

# 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  
24th Legislative Day  
Monday, May 12, 1997

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

Prayer by Reverend Arthur W. Greeley, National Association of Congregational Christian Churches (retired).

Pledge of Allegiance.

Doctor of the day, John A. James, M.D., Auburn.

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By unanimous consent, unless previous notice is given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk be authorized for the remainder of the session to send to the Senate, thirty minutes after the House recesses, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence; and that after such matters have been so sent to the Senate by the Clerk, no motion to reconsider will be allowed.

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The Journal of Friday, May 9, 1997 was read and approved.

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**SENATE PAPERS**

The following Joint Order: (S.P. 648)

**ORDERED**, the House concurring, that the Joint Standing Committee on Legal and Veterans Affairs report out a bill, "An Act Concerning Acceptance of Campaign Contributions during Legislative Sessions," to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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**Non-Concurrent Matter**

Bill "An Act Regarding the Harvesting of Periwinkles in the Unorganized Townships" (H.P. 359) (L.D. 482) on which the Majority "**Ought to Pass**" Report of the Committee on **Marine Resources** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-252) as amended by House Amendment "A" (H-319) thereto in the House on May 6.

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

On motion of Representative GOODWIN of Pembroke, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

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**Non-Concurrent Matter**

Bill "An Act to Repeal the Presidential Primary" (H.P. 645) (L.D. 898) on which the Minority "**Ought to Pass**" Report of the Committee on **Legal and Veterans Affairs** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-336) in the House on May 7, 1997.

Came from the Senate with the Majority "**Ought Not to Pass**" Report of the Committee on **Legal and Veterans Affairs** read and accepted in non-concurrence.

Representative TUTTLE of Sanford moved that the House Recede and Concur.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. I would hope that we could defeat this motion that is before us so that we could move on to the position of insisting and asking for a Committee of Conference. I think we need an opportunity to convince the other body of their voting error and the wisdom that this body chose the other evening.

Throughout the history of this Presidential primary people have advocated for, the argument was made that it would put Maine on the map. I think Maine people are pretty shrewd, that we don't need a presidential primary to attract national politicians to Maine and if they aren't seen in Maine, Maine people can make a very clear judgment about where their vote will be cast. We had very clearly taken a position the other night that this is a position that presidential primaries that benefits only the political parties and a handful of political junkies.

We heard the other night that only 16 percent of the Maine people voted in that presidential primary. There is a reason, unless I'm corrected, there are no delegates connected with that presidential primary. We have a dual system. We go through a beauty contest, or a straw ballot, whatever you want to call it, doesn't mean anything. We still go through the caucuses and there select their delegates to the state convention and that's where our delegates are selected. We have a dual system. The problem is for the Maine taxpayer, especially your property taxpayers back home, is that they pick up the cost locally of administering that presidential primary that no one comes to. They also pick up the cost of the clerk and the advertisements for that caucus, where the real selection starts. So if we are going to keep this presidential primary, maybe there's a couple other things we need to do. Indicate to the Maine people that when you come to this contest, you pick the delegates, not the caucus, not the party convention. If you're going to do the vote, you get to pick the delegates. We don't trust them, just a beauty contest, a straw ballot. The other thing, maybe we ought to think about is that if we are going to have this presidential primary, let the political party pick up the tab. Republican chairman could host teas at his home to raise the money. Democratic chairman could rent out the back room and raise the money, but it shouldn't be the property taxpayers that are picking up the tab. Many of you were municipal officials, many of you still are, and I learned at a very early age, political age, to judge the cost of unfunded mandates by the number of houses down a road and whether its worth it and I can't go back to my town and justify that their property tax for one or two homes is going to go for a political junkie contest that doesn't mean a thing. The motion that is before us is to Recede and Concur and I would hope that we could defeat that motion and move to Insist and concur and maybe educate the other body. They may not be aware of that, they may think that this presidential primary really does something, means something. We ought to have an opportunity to show them their error and put them on the right path. Thank you.

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

Representative TUTTLE: Thank you, madam Speaker, I would request a roll call.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I would hope that we would support the motion to Recede and Concur, as I mentioned to this body in earlier debate, voter participation was five times higher than the estimated 20,000 Democrats and Republicans who participated in the caucuses in the past. In my opinion, and of many of the

people I talk to, the primary is an effective way to involve more people in the process. It is still the option of each major political party whether or not to participate based upon the determination that there is a contest. For my research I've found that, I thought that 28 states hold primaries, but from doing further research, 33 states in our nation hold presidential primaries. We have only held one primary and in my opinion, it makes sense that we at least try it one more time, particularly given the fact that President Clinton will not be running again and it is quite likely that both parties will see a tremendous amount of activity and increased interest in the next presidential primary. Yes, this is a mandate, but democracy sometimes has a price tag. If the presidential primary is a mandate, we could also say the same for all general elections, regular primaries, or special elections. I would suggest that you support the pending motion to Recede and Concur.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I rise also to ask you to defeat the pending motion. Very quickly, I'll tell you the communities, the town fathers, if you will, select persons in the communities I live in, feel exactly the same way that my good friend from Kennebunk expressed, that if the political parties want it, let them pay for it. They don't want to pay for it, the people in the community weren't interested, except for a very small group, and it is a mandate, no matter how you cut it. Representative Tuttle has indicated that democracy has a price and that is absolutely true, but the people that pay that price are the ones that should have the decision and they have indicated to me very clearly that they do not support this. Thank you.

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

Representative GAMACHE: Madam Speaker, Men and Women of the House. I find this kind of regrettable that we are asked to oppose this motion on the basis that it is going to cost our communities a bit of money. Certainly nothing is more important than to broaden the participation of our people. The presidential primary gives people a chance to reflect a little bit more on what they are doing, who they are planning to elect. I'm sure you'll agree with me that there are grounds to hope for ample opportunity to think about who we are about to elect. We don't always seem to be doing or making the best choice. So I urge you to vote with me for the motion. Thank you.

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

**ROLL CALL NO. 167**

YEA - Ahearn, Baker JL, Berry RL, Bolduc, Bouffard, Brooks, Bull, Bunker, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dutremble, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Green, Jabar, Jones KW, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Madore, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, Paul, Pendleton, 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, Vigue, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Dunlap, Etnier, Fisher, Fisk, Gerry, Gieringer, Goodwin, Gooley, Hatch, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy,

Meres, Murphy, Nass, Nickerson, O'Brien, O'Neil, Peavey, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, True, Underwood, Usher, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Baker CL, Brennan, Campbell, Chartrand, Foster, Kasprzak, Ott, Treadwell.

Yes, 68; No, 75; Absent, 8; Excused, 0.

68 having voted in the affirmative and 75 voted in the negative, with 8 being absent, the motion to Recede and Concur did not prevail.

On motion of Representative MURPHY of Kennebunk, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act to Amend Criminal OUI Penalties Concerning Suspension of a Motor Vehicle Driver's License" (H.P. 1321) (L.D. 1870) (Presented by Representative COWGER of Hollowell) (By Request) (Cosponsored by Senator KILKELLY of Lincoln and Representatives: COLWELL of Gardiner, SAXL of Bangor, WATSON of Farmingdale)

Reference to the Committee on **Criminal Justice** suggested.

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

**SPECIAL SENTIMENT CALENDAR**

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

Recognizing:

the following members of the Odyssey of the Mind Team of the Miller School and the A.D. Gray School, of Waldoboro, who won the State Championship: Nick Seaver, Helen Bess, Joel Cartwright, Hannah Lackoff, Anna Drapkin, Chelsea Cartwright and Ben Mohlie and coaches Nancy Hicks, Marilyn Bess and Lindsey Belyea. We extend our congratulations and best wishes to them on their excellent academic and creative achievement and wish them luck in the world finals that will take place in June at the University of Maryland; (HLS 474) by Representative SPEAR of Nobleboro. (Cosponsor: Senator KILKELLY of Lincoln)

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

On further motion of the same Representative, tabled pending passage and specially assigned for Tuesday, May 13, 1997.

Jared Dubreuil, of Boy Scout Troop #606, who has attained the high rank and distinction of Eagle Scout. Jared is a native of Winthrop and is currently a student at Brigham Young University, Provo, Utah. We extend our congratulations on this occasion; (HLS 478) by Representative MCKEE of Wayne. (Cosponsor: Senator TREAT of Kennebec)

On objection of Representative MCKEE of Wayne, was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending passage and specially assigned for Wednesday, May 14, 1997.

**REPORTS OF COMMITTEES  
Divided Report**

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Repeal the Guiding Principles of the Learning Results System" (H.P. 503) (L.D. 694)

Signed:

Senators: PENDLETON of Cumberland  
CATHCART of Penobscot  
SMALL of Sagadahoc

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

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

Signed:

Representatives: SKOGLUND of St. George  
STEDMAN of Hartland

Was read.

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

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

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#### Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Authorize the Unfunded Portion of the School Cost for the Development of the Poland High School Project to be Funded in 1997 and 1998" (H.P. 607) (L.D. 832)

Signed:

Representatives: WINSOR of Norway  
KERR of Old Orchard Beach  
POULIN of Oakland  
KNEELAND of Easton  
STEVENS of Orono  
TOWNSEND of Portland  
MARVIN of Cape Elizabeth  
OTT of York  
BERRY of Livermore

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-425) on same Bill.

