auburn
CHARTRAND of Rockland
LINDAHL of Northport
SAVAHE of Union
WHEELER of Eliot

Was read.

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

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought Not to Pass**" Report and specially assigned for Tuesday, April 29, 1997.

Divided Report

Majority Report of the Committee on **Legal and Veterans Affairs** reporting "**Ought Not to Pass**" on Resolve, to Authorize the Secretary of State to Propose Legislation to Establish Package Stores for the Sale of Alcoholic Beverages (H.P. 424) (L.D. 574)

Signed:

Senators: FERGUSON of Oxford
DAGGETT of Kennebec
CAREY of Kennebec

Representatives: TRUE of Fryeburg
TUTTLE of Sanford
CHIZMAR of Lisbon
FISHER of Brewer
GAGNE of Buckfield
LABRECQUE of Gorham
BIGL of Bucksport
BELANGER of Wallagrass
GAMACHE of Lewiston

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

Signed:

Representative: TESSIER of Fairfield

Was read.

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

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Bill "An Act Increasing the Number of Members of the Board of Trustees of the Maine State Retirement System" (H.P. 427) (L.D. 577)

Signed:

Senators: CATHCART of Penobscot
MILLS of Somerset
TREAT of Kennebec

Representatives: BOLDUC of Auburn
RINES of Wiscasset
JOY of Crystal
JOYCE of Biddeford
TREADWELL of Carmel

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-204) on same Bill.

Signed:
Representatives: HATCH of Skowhegan
SAMSON of Jay
CLARK of Millinocket
STANLEY of Medway

Was read.

On motion of Representative HATCH of Skowhegan, tabled pending acceptance of either report and later today assigned.

Divided Report

Majority Report of the Committee on **Legal and Veterans Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Prohibit the Sale of Kegs of Beer to Individuals" (H.P. 806) (L.D. 1094)

Signed:
Senators: FERGUSON of Oxford
DAGGETT of Kennebec
CAREY of Kennebec
Representatives: TRUE of Fryeburg
TUTTLE of Sanford
GAMACHE of Lewiston
CHIZMAR of Lisbon
FISHER of Brewer
TESSIER of Fairfield
LABRECQUE of Gorham
BIGL of Bucksport
BELANGER of Wallagrass

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

Signed:
Representative: GAGNE of Buckfield
Was read.

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

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

Divided Report

Majority Report of the Committee on **Marine Resources** reporting "**Ought Not to Pass**" on Resolve, Directing the Commissioner of Marine Resources to Request the Secretary of the United States Department of Commerce to Amend the United States Coast and Geodetic Survey (H.P. 996) (L.D. 1388)

Signed:
Senators: GOLDTHWAIT of Hancock
MackINNON of York
Representatives: ETNIER of Harpswell
GOODWIN of Pembroke
PERKINS of Penobscot
BAGLEY of Machias
PINKHAM of Lamoine
LAYTON of Cherryfield

HONEY of Boothbay
PINKHAM of Brunswick

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-209) on same Resolve.

Signed:
Senator: PENDLETON of Cumberland
Representatives: PIEH of Bremen
VOLENIK of Brooklin

Was read.

On motion of Representative ETNIER of Harpswell the Majority "**Ought Not to Pass**" Report was accepted and sent up for 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. 95) (L.D. 374) Bill "An Act to Consider Cost-effectiveness When Providing Medicaid Coverage for Dental Services" Committee on **Health and Human Services** reporting "**Ought to Pass**"

(S.P. 120) (L.D. 399) Bill "An Act to Extend Certain Survivor Benefits to the Spouses of Firefighters and Law Enforcement Officers and Expand the Definition of Law Enforcement Officers" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**"

(S.P. 305) (L.D. 1013) Bill "An Act to Implement Electronic Monitoring for Compliance with the Motor Vehicle Financial Responsibility Laws by 1999 and Make Other Changes in Those Laws" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-110)

(H.P. 1142) (L.D. 1607) Resolve, to Name the New Bangor-Brewer Replacement Bridge Committee on **Transportation** reporting "**Ought to Pass**"

(H.P. 358) (L.D. 481) Bill "An Act to Regulate Body Piercing" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-215)

(H.P. 717) (L.D. 981) Bill "An Act to Amend the Revised Maine Securities Act" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-212)

(H.P. 788) (L.D. 1076) Bill "An Act to Criminalize Mistreatment of and Cruelty to Animals and to Enhance Reporting Requirements" Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-214)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, April 28, 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:

(S.P. 50) (L.D. 160) Bill "An Act to Fund Research Regarding the Reinstatement of a Meat Inspection Program"

(S.P. 62) (L.D. 172) Bill "An Act to Provide for Long-range Revenue Forecasts" (C. "A" S-105)

(S.P. 118) (L.D. 397) Bill "An Act to Change the Burden of Proof for Timber Trespass and Timber Theft Violations" (C. "A" S-103)

(S.P. 191) (L.D. 609) Resolve, Concerning Reauthorization of the \$9,000,000 Bond Issue for Construction of Water Pollution Control Facilities (EMERGENCY) (C. "A" S-104)

(S.P. 241) (L.D. 810) Bill "An Act to Clarify the Duties of the Office of the Public Advocate" (C. "A" S-109)

(S.P. 315) (L.D. 1055) Resolve, Directing the Office of Tourism and Community Development and the Maine Tourism Commission to Include Lewiston as Part of Southern or South-central Maine (C. "A" S-106)

(S.P. 355) (L.D. 1174) Bill "An Act to Enhance Live Animal and Embryo Exports From Maine" (C. "A" S-102)

(H.P. 307) (L.D. 371) Bill "An Act to Clarify the Definition of Qualified School for Telecommunications Network Purposes"

(H.P. 515) (L.D. 706) Bill "An Act to Amend the Washington County Budget Advisory Committee"

(H.P. 777) (L.D. 1065) Bill "An Act to Require Law Enforcement Officers to Inform a Person Who Fails to Submit to a Blood Test about the Informed Consent Law"

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

(S.P. 219) (L.D. 678) Bill "An Act to Amend the Laws Relating to Auctioneers" (C. "A" S-107)

On motion of Representative WATERHOUSE of Bridgton, was removed from the Second Day Consent Calendar.

On further motion of the same Representative, tabled pending acceptance of the Committee Report and specially assigned for Monday, April 28, 1997.

(S.P. 395) (L.D. 1292) Bill "An Act to Extend the Removal Deadline for Certain Repaired Concrete Underground Oil Storage Tanks" (C. "A" S-108)

On motion of Representative WATERHOUSE of Bridgton, was removed from the Second Day Consent Calendar.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I was wondering. I was looking at the amendment in the bill and I was wondering what affect, if any, the fact that in the budget we deappropriated money from this issue has on the implementing of the bill?