Signed:

Senators: MICHAUD of Penobscot  
CLEVELAND of Androscoggin  
BENNETT of Oxford

Representative: LEMAIRE of Lewiston

Was read.

Representative KERR of Old Orchard Beach 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.

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#### Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Have

One Standard of Measurement for School State Assessment Examinations" (H.P. 621) (L.D. 846)

Signed:

Senators: PENDLETON of Cumberland  
CATHCART of Penobscot  
SMALL of Sagadahoc

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

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

Signed:

Representatives: SKOGLUND of St. George  
STEDMAN of Hartland

Was read.

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

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Madam Speaker, Ladies and Gentlemen of the House. You'll see my name is on the Minority "Ought to Pass" Report. They have one standard of measurement for state assessment examinations. On our Maine State Assessment tests, children put down their parent's occupation and their parent's education experience, whether their parents went to elementary school, high school, college or beyond college. For each school a rating is determined by the State Department of Education to determine whether or not this school is in a well educated, affluent community or a less affluent, not quite so well educated community. The expectation is that children from less affluent communities are not going to do so well. This is what is called the comparison score ban. Very difficult to get a grip on exactly what that means, but it means to me that even though we expect all children can do well and all children should do better, we are not rating them the same. We're committing an excuse for children who come from less affluent backgrounds to do poorly. Now I will agree, having been a teacher for many years, that there is some justification for this expectation. What I resent most is the assumption that because a child's father was a fisherman or worked in the woods, that child is not so likely to do well. One thing I have always enjoyed about the State of Maine is that here we don't rate a person according to his occupation. We value a person according to his contributions to the community and society, not to how he earns a living. When I go to the dump on Saturday morning, I'm likely to find a judge there, or to find the principal of the school, everyone is pretty much the same in these Maine communities and I hate to see us start to rate people according to their occupations, which is what this state examination does. It rates people according to their occupations and judges their children accordingly. I hope you will not vote for the Majority "Ought Not to Pass" and will support the Minority "Ought to Pass" Report. Thank you.

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

Representative STEDMAN: Madam Speaker, Men and Women of the House. I'm also on the Minority side on this particular issue and I only want to offer one piece of information and it comes from a book that we received called *Success Begins With Education* which is put out by the Maine Coalition of Excellence in Education. In that book it says that research has

shown that we can best predict children's likely level of learning success based on their family socio-economic status and level of parental education. As long as student success depends on these factors, we know that many of our children will fail, but we can change this relationship. We should dispel the perception that schools can not be effective with some children and instead require schools to adapt instruction to the unique learning needs of each student. This tells me that even in the elite's of the educational field, they recognize that this could be an impediment or barrier to success in the local schools, and by using the bands to identify these people, you are already setting them up for failure. Thank you.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. There is confusion on the bands, and we who voted in the majority felt that the confusion eliminated the problem.

Students are not judged individually regarding their parent's background, their parent's education, where they live. It is felt that originally, there was meant to be no comparisons, these tests were not meant to be printed in the paper, but they are subject to the public access laws, so they were printed in the paper and it was felt that when they started printing them in the papers, that sometimes it was not fair for the public that was looking at them and making comparisons and so they had to come up with some way to determine why it might be that even though students were scoring well in one school, that did not compare to students scoring well in another school. I don't feel, and I think the majority of the committee did not feel, that this in any way bands or names a student as being poor or coming from a poor area. It is just trying to put them in groups that are like groups.

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

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

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

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I think that the two gentlemen that have spoken in opposition to the motion that's on the floor were speaking correctly. If this practice had been in the educational system at the time when I went through school, all 13 of us in that family would have been programmed for failure. Despite the fact that my mother attended normal school and taught, my father had to go to work and didn't get through the 6th grade. So putting that on a form that you had to fill out would certainly indicate, under today's standards, the likelihood for failure and yet, having been a math teacher and taking many courses in mathematics in both the regular level and on the higher level, I found that there were things that my father could do in mathematics that I still have not gained complete mastery of. He could take apart any combustion engine, tear it all apart, see what was wrong with it, put it back together again and in my lifetime and that I knew him, I never knew him to fail to be able to fix one of those engines. In fact, he worked for many companies, and any time that a new woods operation would come into the area, the first person they would visit would be him to find out whether he could do the mechanics.

This system that we have is not a good system. Any time that you start making excuses for children not doing well, then we have some serious problems in our educational system. I have taught in schools that were considered rather poor areas of

the state for many years. Many of those students who came from very poor backgrounds, and backgrounds where their parent were not well educated have gone on to become doctors, lawyers, research scientists, and the list goes on and on. I ask you to defeat the pending motion and turn this over and let's develop one standard measurement for school assessment. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. This is a practice system which I find reprehensible, I thought we'd gotten away from categorizing people in groups, and particularly their socio-economic grouping. I will agree with the Representative from Crystal, I graduated from an academy. There were 25 in our class, now according to this kind of thing, we weren't going to amount to anything. Now I can tell you some of those kids were very poor, but they've gone on to be leading businessmen, lawyers, writers, what have you in the State of Maine and I would hate to think that when my father was teaching or my mother was teaching in those schools, they would have to do this kind of thing, because they treated every kid the same, whether they were poor or not. I think this is one of the most insensitive, callous types of bureaucratic policy we have in education and I urge you to vote against the pending motion.

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

Representative MCELROY: Madam Speaker, Ladies and Gentlemen of the House. The way that I understand the bands, it is set on communities, it has little or nothing to do with the individual student, how well they do, where their mother came from, where their father came from, it's whether they have mothers or fathers, it has to do with the socio-economic comparison between one community in the state and other communities in the state to see how well that group of students in that class do comparatively to like communities. It has a tendency not to compare the larger communities with the smaller communities. It's a practice that has been going on in the State of Maine ever since we have had standardized testing. It is nothing new. It did not come in with the Maine Education Assessment Program, and it probably is practiced in the majority of states. It does not take away from the child, it does not take away from the individual's capability to perform. It does not inhibit anything as far as schools or school units are concerned. It probably does stimulate some schools to show that they might be able to perform a little bit better when compared to a relatively same community. I would appreciate your vote in supporting the "Ought Not to Pass" group.

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

Representative VIGUE: Madam Speaker, May I pose a question?

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you Madam Speaker. My question is to anyone who may be able to answer it. We require gathering of this information. What is the purpose of gathering the information? Is it to change future training?

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

Representative MCELROY: Madam Speaker, Ladies and Gentlemen of the House. The purpose on gathering this, is part of the way the test results are reported. I don't know that there is any specific purpose that it is gathered for, it's raw scores that come first and from that they develop the way of reporting it. In this case, it happens to be that they develop a band on scores that the raw scores fit into and they project these across the

State of Maine and bring in a comparison with the communities of like standing. From that point on, the results can be used either as a raw score or as a banded score and it has advantages both ways, because you can run it against all communities in the state or you can run it against the communities that are like yours. It's a very simple process, it has benefits to people that use these test scores extensively within school systems. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Belanger.

Representative BELANGER: Madam Speaker, Men and Women of the House. I was in the Majority "Ought Not to Pass" in committee, I urge your support of this for the following reasons. It is a measure of accountability and it makes fair comparisons. If you eliminate the band, in effect, I believe, you make it much easier for schools to say to their community, well we are a poor community, we have a low economic base, therefore, it is reflected in the scores. If you have the comparison bands, it does allow you to compare yourself with similar schools and it gives you incentive to rise above the bands. I see no good reason to eliminate them. I urge your support of the "Ought Not to Pass."

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I think an earlier speaker indicated that he really didn't have an idea why they gathered this information and how it was going to be put to use. I think that probably would be justification for doing away with this bill. However, I would like to point out one thing, and when we talk about student achievement and so forth, I was given the task of doing our testing program in the last 7 years that I taught and after one year when the scores were not particularly good, I took over and we started an increased emphasis on the testing program. The first year we told the students that we wanted to see the results raised by 50 points and in order to do that, we promised them one day that they could be free of academics. They would have a field day. The point, the averages raised over 75 points, just by the promise of that one non-academic day, so I guess that probably shows that the testing and the results that we expect to achieve from this are not really too valuable. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative DESMOND: Madam Speaker, Ladies and Gentlemen of the House. I am on the Majority Report. Children are at a disadvantage when they are asked to answer questions on areas that are not within their knowledge or experience. The questions in the school assessment examinations cover materials of the same value. It doesn't discriminate and I urge you to vote on the Ought Not to Pass. Thank you.

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

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. I on the other hand think that this is a very blatant form of discrimination and I stand today to urge you to vote red with me.

A few months ago, we had a debate about the budget and within that budget, we authorized the spending of almost two million dollars. Two million dollars to be spent on changing these MEA's so that they accurately reflect what all students have learned. We said what all students have learned, not what some have learned in the wealthier communities and what some haven't learned because they live in poorer communities. What I'm trying to say is, right now, it discriminates between one of my high schools, such as Orono and another high school such as

Hermon. These bands basically say it's okay for Hermon to not have such high expectations because, after all, those kids really aren't capable of very much. We expect Orono to do better, because, after all, they can succeed. I would say that's not right. If all means all, than all means all and all children should live up to these measurements. Again, we are sending \$2 million to change these measurements and I say if we're going to spend \$2 millions on this, that it should accurately reflect what all children have learned and that all means all, not just the ones in Orono. Thank you.

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

Representative RICHARD: Madam Speaker, Ladies and Gentlemen of the House. One thing that I think is important, that all of you understand, is that the same test is given to everyone in the same grade, everywhere. That is an important factor. This is the accountability that you have for that vast amount of money that you spend on education. I would urge you to continue as we are doing and vote for the Ought Not to Pass.

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

Representative KANE: Madam Speaker, Men and Women of the House. We may be in danger here of missing the forest for the trees. Every state agency has the responsibility of collecting appropriate data on our citizens, or clientele, they are responsible to serve. As several speakers have indicated that this is a mechanism of accountability, and I think we need to keep in mind as we deliberate on this that this is aggregate data. It doesn't identify individuals, it doesn't identify families, it does identify patterns, it does identify trends that are very important for administrators to evaluate as they recommend policy decisions through administration back to us. I'd encourage you to accept the Majority Report. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. My question, originally, was to why we gather this information through the state assessment program. The reason I ask the question, in Europe at an early age, the youngsters are tested and placed in trades and therefore can not move freely about, they are destined to be in the trades. When I graduated from parochial school and went into the junior high school, then the standard was to place the kids coming out of the parochial schools into a shop course and a commercial course. What I'm asking is we are going to do this, I don't particularly care to have it done and have the same kind of assessment used to discriminate against kids that are not coming from the same beneficial background.

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

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

The SPEAKER: The Representative may pose his question.

Representative LEMKE: Madam Speaker, My question goes to the question as to how is the data gathered? Do you go to students and ask them what socio-economic group is your family from? Do you go to the parents and ask them? Do you have some agency set up to determine what task the different people are in? I'm kind of interested in how you gather this particular information, as well as the reason.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Belanger.

Representative BELANGER: Madam Speaker, Men and Women of the House. In response to the question, the information is gathered by a student questionnaire and a principal questionnaire, and I would also add, this has nothing to

do with individual scores. It has nothing to do with the school average as compared to the state average. It has nothing to do with those. It only has to do with comparison bands. In order to compare the scores in one community with comparable communities. I would argue that to remove it will lessen the accountability and will make it easier for schools in areas that may have a low economic and social condition, it will make it easier for them to use it as an excuse. Thank you.

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

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. Someone mentioned earlier that this was an issue that we were confusing the forest for the trees and I couldn't agree more. It seems to me that what we want to do is evaluate each individual youngster in our school systems to determine whether or not they have, in fact, achieved certain skill levels. The beginning of the debate, the good Representative from St. George mentioned the fact the he didn't come from an affluent community. I happen to represent one of the more affluent communities in the state. This was pointed out when the Representative from St. George mentioned going to the dump. Where I'm from we don't go to the dump, we go to the sanitary landfill. That's because we are more affluent. On the other hand, all of us in both communities share the same thing, we want our youngsters educated, particularly in basic skills, and we want to measure that comparing the youngsters only, not the communities they are in. Thank you.

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

Representative PERKINS: Madam Speaker, Men and Women of the House. It seems to me that every time there has been a question the answers have brought to me more questions. One of the questions was why do we do it? The answer that I heard was, there is no specific reason I believe that's what I heard, but more importantly, to the last question, how is this information gathered? I understand that it's socio-economic, how could you find that information by asking the child, the student? How would you find the economics. I could see the occupation of the parents but you ask them how much money they make, how much they have in the bank, how many stocks they have, and that kind of thing. Could I ask that question please, Madam Chair?

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

Representative BELANGER: Madam Speaker, Men and Women of the House. I believe the answer to that question is that it comes from the principal's questionnaire, in which the question is asked, what percentage of the school is on free and reduced lunch?

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Madam Speaker, Ladies and Gentlemen of the House. In answer to the good Representative's question, how is it gathered? It is taken off the responses the children give, but it does lead to some controversy I know in St. George there was some controversy over the status of a lobster fisherman now. Is a lobster fisherman a blue collar worker or is he a higher status now? He has a boat worth upward to \$100,000, he may employ a couple of stern men. He has a great deal of paperwork to do. Is the lobsterman today a blue collar worker or is he more on a status with an office worker or administrator? It's a matter of opinion. One year, Thomaston, where I taught was considered a rather high socio-economic community, we changed principals and the next year

we declined. A great deal depends on the perception of the principal, but the fact of the matter is, that the evil in this that I see is it sets expectations upon a community according to what the majority of the people make for a living rather than grading us all equally. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I've been a monitor for those tests and I've read the student questionnaires. There are two particular questions, I think, that are useful and one has to do with the degree of education. Do your parents have a high school diploma, college degree, masters degree, and so on, and the second question, in your family do you speak English predominately? Those two factors are very important. But let me just go on to say that I think we are making a mountain out of a molehill here and I will tell you why. I think it is important information to find out what socio-economic status of a particular community, and I'll give you an example. I went to a school where every single student in my school was a mill worker and I can say with assurance, that probably 75 percent of those students did not have parents that had graduated from high school. If we had been taking the MEA's back in those days and our scores had been put up against Greenville high school scores, for instance, we would have looked pretty pitiful. However, I can remember one of the questions on one of the tests, we had pictures, and this was in grade school, we had pictures of various vegetables, my father was a farmer, there were two pictures I had no clue what they were. One was a brussell sprout and one was a broccoli, and I answered that question erroneously. Obviously, we'd never been exposed to those vegetables nor to half those fruits we saw either. I think that's important information, because if the students at Westend Elementary whose parents work at the Esley Mill don't know that, than those are the kinds of things, that if they are ever to move away from South Carolina and know those, then we need to address those needs. I think it's good information for us to have, but I do like the idea that there is some adjustment. Every single student does get his own individual score and there is no adjustment made. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. It's too bad we don't have any children here today, since we are talking about a procedure where the weigh is placed upon the child and I guess I come back to something you can not quantify. That is if you were a child and you come from a poorer family and then you have people coming and asking you, well do your parents speak English? Are your parents mill workers? What does that tell the child? We are suppose to be nurturing the child and they should believe we are all equal and we all have a chance to succeed in this country. The insensitivity of this bothers me, it is a form of discrimination. There's no way of getting about that, I don't think we should be in that particular business. Yes, the information may be very useful, but if we are going to do it, we must have a better way of doing it than this.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. The more I hear about this, the less I like it. It seems to me, if you're going to ask questions, you ought to ask questions in addition perhaps to whether your parents have college degrees, do your parents have a loving relationship, do they read to you at night?

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

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

The SPEAKER: The Representative may pose his question.

Representative LINDAHL: How about if a child comes from a family with a single parent and the mother is on AFDC? How do they respond to that? Thank you.

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

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

**ROLL CALL NO. 168**

YEA - Baker JL, Barth, Belanger DJ, Belanger IG, Berry RL, Bigl, Bodwell, Bouffard, Brooks, Bruno, Bull, Bunker, Cameron, Chartrand, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagnon, Gamache, Green, Hatch, Honey, Jabar, Jones KW, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Muse, Nass, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Spear, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Usher, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Berry DP, Bolduc, Bragdon, Buck, Bumps, Carleton, Chick, Chizmar, Dexter, Dutremble, Fisk, Gagne, Gerry, Gieringer, Gooley, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Madore, McAlevey, Meres, Murphy, Nickerson, O'Brien, Perkins, Pieh, Pinkham RG, Pinkham WD, Plowman, Rines, Savage, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Tobin, Treadwell, Tuttle, Underwood, Vedral, Vigue, Volenik, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Baker CL, Brennan, Campbell, Foster, Goodwin.

Yes, 84; No, 62; Absent, 5; Excused, 0.

84 having voted in the affirmative and 62 voted in the negative, with 5 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on **Education and Cultural Affairs** reporting "Ought Not to Pass" on Bill "An Act to Prohibit the Denial of Teacher Certification Based on Refusal to Participate in Learning Results" (H.P. 1025) (L.D. 1442)

Signed:

Senators: PENDLETON of Cumberland

CATHCART of Penobscot

SMALL of Sagadahoc

Representatives: RICHARD of Madison

BRENNAN of Portland

DESMOND of Mapleton

WATSON of Farmingdale

BAKER of Bangor

BARTH of Bethel

McELROY of Unity

BELANGER of Caribou

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

Signed:

Representatives: SKOGLUND of St. George  
STEDMAN of Hartland

Was read.

Representative RICHARD of Madison moved that the House accept the Majority "Ought Not to Pass" Report.

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1182) (L.D. 1673) Bill "An Act to Amend the Child and Family Services and Child Protection Act" Committee on **Health and Human Services** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-430)

(H.P. 73) (L.D. 98) Bill "An Act Regarding Balances Remaining in General Purpose Aid for Local Schools" Committee on **Education and Cultural Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-424)

(H.P. 204) (L.D. 257) Bill "An Act to Amend the Liquor Laws" Committee on **Legal and Veterans Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-428)

(H.P. 749) (L.D. 1026) Bill "An Act to Reduce the Presumptive Amount for Trafficking in Marijuana from 2 Pounds to One Pound" Committee on **Criminal Justice** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-422)

(H.P. 827) (L.D. 1132) Bill "An Act to Amend the Continuing Care Retirement Community Laws to Repeal Certain Exemptions and Place Other Requirements on Providers and Developers of Continuing Care Retirement Communities" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-426)

(H.P. 838) (L.D. 1143) Resolve, to Name the New Topsham-Brunswick Bridge across the Androscoggin Committee on **Transportation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-423)

(H.P. 918) (L.D. 1261) Bill "An Act Concerning Public Notice of Lottery Odds" Committee on **Legal and Veterans Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-427)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, May 13, 1997 under the listing of Second Day.