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 Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. I assume the question regards the groundwater oil clean up fund. What this bill proposes to do is there is an underground concrete oil storage tank in the Town of Waterville, which is owned by Chinet. They have asked for an extension of time to remove this until such time as they can hook into the natural gas pipeline, which will be a couple of years. The committee agreed to it with certain exceptions, which the Department of Environmental Protection agreed to. One of those exceptions deals with the issue if there should be a spill, Chinet would be precluded from accessing funds for cleanup in the groundwater oil cleanup fund. That is in the amendment, which

is (S-108). What it says is that an owner or operator of a concrete underground oil storage tank exempt under this subsection is not eligible for coverage from the fund of cleanup costs and third party damage claim costs under this section. The Chinet Company has obviously agreed to that. This is the only tank in the state that this section would be applicable to. We have been guaranteed there are no others. They have agreed to it. The Department of Environmental Protection has agreed to it and the committee considered this bill and feels there are no environmental risks and should a spill occur, the company will pay for the entire cleanup and they will not access this fund. Thank you.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (S-108) 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 and sent up for concurrence.

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

BILLS IN THE SECOND READING

Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 88) (L.D. 113)

Resolve, to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Microenterprise Needs (H.P. 266) (L.D. 330)

As Amended

Bill "An Act to Require Public Utilities to Pay Excise Tax on Motor Vehicles to the Town in Which the Motor Vehicle is Permanently Stationed" (H.P. 82) (L.D. 107) (C. "A" H-200)

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

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

CONSENT CALENDAR

First Day

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

(S.P. 548) (L.D. 1666) Bill "An Act Concerning the Authority of the Secretary of State to Suspend and Revoke Licenses and Privileges to Operate in Maine" (EMERGENCY) Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-119)

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

There being no objection, the Bill was passed to be engrossed as amended in concurrence. Ordered sent forthwith.

ENACTORS

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 374, Rules Regarding the Traffic Movement Standard of the Site Location of Development Law, a Major Substantive Rule of the

Department of Environmental Protection, Bureau of Land and Water Quality (H.P. 830) (L.D. 1135)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Amend the Report Criteria for a Municipality's Annual Postaudit (H.P. 280) (L.D. 344) (C. "A" H-159)

An Act to Create the Crime of Sexual Misconduct with a Child under 14 Years of Age (H.P. 448) (L.D. 598) (C. "A" H-156)

An Act to Provide for Department of Transportation Assistance in the Rehabilitation of Access Roads to Bridges of Historic Significance (S.P. 198) (L.D. 626) (C. "A" S-92)

An Act to Facilitate Implementation of an Automated Hunters' and Anglers' Data Base System for Hunting and Fishing Licenses and Registrations (H.P. 810) (L.D. 1098) (H. "A" H-179)

An Act to Require that Day Care Facilities for Children and Infants Be Smoke Free (H.P. 848) (L.D. 1153)

An Act to Amend the Maine Children's Trust Incorporated (S.P. 366) (L.D. 1225)

Resolve, Establishing the Commission to Review the Effectiveness of Statewide Confidentiality Laws Dealing with the Care of People with Mental Illness (H.P. 81) (L.D. 106) (C. "A" H-158)

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.

An Act to Increase Health Insurance Benefits for Retired Educators (H.P. 132) (L.D. 174) (C. "A" H-154)

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

On motion of Representative BUCK of Yarmouth, was set aside.

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

Representative BUCK: Mr. Speaker, Men and Women of the House. In regards to item (10-2) I have a question for anyone who may wish to answer. I would like to know if those of us who either are or someday will be retired educators, do we have a conflict of interest in voting for this? If we don't, at least in terms of the spirit of it, since we are under such tight budgets, is it appropriate for those of us who will benefit from this to indeed vote in favor of it?

The SPEAKER PRO TEM: 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 Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House. Some of us in this row couldn't hear Representative Buck and I wonder if he could repeat the question.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Buck for the purpose of repeating his question.

Representative BUCK: Mr. Speaker, Men and Women of the House. The question I have for any member who can respond is for those of us who either are retired educators or eventually will become retired, does voting for this bill constitute a conflict of interest where we will personally and financially gain from this?

If it is not a conflict of interest, at the very least, is it not difficult for us, as legislators, to vote for this knowing the extreme economic conditions that the state is in today? Thank you.

THE SPEAKER PRO TEM: The Chair will respond. It is the ruling of the Chair that it is not a conflict of interest in that no one legislator would be affected any differently from the entire class of retired educators.

In response to a question posed by Representative BUCK of Yarmouth, the Chair ruled that the Bill was not a conflict of interest.

Representative BUCK of Yarmouth 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 PRO TEM: 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. 105

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Bull, Cameron, Campbell, Chick, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Joy, Joyner, Kane, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Lemaire, Lemont, Lindahl, Lovett, Madore, Mailhot, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vedral, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright.

NAY - Buck, Bumps, Dexter, Foster, Goodwin, Jones SA, Joyce, Kasprzak, Layton, MacDougall, Mack, Marvin, Pinkham WD, Plowman, Stedman, Taylor, Tobin, Treadwell, Underwood, Waterhouse, Winsor.

ABSENT - Brennan, Bunker, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jones SL, Kerr, Lemke, Meres, O'Brien, Richard, Tessier, Madam Speaker.

Yes, 115; No, 21; Absent, 15; Excused, 0.

115 having voted in the affirmative and 21 voted in the negative, with 15 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Require Overtime Pay for Employees of Large Agricultural Employers (H.P. 283) (L.D. 347) (C. "A" H-155)

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

On motion of Representative CAMPBELL of Holden, was set aside.

The same Representative moved that the Bill be tabled pending passage to be enacted and specially assigned for Monday, April 28, 1997.

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 PRO TEM: A roll call has been ordered. The pending question before the House is the motion to Table one Legislative Day. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 106

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

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

ABSENT - Baker CL, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jones SL, Kerr, Lemke, Meres, Muse, O'Brien, Richard, Tessier, Vigue, Madam Speaker.

Yes, 65; No, 70; Absent, 16; Excused, 0.

65 having voted in the affirmative and 70 voted in the negative, with 16 being absent, the motion to table was not accepted.

On motion of Representative NICKERSON of Turner, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-155).

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-155) was adopted.

The same Representative presented House Amendment "B" (H-208) to Committee Amendment "A" (H-155) which was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Turner, Representative Nickerson.

Representative NICKERSON: Mr. Speaker, Ladies and Gentlemen of the House. This amendment would allow the workers to receive overtime pay after working 60 hours. That is what most of the workers up there at DeCoster, this is a DeCoster bill, it is the only one in the state that this affects. We will refer to it as a DeCoster bill. The workers up there, if they go to 40 hours a week, they will not be able to stay. The Hispanic workers need over 60 hours to pay their bills and stay here in Maine, otherwise they will have to move, return south, which the majority do not want to do. We had about six come up this morning. They wanted to bring a busload and I told them I thought that would be too many and they would take over the place for us today. What this is going to create is DeCoster is going to hire more workers and they are going to do what Dorothy Egg does, they won't allow over 40 hours. They will keep it down to the 40 hours that way they won't be required to pay the overtime.