(H.P. 740) (L.D. 1004) Bill "An Act to Provide Equal Political Rights for Classified State Employees" Committee on **Legal and Veterans Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-429)

On motion of Representative DONNELLY of Presque Isle, was removed from the First Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (H-429) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 64) (L.D. 183) Bill "An Act to Require the Department of Inland Fisheries and Wildlife to Provide Transportation Tags with Big Game Hunting Licenses" (C. "A" S-187)

(S.P. 254) (L.D. 823) Bill "An Act to Establish an Outdoor Recreation Council" (C. "A" S-186)

(S.P. 307) (L.D. 1015) Bill "An Act to Restore Needed Positions at the Augusta Mental Health Institute and the Bangor Mental Health Institute" (EMERGENCY) (C. "A" S-191)

(S.P. 318) (L.D. 1058) Bill "An Act to Require Legislative Review of Any Proposed Interstate Agreement Related to the Atmospheric Transport of Ozone" (C. "A" S-189)

(S.P. 359) (L.D. 1218) Bill "An Act to Expand the Harassment Laws" (C. "A" S-185)

(S.P. 416) (L.D. 1337) Bill "An Act to Amend the Laws Relating to Education" (C. "A" S-188)

(S.P. 424) (L.D. 1345) Bill "An Act to Amend the Public Accountancy Laws" (C. "A" S-194)

(S.P. 450) (L.D. 1424) Bill "An Act to Allow ATV Use on Public Lands Not Specifically Designated as Primitive-use Land" (EMERGENCY) (C. "A" S-192)

(H.P. 1043) (L.D. 1460) Bill "An Act Requiring the Department of Education to Perform Annual Cost-benefit Analysis of Special Education Programs in the State"

(H.P. 1058) (L.D. 1490) Bill "An Act Allowing Appellate Review by an Aggrieved Contemnor"

(H.P. 1064) (L.D. 1502) Bill "An Act to Enable Victims to Benefit from the Profits from Crimes"

(H.P. 14) (L.D. 39) Bill "An Act to Clarify the Authority of County Commissioners to Close Roads for Winter in the Unorganized Territories" (EMERGENCY) (C. "A" H-417)

(H.P. 727) (L.D. 991) Resolve, to Address Issues Raised by the Select Committee to Study Rate Increases in Nursing Homes (C. "A" H-415)

(H.P. 734) (L.D. 998) Bill "An Act to Amend the Certificate of Need Laws" (C. "A" H-414)

(H.P. 974) (L.D. 1354) Bill "An Act to Transfer the Responsibility for the Certification of Batterers' Intervention Programs to the Department of Corrections" (C. "A" H-406)

(H.P. 1082) (L.D. 1519) Bill "An Act to Strengthen Maine's Search and Rescue Capabilities" (C. "A" H-413)

(H.P. 1111) (L.D. 1554) Bill "An Act to Eliminate Inconsistencies and Unnecessary Duplication Regarding the Training and Certification of Individuals Who Enforce Land Use Regulations" (C. "A" H-418)

(H.P. 1128) (L.D. 1584) Bill "An Act Regarding Confidentiality of Information Concerning Residents of Certain Facilities" (C. "A" H-412)

(H.P. 1156) (L.D. 1620) Bill "An Act to Amend the Laws Regarding Intervenor Status for Foster Parents in Certain Cases of the Department of Human Services" (C. "A" H-411)

(H.P. 1174) (L.D. 1651) Resolve, Directing the Department of Environmental Protection to Study and Make Recommendations on the Establishment of a Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act (EMERGENCY) (C. "A" H-391)

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

(S.P. 269) (L.D. 877) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Process for Inclusion of a Competing Measure (C. "A" S-115)

On motion of Representative LEMKE of Westbrook, was removed from the Second Day Consent Calendar.

The Committee Report was read and accepted. The Resolution was read once. Committee Amendment "A" (S-115) was read by the Clerk and adopted. The Resolution was assigned for second reading later in today's session.

#### BILLS IN THE SECOND READING

Bill "An Act to Appropriate Funds for the Education Research Institute" (H.P. 1298) (L.D. 1841)

#### As Amended

Bill "An Act Concerning Threatening the Use of Deadly Force Against a Law Enforcement Officer Engaged in Carrying out Public Duty" (H.P. 79) (L.D. 104) (C. "A" H-407)

Bill "An Act to Modify the Prequalification Laws to Allow the Disqualification of Contractors for a Time Not to Exceed One Year" (H.P. 285) (L.D. 349) (C. "A" H-343)

Bill "An Act to Expand Recycling through Reduced Burning" (H.P. 703) (L.D. 967) (C. "A" H-392)

Bill "An Act to Create a Permanent Funding Source for the Saco River Corridor Commission" (H.P. 850) (L.D. 1155) (C. "A" H-396)

Bill "An Act to Create a Family Division within the State's District Court" (H.P. 896) (L.D. 1213) (Governor's Bill) (C. "A" H-347)

Resolve, to Evaluate Permit by Rule and Compliance with the Natural Resources Protection Laws (S.P. 396) (L.D. 1293) (C. "A" S-193)

Bill "An Act to Require the Release of the Results of an HIV Test to an Emergency Services Worker Who Was Possibly Exposed" (H.P. 1000) (L.D. 1392) (C. "A" H-404)

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

Resolve, Authorizing Robert O'Malley to Sue the State (H.P. 201) (L.D. 254) (C. "A" H-337)

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

On motion of Representative JOYCE of Biddeford, was set aside.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, May I pose a question? I apologize for missing the debate on this last Friday. Could anyone explain to me the reason, if this gentleman's case was mishandled and he suffered because of it, what is the reasoning behind paying him off versus letting him go ahead and sue the state? My second question is if this case was mishandled, has anyone been fired or reprimanded because of it?

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. In answer to the first question, I guess, in my opinion, that if facts existed, it would easily have shown that the case was not proper. I think this case is different from all others because, in my opinion, of those who testified I think the state really had no reason to move quickly on this investigation, and I think they failed to investigate thoroughly. The original bill

authorized Mr. O'Malley to sue the state but after testimony that was heard, we decided to go with direct appropriation. In all honesty, in all my years in the legislature, I'd never really seen an individual that was treated so badly by a system.

In answer to your second question, I'm not sure there have been any reprimands, I believe that maybe the sponsor or others on the bill might be able to answer that better.

The same Representative requested a roll call on passage to be engrossed as amended.

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

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. In answer to your first question, what is the reason for a direct settlement, the Attorney General testified in the committee, that if we were to do anything, he would prefer a direct settlement. I spoke with my constituent for whom I put in this bill, and they agreed that this would be a preferable situation. They would then avoid having to go through the court costs and the publicity, as you may know, one of the key factors here, was the extreme humiliation that my constituent was forced to endure. He was forced to reveal extremely personal information in order to defend himself against these charges.

In answer to your second question, no, I don't believe anybody has been fired. There was a restructuring in the Attorney General's Office, some people involved in this case are now holding different positions, whether that was related to this case, I can not tell you. Perhaps the Attorney General could address that issue. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, Men and Women of the House. I have to admit, I'm not sure what the answer to this issue is, but I just think it's an ugly precedence for paying off \$150,000 to this gentleman and I request a roll call.

The same Representative requested a roll call on passage to be engrossed as amended.

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

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I had not expected to be debating this on issue the floor today, and I do apologize for the graphic nature of the issue, but I feel that you need to be brought up to speed, with exactly what took place.

My constituent represented Robert O'Malley, who was a Cumberland County jail guard, who in 1993 was accused by a female inmate of engaging in sex with her in return for cigarettes. She did not accuse him of using force against her, nevertheless, because he was in a position of authority, sex with her would have been an abuse of that authority and a very serious crime. There was an internal investigation, which used a low level of burden of proof and concluded that was not cause to take any further action. That internal investigation included a lie detector test administered to the woman who made the accusation. Sixteen months after she made the accusation, Mr. O'Malley was indicted by the State on the charge of gross sexual assault and unlawful sexual contact. When the case finally came to trial, it lasted a couple of days and he was acquitted in less than two hours. The factors behind his acquittal were, number one, that his accuser had a long history of lying and manipulation. She was serving time for having attacked and left for dead a 70 year old woman who had taken her in. That, of course, is irrelevant to the issue at hand, certainly even a prisoner deserves to be

defended against sexual abuse. She has, however, on at least two other occasions made very similar charges. One was laid against a jail guard at the Maine Correctional Center, who turned out not to have been working the day that she said it took place. Guess what? Mr. O'Malley wasn't working on the day this took place and the jail records clearly showed that. The jail records which the state had access to for 16 months before it indicted him.