I think what we are doing with this bill is we are hurting the workers up there that we are trying to help because if we cut their pay on them, they are going to hurt. I hate to lose them. Our school system is all set up now and they are doing well in our school system. If they have to move, that will hurt somebody

else. Right now, DeCoster employs approximately 313 people and about 50 percent of those are Hispanic. His annual payroll is close to \$6 million a year. His property taxes, Androscoggin County receives \$390,000 a year taxes from DeCoster. He receives approximately 200 tons of feed annually up there. The ones that are really going to hurt if DeCoster should go out of business, all our farmers in a radius of 50 to 75 miles will hurt because they will lose the chicken manure, which is a good fertilizer that raises all their corn, which feeds their cattle. They are the ones that are really going to hurt. Approximately 2,500 acres receive poultry waste right now and at 150 pounds to an acre, they estimate the value at about \$50 an acre. If you want to put this gentleman out of business, I say pass your 40 hour one. If you want to keep the business going and keep Turner prospering, we need the 60 hour limit. They will pay overtime after the 60 hours.

When the vote is taken, I request the yeas and nays.

The same Representative requested a roll call on adoption of House Amendment "B" (H-208) to Committee Amendment "A" (H-155).

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

Representative HATCH of Skowhegan moved that House Amendment "B" (H-208) to Committee Amendment "A" (H-155) be indefinitely postponed.

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

Representative HATCH: Mr. Speaker, Men and Women of the House. I just want you to know that I would like you to vote to Indefinitely Postpone this particular amendment. During the work session, the egg producers sent a lobbyist. The two major producers who this might involve had no problem with this particular bill. They already pay their workers well. They pay them overtime after 40 hours. If you vote for this particular amendment, those people won't receive pay of time and a half after 40 hours unless these egg companies want to do so. I think it is thing. They already do it and they don't have to. I think it would be nice if we passed this bill the way it is originally with the committee amendment. We spent a lot of time in the last year and a half on this particular issue and I think you all know the results of that. If you don't maybe you ought to talk to someone who does. I ask you to Indefinitely Postpone this amendment and proceed with the bill and get it enacted today. Thank you.

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

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

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

Representative VIGUE: Mr. Speaker, Men and Women of the House. What is the average pay that is paid at this place of employment and what will happen if we drive this company out of business? What will happen to these employees that we presently have and making this amount of money?

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House. They are paid minimum wage and I don't believe for a minute that this business will move out of the state.

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

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

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

Representative OTT: Mr. Speaker, Men and Women of the House. I am curious to anyone on the Labor Committee or anyone that can answer what the reaction of the people who, apparently, would be the most directly affected by this feel, the workers themselves, what their attitude or their position was with respect to this overtime request?

The SPEAKER PRO TEM: 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 Lewiston, Representative Lemaire.

Representative LEMAIRE: Mr. Speaker, Men and Women of the House. At the hearing there were many Hispanic workers who were all in support of this bill.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House. I didn't realize this microphone was detachable. The House Republicans caucused earlier as did the Democrats and we had some special guests in our caucus. There were many of the workers from DeCoster. Each and every one of them rose to tell us their concern about this bill. They told us that they needed more than 40 hours. They also understood that there was a possibility of having to pay differently than they do at this point and that the hours would then become 40 hours. Each of them rose and told us their concern about this. Some were with interpreters and we feel that it is an option for them to come and work here. We feel from their words that they enjoy working. They enjoy working the hours, but for their benefit, I feel that this amendment is something that we should be considering and for the workers, we feel that this should be amended to the bill and passed.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House. I would like to repeat what I said the last time that this was debated and I would like to repeat something that came from the Labor Department and I will not do the whole thing, just a paragraph. "We believe that Representative Lemaire's amended version of LD 347 clearly defines the overtime law for this particular industry as was the original intent of the Maine Minimum Wage and Overtime Law as amended in 1976. As such, we are placed to support the clarification of Maine Law." I think it is important for all of us to remember, because I was the sponsor of this bill and worked with the Labor Committee, the Labor Department, the Agriculture Department, the Governor's Office and the agricultural industry. There was no one, let me repeat, no one at this hearing, except one apple grower, who was opposed to this who obviously was not affected.

I would like to just go over a few more points. All of the groups who spoke were represented at that work session, were supportive of this new overtime provision. I think it is unfair to penalize those workers in other egg factories in the State of Maine who are not only paying overtime after 40 hours, but are paying benefits and are paying vacation time, not just minimum wage. We have many companies in the State of Maine who do pay overtime. This is an egg factory, folks, this is not the family farm. I think it is important to also remember that this particular egg factory is a multimillion dollar business. It is also important to remember that this individual owner received \$17 million in federal grain subsidies in order to expand his overseas market. We have a state emblem here. On the state emblem is the word

"Dirigo." One of the meanings of that word is I lead. Let's lead and kill the pending amendment.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I have punched a clock most of my life and will probably continue to do so long after I exit this chamber for the last time. I consider this proposed amendment to be affront, not only to every working man and woman in this state, but to every business that has complied with the law and as to the circumstances, which arise and the necessity of this bill, they are a blemish to the proud tradition on agriculture, which has complied for so long under the laws under the offices of the great seal of this state. Thank you.

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

Representative VIGUE: Mr. Speaker, Men and Women of the House. I think maybe my question wasn't as clear as I had intended to make it. What I would like to know is how much money do these people get every single week? Do they get \$300? Do they get \$400? Do they get \$500? How much do they receive per week?

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House. The answer to the question was minimum wage. I can't tell you what they make because if they work 90 or 100 or 120 hours it is based on the minimum wage scale. They are not paid overtime.

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

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

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

Representative WATERHOUSE: Mr. Speaker, Men and Women of the House. I was wondering, if this is such a bad idea, why any agricultural group or farm is exempt from it?

The SPEAKER PRO TEM: 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 Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House. I didn't catch the tail end of that question, but I assume that it was that if this is such a bad idea, how come other agricultural producers didn't come forward at the hearing? It is not a bad idea.

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

Representative WATERHOUSE: Mr. Speaker, Men and Women of the House. I want to clarify my question. My question was, if this is a bad idea for this agricultural farm or group or whatever or why is any other agricultural farm or group exempt from this provision? That was my question.

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

Representative HATCH: Mr. Speaker, Men and Women of the House. Under this particular thing there are two other farms that will be involved, Davis and Dorothy. They already pay time and a half after 40 hours on their own without the bill. It doesn't affect anyone, but this particular farm.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Turner, Representative Nickerson.

Representative NICKERSON: Mr. Speaker, Ladies and Gentlemen of the House. The remark you just heard about Dorothy Egg paying overtime. They pay overtime, but they don't let anyone work overtime. They are a producer and a processor. That is the reason that they have to pay overtime. If you don't let anyone work overtime, then you are not going to pay overtime. That doesn't go very far.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

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

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

Representative BOUFFARD: Mr. Speaker, Men and Women of the House. As a matter a fact, I have two of them. One of them is that there are two other egg producers in the state. Are they paying time and half over 40 hours? That is the first question. The second question is, if this amendment passes, would those two other egg producer workers lose their time and a half after 40 hours?