Secondly, and I find this very distasteful to have to talk about on the floor of the House, Mr. O'Malley is impotent due to his diabetes. The state had his medical records for all 16 months, it knew that he was impotent, nevertheless, he was forced to reveal his extremely personal, embarrassing, humiliating information, which was then front page news on the *Portland Press Herald* the very next day. He was not physically capable of the crime of which he was accused. Next, the accuser had a jailhouse boyfriend, a man named Kevin Ovensarto who testified that she had told him that she had made these charges against Mr. O'Malley as well as against other men in the past in order to launch civil suits and recover money from which to start a business. In the public hearing the Attorney General testified, that had they know that, they would have dropped the case right then and there. This man's name was given to them in discovery. I certainly believe that the Attorney General of the State of Maine is capable of picking up the telephone, calling Commissioner Skolfield and locating a known criminal. The man turned out to be in the York County Jail. I'm not on the Criminal Justice Committee. Offhand, I'm assuming there are 16 county jails and another handful of prisons, that's maybe an hours work. I think the Attorney General's Office should have done that work before it took this case to trial. So, in conclusion, I have never voted for a similar case before, but in other cases we've had before this House, we've often dealt with issues regarding child protection, in which I thought that it was necessary for a DHS worker to step in, in the case of needing to protect a child's safety. This is a very different situation. The accuser was in jail, my constituent was by this time suspended. He was not likely, or physically capable, let's remember, of conducting this crime. Had the Attorney General's Office chosen to go a little more carefully, do its homework, he would have been spared the extreme humiliation to which he was subjected. I think that it is the better choice not to put him through another trial, not to force him to hire attorneys, physicians, etc. and etc., and better to settle with him. We have a similar case before my committee, regarding the parents of Rendy Haynes, and I do support a settlement in that case. We have not yet reached a value, but I would ask your support for this measure. Thank you very much.

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

Representative MUSE: Madam Speaker, Men and Women of the House. Robert O'Malley worked under my supervision at the Cumberland County Jail for a number of years. I know Robert O'Malley and his entire family very well and I feel very comfortable in saying that Robert O'Malley was raped. He was raped by the system and not only was he raped, but his wife and his entire family were raped by the system. A system that started to roll downhill like a large snowball and continued. Picked him up and his family and just ran them through the wringer. As Representative Townsend, just told us, Robert O'Malley was not working on the day in question and this woman was very specific on the date that she said this incident occurred. Not only was he not working on that day, he wasn't working the entire week. He was on vacation that entire week, so it's not like she missed a day, it could have been Tuesday, maybe it was Wednesday. She was specific, but he was gone the entire week. Furthermore, when the allegation first came to light, the internal

affairs division of the sheriff's department took the complaint and began to look into it. The sheriff assigned somebody else outside of the internal affairs division to investigate the case. A detective by the name of James Langel, who as far as I'm concerned, is probably one of the finest detectives in the State of Maine and his reputation precedes him up and down the east coast, where he has worked for countless different departments, on loan. He has been sort after to go to work for the FBI, CIA, just about everybody and their brother wants this kid to go to work for them. I have seen him arrest his own brother, and later come in and bail him out, but that's the type of person he is. If there were anything, if there was even a whisper of a reason to believe this woman's allegations, Jimmy Langelo would have that, and the department would have continued the case. The district attorney's office for Cumberland County looked at the case after the department found there was no room for moving further with this and the District Attorney's Office investigated it and said there's nothing here and closed the case, and it was only then, later on that the Attorney General's Office picked the case up and decided to move forward with it. It was clearly a case of somebody starting to move forward, not doing their homework, and just continuing in the direction that they were going. Robert O'Malley lost more than money, more than the amount of money that we are looking to give back to him. His wife and children lost something that we can't put a price tag on. He's not looking for an exorbitant amount of money here, he has medical costs and legal costs that go well beyond the \$140,000, \$150,000. He's been seeing a psychiatrist now for 4 years. His wife and family have lost holidays, birthdays, things that we can't put a price tag on. Things that we can never return to him. All that we can do is move this measure forward and try to help Bob O'Malley mend part of the financial burden, that he has suffered. Thank you, Madam Speaker.

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

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. I'm not going to belabor this issue, because I can not make any more compelling remarks than what you have already heard from the two previous speakers. That is one of the reasons why, in committee, I supported this resolution and ask for your favorable vote on the present issue and motion. This is not setting precedence, we have resolved some of these problems with financial resolutions in the past. Thank you.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. I sat in this committee hearing with another bill waiting to be heard and I sat through all the testimony that you have heard about, and I want you to know that I would fully support and I hope that you fully support this motion that is here. Thank you.

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

**ROLL CALL NO. 169**

YEA - Ahearn, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Buck, Bumps, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall,

Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - NONE.

ABSENT - Baker CL, Brennan, Bull, Campbell, Cowger, Foster, McKee.

Yes, 144; No, 0; Absent, 7; Excused, 0.

144 having voted in the affirmative and 0 voted in the negative, with 7 being absent, the Resolve was passed to be engrossed as amended by Committee Amendment "A" (H-337) and sent up for concurrence.

**ENACTORS**

**Emergency Measure**

An Act to Authorize the Conversion and Reuse of the Perry Hayden Hall at Pineland Center as an Elementary School (S.P. 370) (L.D. 1229) (C. "A" S-178)

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

**Emergency Measure**

An Act to Amend the Charter of the Winterport Sewerage District (H.P. 910) (L.D. 1253) (C. "A" H-280; H. "A" H-361)

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. 117 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to Provide for the 1997 and 1998 Allocations of the State Ceiling on Private Activity Bonds (H.P. 1210) (L.D. 1710)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Clarify Use of Tree Stands (S.P. 28) (L.D. 26) (C. "A" S-177)

An Act Regarding the Duties of Guardian Ad Litem (H.P. 120) (L.D. 144) (C. "A" H-345)

An Act Regarding Destruction of Fish Populations (H.P. 199) (L.D. 252) (C. "A" H-314)

An Act to Cap the Fees Responsible Parties Pay for the Transportation of Hazardous Waste from Superfund Sites (H.P. 465) (L.D. 636) (C. "A" H-276)

An Act to Amend Security Deposit Provisions for Residential Rental Units (H.P. 504) (L.D. 695) (C. "A" H-333)

An Act to Increase Penalties for Subsequent Violations of the Laws Prohibiting Indecent Conduct (H.P. 569) (L.D. 760) (C. "A" H-341)

An Act to Create Equity in the Taxation of Special Fuels (S.P. 228) (L.D. 797)

An Act to Protect the Department of Inland Fisheries and Wildlife from Unfunded Mandates (S.P. 229) (L.D. 798) (C. "A" S-176)

An Act to Amend Certain Provisions Regarding the Presumption of Negotiating a Worthless Instrument (H.P. 888) (L.D. 1205) (C. "A" H-342)

An Act Regarding Residency and Motor Vehicle Registration (H.P. 967) (L.D. 1347) (C. "A" H-335)

An Act to Amend the Maine Veterinary Practice Act of 1975 (H.P. 1051) (L.D. 1468) (C. "A" H-322)

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 Prohibit an Employer from Hiring Replacement Workers During a Strike (H.P. 41) (L.D. 66)

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

On motion of Representative JOY of Crystal, was set aside.

The same Representative 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: 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. 170**

YEA - Ahearne, Bagley, Baker JL, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brooks, Bruno, Bunker, Cameron, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Duntlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SA, Kane, Kasprzak, Kerr, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Mailhot, Mayo, McAlevey, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Peavey, Perkins, Perry, Pieh, Pinkham RG, 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, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Bragdon, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kneeland, Labrecque, Layton, Lindahl, Lovett, MacDougall, Mack, Marvin, McElroy, Murphy, Nass, Nickerson, Ott, Pendleton, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker CL, Brennan, Bull, Foster, Madore, McKee, O'Brien.

Yes, 94; No, 50; Absent, 7; Excused, 0.

94 having voted in the affirmative and 50 voted in the negative, with 7 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate

An Act to Label All Eggs Produced in the State by Source (H.P. 425) (L.D. 575) (C. "A" H-264)

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

On motion of Representative JOY of Crystal, was set aside.

The same Representative requested a roll call on passage to be enacted.

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

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

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I would hope that you would vote against the pending enactment we have before us.

In previous debate, I was rather quiet and didn't say too much, but for the sake of the agricultural community here in the State of Maine, I really have to speak out at this time. Right at this time agriculture here in Maine is struggling, and why do we hit them with just another hurdle that they are going to have to leap over to survive? If you remember a few years ago, it was not many years ago, we lost the entire broiler industry here in the State of Maine. Now at this time, we have another industry that is trying to survive. If you was to work with anything with the animals here, or birds here in the northeast, it is rather difficult competing with the other parts of the country, because it cost more for feed, cost more for housing, and other sorts of things that seem to be against us here in Maine. This particular bill, laboring of eggs, really does not make a lot of sense. Right now, anybody can voluntarily put their name on any egg box if they want to. Requiring the packer to put their name on that box can be very misleading, because that doesn't mean that's where those eggs came from or were produced by, so it can be very misleading to the consumer. Requiring the packers name on an egg carton, we would be the only state that would be required to do that and it just complicates further of doing business here in Maine.