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House. Yes, they are paying overtime when they have to. The option for any company or business in the State of Maine is to make a choice to pay overtime if they need to or split shift and then people work 40 hours. That is what the overtime law is. The second question was, would they lose it? The answer is yes.

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

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

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

Representative BUCK: Mr. Speaker, Men and Women of the House. Are there any agricultural occupations in Maine that are not required to pay overtime pay? If there are, why aren't they included in this bill?

The SPEAKER PRO TEM: 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 Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Men and Women of the House. The answer to the question is yes, there are other agricultural occupations that are exempt from overtime. The reason they are not included in this bill is because this is a bill which is targeted strictly for one company and it is an act that is in place because the agencies that were involved and responsible for seeing that these types of conditions didn't happen, did not do their job. Mr. Speaker, if a request has not been made already, I request a vote be taken by the yeas and nays.

Representative JOY of Crystal requested a roll call on the motion to indefinitely postpone House Amendment "B" (H-208) to Committee Amendment "A" (H-155).

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative COLWELL: Mr. Speaker, Men and Women of the House. We keep hearing over and over that this is just a bill for one employer. It is not true. It is not true. It is not true. There are two other egg producers that are affected as well. Maybe if we keep saying it enough, people will understand. The reality is the difference between this and any other farm is that this is not a farm. This is an egg factory. These are factory workers. The notion that somehow requiring DeCoster to meet all the other labor requirements that every other factory in the State of Maine has to meet is bad for business. Frankly, I find it insulting. These are factory workers. Should we suspend the Child Labor laws for this factory? Should we suspend the OSHA Regulations? I guess we don't have to because they have already suspended them themselves, evidently, over there, but I find that insulting to my intelligence and for the intelligence of this House. Representative Nickerson stated that DeCoster would have to hire additional workers instead of paying overtime. If that were true, which, frankly, I doubt, we would be creating new jobs for the people of Maine and surely that would be a good thing. Thank you.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House. The question has been quite clear and Representative Nickerson being very frankly speaking simply stated that they will not get the extra hours. Forty hours is 40 hours. The other two producers do pay overtime, but do, in fact, don't offer those hours to the workers. I heard it loud and clear in our caucus that these workers want the time and want the money and if there are other agricultural workers in the state, which are exempt, we shouldn't be this specific on this bill directing it to just this portion of the industry or this specific factory or business or agricultural service. Thank you.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I think we need to look at a much larger picture here. I don't believe that this is a DeCoster bill. I believe we need to simply look at what is right and what is wrong. What is right is to pay people a wage that they deserve. This is still the United States of America. Forty hours is 40 hours and anything beyond that is beyond that. Thank you.

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

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

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

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House. Not having had the opportunity to follow this all through the committee process, could someone inform me as to whether, at some point, overtime does kick in for these employees and at what point would that be?

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

Representative HATCH: Mr. Speaker, Men and Women of the House. There is only overtime, I believe, for truck drivers who transport the eggs. We have had many, many cases and abuses in the last few years that have gone to attorneys because refusal was made to pay the overtime. We also have and you can check with the Department of Labor, abuses in running two payrolls on one person. I understand what you are saying about these workers who came forth, but I can tell you knowing the

history over 30 years and having dealt with this issue over a year and a half. These people deserve to have overtime. They may be afraid for their jobs. They are being told that they may shorten the hours, but if they do have to hire more workers, do you want the people of the State of Maine to have time and a half over 40 hours? I think they deserve that. I think the workers there deserve it. I don't believe that he is going to hire a mass of people and have to house them. I truly do believe this is a good bill. I believe it will help the Hispanics and it will help any local people who work over there. I ask you to Indefinitely Postpone this amendment. Thank you.

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

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

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. To any committee member or anybody in the House, as far as the classification to DeCoster Egg Farm as a factory, as opposed to an agricultural farm, has the Labor Department made that ruling and classified it as such?

The SPEAKER PRO TEM: 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 Standish, Representative Mack.

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

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

Representative MACK: Mr. Speaker, Men and Women of the House. I would like to ask to anyone who knows these workers who work over 40 hours, if they are being forced to work these additional hours or if they are voluntarily choosing to work these hours to work additional money?

The SPEAKER PRO TEM: The Representative from Standish, Representative Mack has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Turner, Representative Nickerson.

Representative NICKERSON: Mr. Speaker, Ladies and Gentlemen of the House. To answer his question, no, they work overtime because they want to work overtime. They volunteer to work overtime. There are a lot of the workers up there that will work double shifts for about four months and send their money back home and then they take a leave of absence for four to six months and go home and take a long vacation and then they are back here to work another cycle.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Mr. Speaker, Men and Women of the House. I have talked to some Hispanics who felt very much pressured into working overtime. I doubt there are many of us that would appreciate working a 100 to 120 hours a week in an egg farm. I think there are some who, willingly, want to work overtime and I believe there is a great many of them who are forced to have to work overtime.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-208). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 107

YEA - Ahearne, Bagley, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chick, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble,

Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, Mailhot, McAlevey, McKee, Mitchell JE, Morgan, Murphy, 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, Volenik, Watson, Wheeler GJ, Winn, Wright.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Cianchette, Clukey, Cross, Dexter, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McElroy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker CL, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jones SL, Kerr, Lemke, Meres, O'Brien, Madam Speaker.

Yes, 76; No, 63; Absent, 12; Excused, 0.

76 having voted in the affirmative and 63 voted in the negative, with 12 being absent, House Amendment "B" (H-208) to Committee Amendment "A" (H-155) was indefinitely postponed.

Representative SNOWE-MELLO of Poland presented House Amendment "A" (H-207) to Committee Amendment "A" (H-155), which was read by the Clerk.

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

Representative SNOWE-MELLO: Mr. Speaker, Fellow Members of this House. The reason why I voted, originally, against this bill and this is exactly why. I had fear that if the employer had to pay its employees overtime after 40 hours, the employer could easily hire other workers to do the job and then the employees would be behind the egg ball. I also would like to address my good colleague from Gardiner, he commented that maybe it is a good idea that they will have more work because that would provide a job. That is all well and good, but that is not what we are addressing in this bill. Many companies do hire temporary replacement workers to avoid paying overtime, when the need is gone, the extra workers are let go. I believe we must protect the workers and ensure that the employer does what he should and that is in the best interest to the workers. I wrote this amendment trying to offer some form of compromise that would be fair to both the employee and the employer. The amendment offers overtime pay of time and a half to employees working 50 hours or more. Thank you.

Representative HATCH of Skowhegan moved that House Amendment "A" (H-207) to Committee Amendment "A" (H-155) be indefinitely postponed.