Just think about the little boy, or the same family that has a few chickens beside the road and puts a sign out. Yes, they have got to label their cartons, if this bill should go through. I think what we really need to think about is that the Attorney General's Office has told the Department of Agriculture that the Maine law requiring labeling of cartons is preempted by federal law. Yes, it is true, there is a law on the books that milk cartons and dairy products have to be labeled, but if you notice, as I sat at my table this morning and looked at the jug of milk that came from Shop n Save, Hannaford Brothers, you will not find the name of the dairy that produces. Yes, there is a plant number on there, but the name is not on there. If this goes through, once again, federal law will have preempted it and it will not have to be done. I just think this is another step against the agricultural industry here in the State of Maine, and I would encourage you to vote against the pending motion. Thank you.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned. (Roll Call Ordered)

An Act to Provide Recipients of All Assisted Living Programs and Services Residents' Rights and Equivalent Reporting and Enforcement Opportunities (S.P. 484) (L.D. 1492)

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

On motion of Representative KONTOS of Windham, was set aside.

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

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An Act to Amend the Lobster Laws and Study the Issuance of Lobster and Crab Fishing Licenses Based on Income Derived from Commercial Fishing (H.P. 1063) (L.D. 1501) (C. "A" H-307; H. "A" H-340)

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

On motion of Representative KONTOS of Windham, was set aside.

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

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Resolve, to Establish a Task Force to Review the Applied Technology Centers and Applied Technology Regions (H.P. 771) (L.D. 1048) (C. "A" H-320)

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

On motion of Representative KONTOS of Windham, was set aside.

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

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#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 9, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (H-349) - Minority (4) "**Ought Not to Pass**" - Committee on **Education and Cultural Affairs** on Bill "An Act to Encourage Art Education in the State" (H.P. 29) (L.D. 54)

TABLED - May 7, 1997 (Till Later Today) by Representative STEDMAN of Hartland.

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

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

Representative STEDMAN: Madam Speaker, Men and Women of the House. I am on the Minority Report on this to "Ought Not to Pass." The reason that I asked this bill to be tabled in the previous session was that we had not received the amendment to the bill, which was the fiscal note. If you would notice that on this fiscal note there is \$150,000 price tag. I am not opposed to art education, or to the expansion of art education, but I am opposed to trying to put money through when there is no money to appropriate. The budget having been set would mean that this money would have to be taken away from some other project in order to finance it, so this is the reason I'm opposed to it.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. One of the joys of serving in the House is the variety of topics we get to address in one day.

I'm the sponsor of this bill and strongly support it and urge you to support the majority "Ought to Pass" Report, and I'd like to outline for you why. We've long regarded art in this society as, in more particularly in our education system, as a luxury. For that reason, it's appearance in schools as either a program or course tends to be a random matter. A recent study by the Maine

Educational Research Institute found that there was significant disparity between large schools and small schools, in the provision of art. If you are lucky enough to live in a larger community, you have that much better chance of receiving some type of arts programming

L.D. 54 addresses the fact that art is not a luxury. Art is an essential component of our every day lives. I looked around for some sort exquisite quote to give you, but I want to revert to what I said to you a couple of years ago on this subject, and that is that art is the book you read last night, it is the film you watched last night. It directed your choice of jewelry, and of clothing this morning, it was the music that you listened to on the way into the building. It is the building itself, which in its impressive architecture reminds us daily of the seriousness of the matters we consider. Art is integral to our every day lives and if it were to evaporate, our lives would be empty indeed.

L.D. 54 recognizes that, and attempts to provide some type of experience with art to all students in this state, rather they are from large communities or small, from southern Maine or northern Maine, from rich communities or poor. It does that by providing professional development opportunities to teachers, which will help them understand a new approach which uses the arts on an every day basis, integrates them on an every day basis to teach other subjects. This is a relatively new technique which has appeared around the country and the studies have repeatedly shown that integrating the arts into the every day education has impressive results. It increases learning outcomes in reading, writing, math and social studies. It increases teacher creativity and willingness to try new approaches. It improves student and teacher attendance and decreases disciplinary problems. It increases the involvement of parents and community members in schools and it engages students who might not otherwise be engaged by traditional teaching methods.

I want to make reference to the earlier debate today, about the gentleman who could take apart engines. Something that we know today, is that there are many different ways of being intelligent. I've learned in my time here that I am a visual learner. My brain works along the visual lines and I like to have diagrams. I like to have explanations that are visual. Others are auditory learners. Others have a mechanical sense, or a musical sense. This teaching technique recognizes that. However, we don't have to look nationwide to know that its a success. Here in Auburn, Maine we have the Sherwood Heights School, which is a school which serves largely at risk students. By far, the majority of them are the children of single parents, low income single parents. They have been integrating the arts into the classroom every day to teach other subjects for several years now. They are undergoing a study along with the Kennedy Center, at this point which will measure the impact that that has had. They are able to document already that attendance is up and disciplinary problems are significantly down, as well as parent involvement has significantly increased. Although it is fun to know when something in Maine receives national attention, the Sherwood Heights School has appeared in a number of publications and they were invited to the Kennedy Center earlier this year, and let me tell you they were the toast of the town. They were a big hit in Washington, which was sort of fun. As a result of that, some officials from the Department of Education in Oklahoma paid a site visit, to see if they could perhaps replicate the success of the Sherwood Heights School. I'm proud of the Sherwood Heights School and I'm pleased that other states are looking to follow it as a model, but I want to be sure that all students in this state, rich or poor, urban or rural, north or south have the opportunity to receive some exposure to art. For a relatively small price tag, we can do that. We can increase student exposure to art, while

improving their performance. It's a small and cost effective measure, with potential to produce big results and I urge your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative DESMOND: Madam Speaker, Colleagues of the House. I would like to speak to you as a teacher and let you know that I feel that art is essential to a well rounded curriculum in the school.

Art is in everything. It is not a separate entity. Art is a way to communicate. On the average 7 percent of the way we communicate is verbal. That percentage may seem low to us here in the House. Twenty-three percent on the average is tonal, which can mean we hear shades of color, or even a particular form of writing. Seventy percent is gestural, body language. We all fit in here somewhere.

My husband can never accuse me of talking too much, but he swears he knows what I am thinking. Words sometimes do not give justice to meaning. We need other ways to express ourselves. Music for example, singing, playing an instrument, composing and listening. Art, painting, photography, crafts, drama, we are all actors, observing, critiquing, acting, interpreting, poetry, listening, writing, publishing, no matter how serious it is, poetry is always playing, and it's a wonderful expression for school children. Writing is a way to translate your inner speech to paper, like speaking, some people do this with greater fluency than others. Then there is dance, the art form of rhythm. Art is a part of education, it should cross all parts of the curriculum, we might not think of math and art together, I've seen some great math art, graphing, drawing shapes, diagramming. Music, drama, poetry and dance add dimension to the language arts and social studies programs. Music and dance are an integral part of phys ed, maybe even square dancing. To be well rounded, you can not exclude activities that activate the senses.

Children remember things in which they are emotionally involved. Children should be allowed to share significant moments in many ways. Schools should not be separate from themselves. School is a place for children to practice and get involved in activities that give them a sense of themselves, and strong and in control. Art is one way to investigate and meet that challenge and to make a personal connection. Many schools in Maine have no art programs, or have a special art instructor that visits each class, perhaps once a month. A sizable budget is not needed to have successful art, but as in any part of the curriculum, classroom teachers should have some professional development opportunities. There is nothing like doing to see the worth. We learn by doing. I pity children who attend classes all day, when those classes don't consist of some form of art. An arts education outreach program would ensure an equitable opportunity for all Maine children and teachers to make that cultural and personal connection. I hope you will accept the Majority "Ought to Pass" Report.

The Chair ordered a division on the motion to accept the Majority "Ought to Pass" as amended Report.

A vote of the House was taken. 65 voted in favor of the same and 25 against, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-349) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

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HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-348) - Minority (3) "Ought Not to Pass" - Committee on Education and Cultural

**Affairs** on Bill "An Act to Expand Access to Maine's Technical Colleges" (H.P. 263) (L.D. 327)

TABLED - May 7, 1997 (Till Later Today) by Representative RICHARD of Madison.

PENDING - Acceptance of Either Report.

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

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

Representative STEDMAN: Madam Speaker, Men and Women of the House. I have, again, my name on the "Ought Not to Pass" Report on this item. With all due respect to the sponsor of LD 327, I am on the "Ought Not to Pass" Report, for 3 major reasons. One, the fiscal note, second the nebulous nature of the plan to implement the bill and third the implications for future funding. I do sympathize with the Technical College system for the shortage of funds with which they are faced and I admit their creativity in coming up with this plan to leverage more money. However, this plan is asking the state to put up 1.8 million dollars as leverage to gain private and industry matching funds to finance programs to attract 500 more students to the technical college system. The method of distribution among the technical colleges, campuses and programs is not spelled out and there is no guarantee that the matching funds will be forthcoming. Incidentally, the bill does provide that unmatched state funds will have to be returned to the state. Furthermore, the adoption of this plan, if it indeed did achieve its goal of getting 500 more students into the system would, by the technical college system's own admission, mean that this additional amount of funding would have to be included in subsequent years in order to maintain their slots. In summary, the fiscal note, the nebulous nature of the plan and the ongoing obligation if it is enacted were my reasons for opposing this legislation. Thank you.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. If funded, this piece of legislation would give an opportunity for 500 more students to participate in the technical college program. We know that each year there are many, many, many students who apply to the technical colleges who can not get in because we do not have the funding to provide for their education. The interesting part about this piece of legislation is, as was eluded to previously, that the schools will be obliged to match whatever money they get. They can match this through cash grants, equipment and supplies. There are many, many companies that came to our hearing on this and each one of them they supported it and each one of them when they got done supporting it, I asked the question, "Will you be willing to help to contribute towards this match?" Each one of the company representatives who spoke to us said, "Yes, they would." We know that the budget is tight, there may not be this amount of money available. If there isn't whatever amount is available could be provided and then the technical colleges would be required to match that and provide for the number of students that it would enable them to provide for and again as was stated before, if they can not match whatever money they receive from the state, then by June 10, 1999, they are to return to the state any moneys they have received for this project to increase the number of students who are able to attend the technical colleges. We would appreciate your support of this measure.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. As a member of the Business Committee,

time and time again we've had industry leaders come before us and say, the real problem we have is we don't have enough technical training in our system. Some of these companies are going overseas and advertising for positions. Many times I've heard people say, we need something to keep our children in the state, we're losing too many of the best and brightest. This is one way we can do this, we can offer them the tools that they need to work in the state, to help the industries in the state and I urge you to help support this.