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

Representative HATCH: Mr. Speaker, Men and Women of the House. The same reason that you voted down the last amendment, I would ask that you vote down this one. I think it is a bad idea. You are exempting one industry who doesn't need an exemption at this point. I would ask you to Indefinitely Postpone. Thank you.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House. I think this is a good attempt to maintain dollars in these agricultural workers' paychecks. I would appreciate it if

you would vote against the pending motion so that we can adopt something that would maintain, as close to possible, a revenue flow to these workers' paychecks. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Mr. Speaker, Men and Women of the House. My great grandfather fought and, eventually, won the right to a 40 hour work week back at the turn of the century. In those days they worked 14 hour and 11 hour shifts six days a week. They were told at the time that it was essential that these workers work these long hours, but the workers went out and they got the 40 hour work week. Here it is 80 or 90 years later and we are fighting for a small group of workers that have been passed over for a lot of rights in the labor arena. Today, I stand in support of Indefinite Postponement and God speed.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "A" (H-207) to Committee Amendment "A" (H-155).

Representative MACK of Standish requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-207) to Committee Amendment "A" (H-155).

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

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I constantly hear in this House about caring for the working person. I can tell you right now that I have been a working stiff all my life. I worked in the trenches digging out ledge on a hot summer's day with a crowbar and I have worked in construction almost all my life. I can remember years ago when my boss couldn't afford paying overtime and he asked us if we wanted to work Saturday to get some extra pay. I was more than happy to do that. I realize that sometimes when we don't have overtime in certain occupations that maybe there is a requirement that they do work overtime when they don't want to, but I still didn't hear anybody in the House answer my question when I asked it. Has the Department of Labor reidentified this occupation or this business as nonagricultural? If not, and I would be more than willing probably to support having overtime for the 40 hours if this was redesignated as nonagricultural, but until I see that, I can't understand why if we want to do overtime for over 40 hours for this one then why we don't do it for all agricultural?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House. In response to the question by the Representative from Bridgton, Representative Waterhouse, I do not believe the Department of Agriculture has made that determination or separation, however you choose to call it. I think it is fairly obvious to me that there is a different operation from the small apple orchard or the small potato grower or whatever. The difference being is it is not a seasonal operation where they need to bring in the harvest or to plant the crop. It is a year round full time factory operation. That is the difference. I also want to continue. As we sit in this body today and it has been put on our shoulders that it is up to us whether Mr. DeCoster is going to go out of business or not. That is what we are talking about, I guess at this point. I want to know how you all feel about that. You know, corporate welfare has gone a long way. I have seen my share of this. We talk about TIF, well this business is going to close down if we don't get a TIF. This business is going to close down if they don't give us a tax abatement. If the state doesn't provide certain training, then we can't come to the state.

This position lays on Mr. DeCoster's shoulders whether to pay his employees overtime or not. That would be the fair thing to do. If he cared for his workers, he will work out a system to pay them some overtime. If they don't get 80 hours a week, but they get a little bit of overtime, I am happy with that. I am pretty upset with all of this. I live in the next town over, Livermore, next to Turner. I work with some folks that live in Turner and I get raked over the coals everytime I see them. We are going to put DeCoster out of business. It is time for some fairness down there at that farm. It is time that they get their overtime after 40 hours. I just want to say that LD 347 is not a punishment of Mr. DeCoster. It promotes fairness. The workers at DeCoster should be as proud to work there as workers at BIW, where they build the best ships in the world. They should be as proud as Maine papermakers and tradesmen, who help to make the best paper in the world. I am sure the best eggs are also produced in Maine. I believe LD 347 helps to bring dignity and fairness to Maine's workers. It should have been law many years ago. Thank you.

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

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

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

Representative WATERHOUSE: Mr. Speaker, Men and Women of the House. To the good Representative, Representative Berry, I was wondering. You said that this is different because it is not seasonal and having said that would you include dairy farms in your classification?

The SPEAKER PRO TEM: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to the Representative from Livermore, Representative Berry. The Chair recognizes that Representative.

Representative BERRY: Mr. Speaker, Men and Women of the House. It would be my pleasure to present a bill to you that would require time and a half after 40 hours to all Maine businesses. That would suit me just fine. Mr. DeCoster has had an economic advantage over other egg producers in this state and other states because he hasn't paid his full wage. He hasn't paid them for the hours they have worked. I just think it is time that we move forward and bring these workers some fairness. There are local people that work at that plant too. They deserve rights. The right to overtime after 40 hours. Thank you.

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

Representative SNOWE-MELLO: Mr. Speaker, Men and Women of the House. With all due respect, but I give hoots to DeCoster. I care about the workers. By allowing time and half pay after 40 hours, these workers are in clear danger, really, of not getting any overtime at all. I don't know where you people are. Don't you realize that big employers, corporate managers and corporate welfare, don't you realize that what they do when they feel that they are going to have a problem with cost, they go ahead and they do hire other people. When they hire other people, they do it temporarily and that squelches any overtime that these people can get. Please, I think this amendment is a good compromise and I urge you to please support it.

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

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

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

Representative WINSOR: Thank you. Just to clarify what I heard. Does Representative Berry know or maybe he could tell us what the rules are for similar agricultural enterprises in other states? I thought he said that we were giving an unfair advantage in our labor laws here. Thank you.

The SPEAKER PRO TEM: The Representative from Norway, Representative Winsor has posed a question through the Chair to the Representative from Livermore, Representative Berry. The Chair recognizes that Representative.

Representative BERRY: Mr. Speaker, Men and Women of the House. The economic advantage I speak of is the fact that Mr. DeCoster has had such a large operation. He has had a large part of the marketshare and he kept the price down partly because of his reduced wages. When I first became involved in this, I saw records where the documents signed in Texas that stated the wages that the employees would be paid when they came to Maine, on one side, in Spanish, it said \$4.25 an hour and on the English side it said \$4.00. They filed a complaint with the wage and hour division in Maine where they haven't paid hour for hour work. They have a record of not paying the minimum wage. That is an economic advantage in my mind. We have other egg producers in Maine that we can say they don't work overtime, but if they do, they get time and a half. They have to compete against Mr. DeCoster's prices. I think Mr. DeCoster has an excellent product and I think he can compete and still have that advantage of his size. I don't think he has to take it out on the people of Turner or the people of the State of Maine or his employees. Thank you.

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

Representative POVICH: Mr. Speaker, Ladies and Gentlemen of the House. If the good Representative from Bridgton still needs an answer to his question, I would be prepared to give a philosophical answer. This body and the other body determines policy, not the department. We are determining policy right now, at this very moment. Let's have the courage to set policy the Maine way, not the I way.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Turner, Representative Nickerson.

Representative NICKERSON: Mr. Speaker, Ladies and Gentlemen of the House. I would like to answer that question of the overtime pay. The State of Maryland, I understand, they go time and half after 60 hours.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Mr. Speaker, Men and Women of the House. I want to remind the good Representative that this is not Pennsylvania, this is Maine. In answer to the other Representative, Representative Snowe-Mello, the same threats were used against my grandfathers and my father years ago that if they dared ever want to work just a 40 hour week and spend some of their time with their family, the papermills would dry up and blow away. The papermills are still here and they are going to be here for some time to come. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-207). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 108

YEA - Ahearne, Bagley, Baker JL, Berry RL, Bolduc, Bouffard, Brooks, Bruno, Bull, Bunker, Cameron, Chick, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, McAlevey, McKee, Mitchell JE, Morgan, Murphy, 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, Volenik, Watson, Wheeler GJ, Winn, Wright.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Campbell, Cianchette, Clukey, Cross, Dexter, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McElroy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winsor.

ABSENT - Baker CL, Brennan, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jones SL, Kerr, Lemke, Meres, O'Brien, Winglass, Madam Speaker.

Yes, 78; No, 59; Absent, 14; Excused, 0.

78 having voted in the affirmative and 59 voted in the negative, with 14 being absent, House Amendment "A" (H-207) to Committee Amendment "A" (H-155) was indefinitely postponed.

Subsequently, Committee Amendment "A" (H-155) was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-155). The Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

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

**ENACTORS
Emergency Measure**

An Act Concerning the Authority of the Secretary of State to Suspend and Revoke Licenses and Privileges to Operate in Maine (S.P. 548) (L.D. 1666) (C. "A" S-119)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

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

Divided Report - Committee on **Health and Human Services** - (9) members **"Ought to Pass"** - (4) members **"Ought Not to Pass"** on Bill "An Act to Clarify Liability Coverage" (S.P. 233) (L.D. 802) which was tabled by Representative SAXL of Portland, pending acceptance of either Report.

Representative MITCHELL of Portland moved that the House accept the Minority **"Ought Not to Pass"** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that would provide special liability coverage for psychiatrists, who under contract with the state, to provide many of the functions that are provided with the state, to serve particular clientele that have been moved out of AMHI and to provide the psychiatric services within AMHI.

The state has, for years, provided this special liability coverage for psychiatrists who they employ as individuals. What this bill would do is to provide coverage to the company that the state is contracting with to guarantee them long-term psychiatric coverage for the patients at AMHI. The problems in the Mental Health System for these past several years has been a lack of continuity in psychiatric services. In negotiations, between the department and Liberty Health Care, an agreement was reached in principle that an effort would be made to provide this liability coverage. The impact of the extension of the state immunity would reduce the cost of the contract by several hundred thousand dollars. We believe that the extension of this liability protection is really a continuation of the principle that the state has operated under for many years in the departments contracting for psychiatric services. Thank you.

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

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. Representative Kane is absolutely right. This does extend what the state offers for liability coverage to a private company. I do not know that that is something that we want to set a precedent for. However, the continuity of coverage that we are concerned about here is not going to be threatened because the contract has already been signed. What this does is it saves the company \$200,000 to \$300,000, but it is already signed. We will have these practitioners in place with or without this liability coverage.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I just want to clarify my position relative to this issue. As has already been indicated, passage of this bill would save Liberty Health \$200,000 to \$300,000. However, as also noted, the contract has already been signed and there is absolutely nothing that we heard in hearings and ask the question, also, that says the contract is going to be renegotiated to reduce the amount of the contract by \$200,000 to \$300,000. So as long as we are still paying for them to have their own liability insurance coverage, I see no justification for extending the state's liability.

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

Representative QUINT: Mr. Speaker, Ladies and Gentlemen of the House. I just want to echo what Representative Fuller said. The contract has already been signed and if, in fact, we do provide this waiver for this private company they, in fact, will save \$200,000 to \$300,000, but that savings will not be passed on to the state. I think it is important to know that. I think it is also important to remember that a certain amount of liability for anybody who is providing services to those folks at AMHI ensure a certain quality of care. When you lift that liability from those people providing that care, it is safe to assume that the level of care may, in fact, be jeopardized. A lot of people provide care and I think we need to ensure that. I would support the Minority Report "Ought Not to Pass."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Mr. Speaker, Men and Women of the House. It is my understanding that the Department of Mental Health already has incorporated in its contract with Jacksonbrook Institute as well as Acadia Hospital the same kind of provision. The extension of this would merely be consistent with existing practices. Thank you.

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

Representative CAMPBELL of Holden requested a roll call on the motion to accept the Minority "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 PRO TEM: The Chair recognizes the Representative from Hampden, Representative Plowman.

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

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. In fact, I would like to ask this to the Chair. Is this in line with what the Maine Tort Claims Act is intended for? An earlier decision by this body to include an independent contractor under the Maine Tort Claims Act was not found to be under the Maine Tort Claims Act. Can someone tell me what makes this different when we have physicians, psychiatrists or psychiatric nurses performing in an independent contracting position? Why does it bring them under the Maine Tort Claims Act? Thank you.

The SPEAKER PRO TEM: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House. I am sorry, but I did not understand the question.

The SPEAKER PRO TEM: Does the Representative from Hampden care to repeat her question?

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

ROLL CALL NO. 109

YEA - Bagley, Berry RL, Bolduc, Brooks, Buck, Bull, Bunker, Chick, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Etner, Farnsworth, Fisher, Fuller, Gagne, Gamache, Gieringer, Goodwin, Green, Hatch, Jabar, Jones KW, Joy, Kontos, Labrecque, LaVerdiere, Lemaire, McKee, Mitchell JE, Murphy, Muse, O'Neal, Perry, Pinkham WD, Povich, Powers, Quint, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Tripp, True, Volenik, Waterhouse, Watson, Wheeler GJ, Wright.

NAY - Ahearn, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Bumps, Cameron, Campbell, Cianchette, Clukey, Cross, Desmond, Dexter, Dutremble, Foster, Frechette, Gagnon, Gerry, Gooley, Honey, Joyce, Joyner, Kane, Kasprzak, Kneeland, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Morgan, Nass, Nickerson, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Plowman, Poulin, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Tobin, Townsend, Treadwell, Tuttle, Underwood, Usher, Vedral, Vigue, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Baker CL, Brennan, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jones SL, Jones SA, Kerr, Meres, O'Brien, Richard, Shannon, Thompson, Madam Speaker.

Yes, 59; No, 76; Absent, 16; Excused, 0.

59 having voted in the affirmative and 76 voted in the negative, with 16 being absent, the motion to accept the Minority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Senate Amendment "A" (S-117) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, April 28, 1997.

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

Divided Report - Committee on **Health and Human Services** - (7) members reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-89) - (6) members reporting "**Ought Not to Pass**" on Bill "An Act to Require Certain Employees of Health Care Facilities to Wear Identification Badges" (S.P. 288) (L.D. 939) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

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

The Bill was read once. Committee Amendment "A" (S-89) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, April 28, 1997.

Divided Report - Committee on **Labor** - (8) members reporting "**Ought Not to Pass**" - (4) members reporting **Ought to Pass**" as amended by Committee Amendment "A" (H-204) on Bill "An Act Increasing the Number of Members of the Board of Trustees of the Maine State Retirement System" (H.P. 427) (L.D. 577) which was tabled on motion of Representative HATCH of Skowhegan pending acceptance of either report.