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

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. I would remind you that this does have a \$1.8 million fiscal note on it and that there seems to be a feeling that I may be opposed to technical college systems, but that is not true. They did receive more money in the budget then was proposed by the chief executive's budget and this is an attempt to leverage more money for their programs to help finance their activities during the next couple of years. Again the \$1.8 million fiscal note, which will be ongoing, should it be adopted and put in place, because they will have to maintain that same amount of extra budgeting in order to keep the programs operating. Thank you.

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

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

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

#### ROLL CALL NO. 171

YEA - Ahearn, Bagley, Baker JL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bodwell, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etner, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Madore, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, True, Tuttle, Underwood, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Bigl, Buck, Cross, Gieringer, Jones SA, Joy, Joyce, Kasprzak, Lane, Layton, Lindahl, MacDougall, Mack, Marvin, McElroy, Ott, Pinkham RG, Pinkham WD, Stedman, Taylor, Treadwell, Vedral, Waterhouse, Winsor.

ABSENT - Baker CL, Brennan, Foster, Nass.

Yes, 122; No, 25; Absent, 4; Excused, 0.

122 having voted in the affirmative and 25 voted in the negative, with 4 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-348) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (H-350) - Committee on Education and Cultural Affairs on Bill "An Act to Give Municipal Officials Oversight of School Administrative District Budgets" (H.P. 506) (L.D. 697)

TABLED - May 7, 1997 (Till Later Today) by Representative RICHARD of Madison.

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

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Sometimes you're a realist and sometimes you're not, today I'm not. I would ask you to defeat this motion and go on to pass this bill.

The Committee Amendment replaces the bill, and Committee Amendment (H-350) is substantially different from the bill as initially presented. It's no secret that the last few years have been quite frustrating to municipal officials, as school boards and SADs pass budgets which greatly affect local tax rates. These budgets in many cases are drafted in a virtual vacuum, with little thought to the actual raising of the taxes by the municipal officials.

Bills from the school district are presented to the town for payment. This has resulted in district meetings and referendum votes becoming the place to decide public policy issues, usually resulting in drastic cuts or in some cases increases. All of this causes extensive turmoil in the communities. In an effort to bring the board members and the municipal officials together, I bring this before you.

This bill is permissive. A school district may continue to do business in the same manner unless the voters, by a majority, form a budget advisory committee. The budget advisory committee will be made up of school board members and municipal officials. The school board drafts the budget and the advisory committee sits down and reviews it, with a report back to the school board.

This bill can do two things, one, it will force the issue on school boards to voluntarily consult with municipal officials when drafting the budget. The simple thread of a binding recommendation by an advisory committee may be enough to make sure school districts at least include the municipal officials in negotiations. Second, should the voters of the district not be very happy with the voluntary procedure, they may go out in a district referendum and ask to have a budget advisory committee put together. This is important because a municipality's budget is comprised of 60, 70, 80, 90 percent of school spending. The school board members are elected officials and they represent voters, and the school board's policy is to look at quality. The municipal officials are to look at how the money affects the town taxwise, tax based wise and how it effects the citizens. School board members do not have to sit at the town council meeting and vote whether a lien is going to be placed on someone's home, or whether a foreclosure will be pursued in order to take someone's home. Municipal officials have to.

The turmoil that's created in communities could be greatly elevated by having a budget advisory committee. If the issues are not settled between the elected members of the community, then it spills over to the residents who debate it fully in public, who debate it fully in front of children who wonder why mummy is not happy with the school. Isn't school great? Or, why Mrs. so and so doesn't think mummy is a good person anymore. It gets really brutal. These decisions should be made by the elected officials, with the elected officials coming from the bodies that have the policy charge and the bodies that have the tax payers

and tax situations to consider. Very few school board members know of people who are moving out of town because they can't afford the taxes anymore. Very few school board members have heard from their town officials or asked their town officials, did we lose a major tax payer this year? We need to do something discretionary, can we do it this year? I have one town that has a relationship with the school district that is so united that they have a five year plan with everyone committed to this five year plan, with the goals moving right along, this is the fourth year, the goals are moving right along. This is voluntary. Unfortunately, other districts would like to have the same thing and they can't get their two groups to work together. This would make it so that those persons can go to the ballot box and say, "We want you people to work together." I hope that you will defeat this and go on to pass the Minority Report. Thank you.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. Last week in a debate that we had, a number of you stood and said that you either are school board members or you have been school board members and if you have, and you know what school board or school directors do, you should be very interested in this particular piece of legislation. As has been stated, this would take the final budget decision out of the hands of the board of directors or of the school board. There would be an elected group of officials, some of whom would be perhaps selectmen, but only two of the board of directors would be on that final committee and they would have the opportunity to make additions or deletions in the budget that had been originally prepared by the school board and these additions or deletions would be binding on the board of directors. So, what this bill does, and the amendment replaces the bill, the original bill had this being done by the board of selectmen, what this bill does is it takes the authority out of the board of directors or the school boards hands and places it in this additional group of people. In many communities we have very good communications between, if you have a small town, town manager and the superintendent of school, or the town manager and the board of directors. There are communities, and this was submitted because of a set of communities where there was not that kind of communication. Generally, the superintendent and the town manager, and some of you come from large places where you have city councils and so forth. The left hand knows what the right hand is doing and they try to work together. This was presented by an area where they don't have that type of communication. That is unfortunate, we would like to have them have that type of communication but we feel that this type of legislation is unnecessary, we elect our school board members, we elect our board of directors, and if we don't like what they are doing then the next time an election comes up, we should take care of that. We hope that you will vote with the majority vote on this piece of legislation. Thanks very much.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. As a point of clarification, the budget committee would be made up evenly half school board members and half of municipal elected members, therefore there would be equal strength to support and a desire to work towards consensus.

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

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

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

Representative MCELROY: Madam Speaker, May I pose a question?

The SPEAKER: The Representative may pose his question.

Representative MCELROY: If I am reading this correctly, does this mean that there will be two members elected from each municipality in the district and two members from the board of directors from each municipality in the district?

The SPEAKER: The Representative from Unity, Representative McElroy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Yes, that is correct.

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

Representative MCELROY: Madam Speaker, Men and Women of the House. I happen to come from an area of the state, and have worked for a number of years in a SAD that has 11 towns. You slow down for a minute and you stop and think about how effectively town government works with 3 selectmen. I think all of us can come to closure from time to time, that they can't even agree. Now this legislation proposes that we end up, in that case, with two times eleven and two times eleven, which in my math adds up to be forty four, I would suggest that closure on a budget would be practically impossible with 44 people.

I want to go back into the 50s, some of us can remember back into the 50s. In the 50s this body along with the other body came to closure on an important event in the State of Maine and that was reorganization of the schools. Some people today don't agree with that, some people agree with that. I happen to agree with the reorganization that went on. I feel that our children have benefited greatly over the last forty plus years. At that time, the decision was made by those bodies that school districts in their capacity were quasi-municipal, that by faith, the possibility existed, and this is not meant to be a negative statement, the possibility existed, that there might be people to serve on a school committee that had as much interest and foresight and insight and capabilities as those people who serve as selectmen. So we went forward, and we have operated under that system for some 30 odd years. We have operated, generally, in a very productive and effective manner. We have not operated effectively as the money starts to disappear. When the money goes down the chute, the cooperation has a tendency to go down the chute with it. I think this bill will create great divisiveness in communities that currently have a problem and when you start putting selectmen and school board people, that is not good for education, it's not good for the population. I really can't think of much that it is good for. I would request that you vote with the "Ought Not to Pass" part of this committee. We reviewed this, and reviewed it for many, many hours. I would suggest if there is a problem in a SAD or a school unit, that the people who have the power rise up, go to those board members, and say let's talk, we can do a better job than this and the board members have to respond or again, the power of the people will come forth and they can put those people out on their ear where they should be. Where there is cooperation anywhere, we get productivity. Where there is a lack of cooperation, we don't. So I really ask you to vote with the "Ought Not to Pass" side of the committee. Thank you very much.

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

**ROLL CALL NO. 172**

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

NAY - Belanger DJ, Buck, Gerry, Joy, Kasprzak, Lane, Layton, Lindahl, Madore, Plowman, True, Underwood, Vedral, Waterhouse, Wheeler EM.

ABSENT - Baker CL, Baker JL, Brennan, Foster, Hatch, Nickerson, Saxl JW, Vigue.