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

Divided Report Committee on **Legal and Veterans Affairs** - (12) members reporting "**Ought Not to Pass**" - (1) member reporting "**Ought to Pass**" on Bill "An Act to Prohibit the Sale of Kegs of Beer to Individuals" (H.P. 806) (L.D. 1094) which was tabled by Representative TUTTLE of Sanford pending his motion to accept the Majority "**Ought Not to Pass**" Report.

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

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.

An Act to Increase the Certification Fee Cap for the Board of Geologists and Soil Scientists (H.P. 363) (L.D. 508) (C. "A" H-130)

- In House, Failed of Enactment on April 14, 1997.

TABLED - April 15, 1997 by Representative KERR of Old Orchard Beach.

PENDING - Motion of same Representative to reconsider failing of Passage to be Enacted.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House. This only increases the cap for the geologists from a present \$65 to \$80. Basically what we do in Business and Economic Committee is we supervise all of these fees. We do not take it lightly when we recommend an increase of any fee. Therefore, we are asking for this \$15 increase. This will allow the Board of Geologists to go to a national exam. Presently they are using a state examine which is made up by volunteers. The last time they put it together was 1990. The cost of putting these

exams together in the state is as great as it would be, for say, the national exam. Therefore, they are asking for a temporary increase of \$15 with the idea of returning to the existing \$65 in the future after this is all incorporated into their new plan. I ask you to support the increase. Thank you.

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

Representative WRIGHT: Mr. Speaker, Men and Women of the House. I, too, support this bill. Right now the board voluntarily puts this together. Last time they did that was in 1990. They spent 52 hours doing this. I think it unfair to ask the board to volunteer their time to do this. What a national exam would do would promote professionalism in their department. The department administers the exam, they don't put it together. There will be staff decrease by going national. There are currently at least 10 boards that go with national exams and, also, there is help for a greater mobility that will allow these people to go to other states and work. This is a good increase. It is a very minimal increase and I urge you to support this bill.

The House reconsidered failing of passage to be enacted.

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

An Act to Ensure Fairness to Merchants under an Implied Warranty of Merchantability (H.P. 405) (L.D. 550)

TABLED - April 15, 1997 by Representative KONTOS of Windham.

PENDING - Reconsideration. (Returned by the Governor without his approval)

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House. Basically, I would ask you to support the Governor's veto. What we had done through the committee is that the expansion or the changes that we made brought in laws that were not intended. Therefore, they were reducing the consumers' right and benefits. Rather than reduce the consumers benefits or rights under the law, we have met with the Governor's staff people and we will be proposing a separate bill by the committee that will be introduced probably next week. I ask you to sustain the Governor's veto and we will bring this back and do what the intent of the legislation was in the first place. Thank you.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House. I concur with the Representative from Winslow. I was the sponsor of this bill and concur with the speaker previously.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to add my 5 cents, if you will. The issue is extremely important. I would only ask that when we do bring the committee bill back that you do support it because it is a consumer and specifically it is a small business benefit bill, which is why we passed it. We just need to rewrite it. I would encourage you to support it when we bring it back. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is shall this bill become a law notwithstanding the objections of the Governor? According to the Constitution of the State of Maine a two-thirds vote of the members present and voting is necessary to override the objections of the Governor. According to the Constitution the

vote will be taken by the yeas and nays. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 110V

YEA - Goodwin, Jones KW, Joy, Kasprzak, Lemke, Nickerson, Plowman, Snowe-Mello, Underwood, Vedral.

NAY - Ahearne, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Chick, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jones SA, Joyce, Joyner, Kane, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Ott, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Poulin, Povich, Powers, Quint, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Usher, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright.

ABSENT - Baker CL, Brennan, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jabar, Jones SL, Kerr, Meres, O'Brien, Paul, Richard, Shannon, Madam Speaker.

Yes, 10; No, 125; Absent, 16; Excused, 0.

10 voted in favor of same and 125 against, with 16 being absent, and accordingly the veto was sustained and sent up for concurrence.

On motion of Representative KONTOS of Windham, the following item was removed from the Tabled and Unassigned matters:

Bill "An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities" (H.P. 469) (L.D. 640)
TABLED - April 9, 1997 by Representative KONTOS of Windham.

PENDING - Adoption of Committee Amendment "A" (H-149)

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

Representative LINDAHL: Mr. Speaker, Men and Women of the House. I just got used to saying Mr. Speaker and then they switch on me. I want to speak on this bill, here. For me, if you want to leave, I am going to talk long. There is good news and bad news for me. This is going to be a long speech, but the good news is, compared to other people's short speeches, I will be brief.

This bill requires that all motor vehicle accidents involving fatalities, if the vehicle is registered in excess of 10,000 pounds, that the State Police or an accident reconstructionist be called to the scene, along with commercial vehicle enforcement. I believe the intent of this bill is that when commercial vehicles such as a tractor trailer is involved in a fatality that it be reconstructed. I agree with that. I think it should happen. I just don't believe we have to make it a law that this happens. Currently, 70 percent of these accidents are investigated by reconstructionists. All of these accidents cannot be reconstructed. I know. I was an accident reconstructionist. I was a member of the first class of certified accident reconstructionists trained by the State Police.

Like I say, the intent of this bill is that the State Police be notified, commercial vehicle enforcement unit and a certified reconstructionist. I thought that this would be a mandate where a local agency responding to a fatal motor vehicle accident goes

to the scene and realizes it is fatal and they have to notify the State Police and a certified reconstructionist to come to the scene. I thought that this would probably require the local agency to stay at the scene and may incur overtime. However, the Attorney General's ruling came back that this is not the case. Reading from his ruling he says, "Since the proposal itself neither requires the person receiving the notice to respond, nor that the scene of the accident be maintained until they do, it cannot be viewed as imposing a mandate." What this is saying is that this law only requires that they be notified. It does not require that they come to the scene or if they are going to come to the scene, it doesn't require that the local agencies stay there and maintain continuity of any evidence that may be gathered. That is not what the intent of this bill was. The intent of this bill was that they be reconstructed.

Again, let me reiterate. I feel that it says that any vehicle that is registered in excess of 10,000 pounds, that you have to call commercial vehicle enforcement. This could be somebody who has a three-quarter ton pickup and they register in excess of 10,000 pounds so they can tow their stock car to Unity or wherever on the weekend and he gets involved in a fatality, that you call commercial vehicle enforcement to the scene. There is no need for commercial vehicle enforcement to come to the scene. This is just somebody's pickup truck. The same thing goes that if it is a farm truck and he is hauling hay, his registered weight is 18,000 pounds or 26,000 pounds and he is on a back road someplace and he goes off the road and is killed or someone in the vehicle is killed, you have to call commercial vehicle enforcement to the scene. There is no need of this. The intent of the bill is good. I agree with the intent of the bill that these accidents be reconstructed. No problem. However, I don't believe we have to make it law.

There are some that the Maine Chiefs of Police Association want this bill. I spoke to John Martin, President of the Maine Chiefs Association yesterday and he said, no, they signed off on the bill because it allows you to call a certified reconstructionist from the State Police or any local agency around. We don't necessarily want this bill. Any chief that wants to make this can put it in their standard operating policy that they respond and that their local officers call reconstructionists. They can do this by policy. We do not have to make a law stating that they do this. If you have a single motor vehicle fatality and say it involves a tractor trailer, the driver goes to sleep and drives straight off the road with no skid marks hits a tree and a bridge abutment and gets killed. An accident reconstructionist can do very little with this scene.

The tragedy that happened in South Portland a couple of weeks ago. If that had involved a tractor trailer that was parked at the toll booth paying his toll and that same drunk driver that came down the turnpike and killed those two people, if he had run into the back of that tractor trailer and killed himself, just himself, we would have required an accident reconstructionist to come there. We would have required commercial vehicle enforcement to come to the scene and they would review this driver's log book and any defects that may be wrong with the vehicle and these would not be contributing to the fatality. It would have been this drunk driver that did it himself. This accident does not require a reconstructionist. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Ladies and Gentlemen of the House. I was not going to get up on this because we debated it and debated it. The good Representative that just spoke, his question was whether this was a mandate or not the last time we met. We got the answer to a lot of paperwork and shuffling around. We got the answer for him and

he still has a problem with this. I have a problem with him having a problem with this bill, personally.

The SPEAKER PRO TEM: The Chair would caution the Representative to direct his comments towards the bill.

Representative WHEELER: The Department of Public Safety is for this bill. The Maine Chiefs of Police is for this bill. I met with John Martin, head of the Maine Chiefs of Police out in the hall last week and he was shocked that this bill was going through so much commotion in the House. This is a good bill. We owe it to the families that have members die in car accidents related with trucks or buses. I urge your support on this bill.

Representative BULL of Freeport requested that the Clerk read the Committee Report.

The Committee Report was read by the Clerk in its entirety.

The Chair ordered a division on the motion to adopt Committee Amendment "A" (H-149).

Representative JOYCE of Biddeford requested a roll call on the motion to adopt Committee Amendment "A" (H-149).

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from China, Representative Bumps.

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

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

Representative BUMPS: Mr. Speaker, Ladies and Gentlemen of the House. I was just wondering, in 1996, if anyone could tell me how many accidents involving a bus, tractor trailer or truck that weighs more than 10,000 pound, occurred in this state and of those accidents, how many of those were investigated by an accident reconstructionist?

The SPEAKER PRO TEM: The Representative from China, Representative Bumps has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Ladies and Gentlemen of the House. I believe we have statistics for 1996. I believe there were 14 fatalities and I believe 65 or 70 percent was reconstructed. I think the previous year there were upwards of 30. This number fluctuates, but the numbers that have been reconstructed have been increasing because the Chief of the State Police sent out a letter to all police agencies saying that this service was available and that if it involves possible criminal action against the operators or the people involved that they should be reconstructed. That is fact and they should be. If it is a single vehicle operator, deceased, then there is no need for reconstruction. Thank you.

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

Representative CLUKEY: Mr. Speaker, Men and Women of the House. I hope you will support this bill. What this bill is designed to do is improve the quality of commercial vehicle fatal accidents in this state. You voted last week 113 to 34 to support this bill and it got held up because the good Representative from Northport requested whether or not it was a mandate. Well, he got his answer that it is a mandate. I hope you will continue to support this bill as you did last week. Thank you.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House. I believe I may have said it was a mandate. It is not a mandate.

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

Representative LINDAHL: Mr. Speaker, Men and Women of the House. I agree that it is not a mandate, but also in his ruling, it says it doesn't require them to do anything. It just requires that they be notified. I believe the intent was to have these reconstructed and this bill does not require that. Thank you.

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

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that I originally put in. It does exactly what I wished it to do, which is that every fatality has the best possible investigation, either by the State Police or the locality that has the ability to do it. It is not a mandate.

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

Representative DRISCOLL: Mr. Speaker, Men and Women of the House. The good Representative Lindahl did ask for a mandate and we did go through with that and Representative Wheeler went to the Attorney General and he got a ruling back that it was not a mandate and we have debated this, as thoroughly in committee, and it came out "Ought to Pass" and the vote here was 113 to 34. This is a necessary bill. Law enforcement in committee went along with this bill and I think we should go along with "Ought to Pass." Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is adoption of Committee Amendment "A". All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 111

YEA - Ahearn, Bagley, Baker JL, Belanger IG, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Bull, Bunker, Campbell, Chick, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Gooley, Green, Hatch, Honey, Jones KW, Kane, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lovett, MacDougall, Mailhot, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Paul, Peavey, Perry, Pieh, Pinkham RG, Pinkham WD, Poulin, Povich, Quint, Rines, Rowe, Samson, Sanborn, Savage, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, True, Tuttle, Usher, Vedral, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright.

NAY - Barth, Belanger DJ, Berry DP, Brooks, Bruno, Buck, Bumps, Cameron, Cianchette, Cross, Dexter, Gieringer, Jones SA, Joy, Joyce, Joyner, Kasprzak, Lane, Layton, Lemont, Lindahl, Mack, Madore, Marvin, McAlevey, Nass, Nickerson, Ott, Pendleton, Perkins, Plowman, Powers, Snowe-Mello, Spear, Stedman, Taylor, Treadwell, Underwood, Waterhouse, Wheeler EM, Winsor.

ABSENT - Baker CL, Brennan, Carleton, Chartrand, Chizmar, Donnelly, Fisk, Jabar, Jones SL, Kerr, Mayo, Meres, O'Brien, Richard, Saxl JW, Shannon, Vigue, Madam Speaker.

Yes, 92; No, 41; Absent, 18; Excused, 0.

92 having voted in the affirmative and 41 voted in the negative, with 18 being absent, Committee Amendment "A" (H-149) was adopted.

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

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-149) and sent up for concurrence.

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

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

SENATE PAPERS

The following Joint Order: (S.P. 613)

ORDERED, the House concurring, that when the House and Senate stand Adjourned they do so until Monday, April 28, 1997, at 10:00 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

SENATE PAPERS

Bill "An Act to Improve the Delivery of Mental Health Services in Maine" (S.P. 615) (L.D. 1814) (Governor's Bill)

Came from the Senate, referred to the Committee on **Health and Human Services** and Ordered Printed.

Was referred to the Committee on **Health and Human Services** in concurrence.

Bill "An Act to Enhance the State's Work Force Development System" (S.P. 616) (L.D. 1815)

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Wheeler who wishes to speak on the record.

Representative WHEELER: Mr. Speaker, Ladies and Gentlemen of the House. I would like to apologize to the Representative from Northport for getting confused in the debate and stating things the way I did.

The SPEAKER PRO TEM: The Chair apologizes to the Representative from Eliot.

On motion of Representative MAILHOT of Lewiston, the House adjourned at 12:45 p.m., until 10:00 a.m., Monday, April 28, 1997.