Yes, 128; No, 15; Absent, 8; Excused, 0.

128 having voted in the affirmative and 15 voted in the negative, with 8 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

SENATE REPORT - "**Ought to Pass**" as amended by Committee Amendment "A" (S-182) - Committee on **Legal and Veterans Affairs** on Bill "An Act to Make Technical Changes in the Laws Relating to the Sale of Alcoholic Beverages" (S.P. 510) (L.D. 1572)

TABLED - May 7, 1997 by Representative KONTOS of Windham.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted.

The Bill was read once. Committee Amendment "A" (S-182) was read by the Clerk and adopted.

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

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-182) and sent up for concurrence.

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

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

Representative BULL: In reference to Roll Call No. 170, I wish to have the record reflect that if I was present I would have voted yea.

On motion of Representative MURPHY of Kennebunk the House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

Bill "An Act to Prohibit the Gathering of Signatures at a Polling Place" (H.P. 64) (L.D. 89) (C. "A" H-339)

TABLED - May 7, 1997 by Representative KONTOS of Windham.

PENDING - Passage to be Engrossed.

On motion of Representative SAXL of Portland, tabled pending passage to be engrossed as amended and later today assigned.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Prohibit Landlords from Collecting Rent More than 3 Months in Advance" (H.P. 1107) (L.D. 1550)

TABLED - May 8, 1997 (Till Later Today) by Representative GAMACHE of Lewiston.

PENDING - Acceptance of Either Report.

On motion of Representative GAMACHE of Lewiston, tabled pending acceptance of either Report and later today assigned.

An Act to Amend the Maine Pharmacy Act (H.P. 538) (L.D. 729) (C. "A" H-288)

TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

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

An Act to Require the Public Utilities Commission to Align Telecommunications Carrier Access Rates with Costs to Foster Economic Development and Competition throughout the State (S.P. 243) (L.D. 812) (C. "A" S-162)

TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

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

An Act to Establish the Rider Safety Act (H.P. 713) (L.D. 977)

TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

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

An Act to Require Economic Impact Criteria on State Procurement Procedures (S.P. 361) (L.D. 1220) (C. "A" S-147)

TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted.

On motion of Representative CAMPBELL of Holden, the House reconsidered its action whereby the Bill was passed to be enacted.

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

An Act to Amend the Laws Regulating Occupational Therapy Practice (H.P. 1151) (L.D. 1616) (C. "A" H-282)  
 TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

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

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

House Divided Report - Committee on **Education and Cultural Affairs** - (11) members "**Ought Not to Pass**" - (2) members "**Ought to Pass**" on Bill "An Act to Repeal the Guiding Principles of the Learning Results System" (H.P. 503) (L.D. 694) which was tabled by Representative RICHARD of Madison pending her motion to accept the Majority "**Ought Not to Pass**" Report.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I have to get up to speed, it has been kind of a long afternoon, thank you. I would like to speak against the pending motion.

This is the first of a number of learning results bills that will be before the House. This one deals with what are called the guiding principles. For those of you who weren't in the last session, and a number of you, of course, are new. What we did was that we enacted the guiding principles. We did not enact any content standards or performance indicators. Those were sent out through rulemaking by the Department of Education and the State Board of Education, cutting out, by the way, direct participation by the school districts and we also did not adequately fund at that time. We then put funding in, as you may recall, for performance assessment in the last budget as well redesign of the MEA. What we are dealing with now are the guiding principles. The guiding principles are in effect the trigger, if you will, to the mandate, which very much, if you wish to implement this legislation, you have to go with. There are, I believe, seven of them. I know that another speaker will address exactly what they are, because I think it's very important when we address any particular issue that we know what we are talking about, but there are seven musts. Musts, that have been enacted into state law previously. Now there are a number of problems with this. One of these problems emerged a couple of weeks ago when Duke Albanese, the Commissioner of Education, was explaining learning results on a radio show and he said himself, that Maine was unique, in having the guiding principles in law. In fact, it is unique to enact into statute what I would usually assume would be, at best, a curriculum guide, but once you enact these into statute, then you have all kinds of questions, of one which being, is it judicially enforceable. The students must be 1, 2, 3, 4, 5, 6 and if they are not, then what is the liability to the district? So what you are doing is opening up a tremendous can of worms.

Secondly, at the public hearing on learning results, the Department of Education was quoted in the AP as saying, "They do not know how much it will cost schools to meet the standards, but the agency hopes to have an answer for the legislature next year." So what we are rushing to do is to enact something that you don't even get the money figures from the agency involved until maybe next year.

Thirdly, based on the experience of a number of other states, such as Colorado, it is estimated that you have to add on to the

at least 2 million to 4 million another 6 million, simply in terms of immediate implementation. I do want to point out to you folks, all we are talking about is the tip of the iceberg. If you're going to be implementing some 1,126 content standards and performance indicators, that is going to create a considerable cost in implementation in your district and the Department has not been able to come up with any answer of what that would be.

Fourth problem is that if we enact learning standards at this time, by the way it isn't learning standards folks, I hope you haven't missed, it's learning results. Learning results, it's presented to you as a standard's bill, but I would maintain it is not truly a standard's bill. It is a result's bill. It is outcome based education, bar goes up, bar goes down, bar goes all around and somehow you meet a criteria that's developed as you go on. If we were to enact this, and the *Bangor Daily News* and other papers, that's pointed it out at this time, without dealing first with educational disparities in the State of Maine, we will in effect freeze them. If we allow exemptions for districts of the poorer and allow districts that are more wealthy to proceed, all we do is extend that gap.

Now fifthly, and it shouldn't be a minor thing, but I have always felt that this is educationally unsound. It's been rejected in other states, such as Virginia, the *Bangor Daily News*, about six months ago, ran a piece by the AFT rating, which is very strong on standards, rated Virginia A, rated Maine C, on the basis of the learning results developed. So I don't believe this is even educationally sound, because it has no system of validation. No exit exam, no developed exams, whatsoever.

Sixth, and finally, last year the Attorney General's advisory opinion given to the legislature said a number of things. Two of which were, that number one, it would most likely develop, or confer, a mandate by rulemaking and secondly, that rulemaking did shut out the school districts from effective participation.

What you have before you is a statement from the fiscal office, it is not the fiscal statement as eluded to earlier by the good Chair of the Education Committee, but I think you can see it and see it in black and white. If you wish to implement this, it is a mandate. So the problem with all of this is, if you don't want it to be a mandate, if you want it to be at the discretion of the district, what basically do you have? What you have is basically nothing except a gravy train for bureaucrats through the assessment team and I think it is long overdue that we are always listening to the people on the other side of the parking lot and the top down reform of education. Now this is basically a bureaucratic boondoggle, cross dressing, if you will, as education reform. I say that very sincerely and I would like to pose a question through the Chair to anyone who might respond, because I think it would help illuminate the issue.

The SPEAKER: The Representative may pose his question.

Representative LEMKE: Thank you Madam Speaker. The Bill you have before you is an abbreviated version, it doesn't include the actual guiding principles at all, so I'd ask through the Chair, if anyone is in possession of those guiding principles and could share with us briefly what they are?

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

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. The guiding principles are outlined in the final report on the Task Force Learning Results. It states that each Maine student must leave schools as: 1. A clear and effective communicator; 2. A self-directed and lifelong learner; 3. A creative and practical problem solver; 4. A responsible and involved citizen; 5. A collaborative and quality worker; 6. An integrated and informed thinker.

Does that answer the legislator's questions? May I proceed Madam Speaker?

The SPEAKER: The Representative may proceed.

Representative STEDMAN: Thank you Madam Speaker. Some of the questions that I have and you may see that my name is on the short end of the list again today on this one. If we are going to say that students must leave school with these characteristics, or these qualities, at what point in time do we determine that a person is a self-directed and lifelong learner? I would lift up that would have to be at the end of their life, after their life had been evaluated to determine whether they were that, but these students are going to have to leave school with that already. I would contend that if they're going to be a responsible and involved citizen and do anything to break the law, then they are going against what the school said they would be when they got out and could well produce legal action against the school system for not making them what they said they did.

It just seems to me that this whole idea of putting guiding principles in law, saying that schools must produce these results, and then not having any way, other than saying, "Really they are only guiding principles." I would think they would have to stand the test of law and I see no way that any of these could stand the test of law of a person say age 18 in their lifetime. If they were able to meet all these guidelines, I would contend that the State could save an awful lot of money by doing away with our college systems, because they would already have had it all. Thank you.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. Those of you that were here last year know that we spent a great deal of time debating the very issue which we are debating right now and that is the basic law, the basic guideline to the learning results. Whether or not this is top down, that's a very debatable question. We have hundreds of teachers around the state who have been working on the learning results for several years, not one year, not two years, but several years. We have literally thousands of people who have had input into what is happening. Many, many school districts are already involved. They are already doing what is so called learning results to produce the guiding principles, which we passed last year. It would seem to me that after the long debate that we had last year and we concluded that these guiding principles were something on which we could base some rules, that we would not need to have that debate all over again at this particular time. The guiding principles have been read to you. They are broad, I agree, and they are broad for a purpose. I would urge you to follow the "Ought Not to Pass" on this particular piece of legislation, it is the initial legislation which we passed last year.

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

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. This indeed is an ongoing debate. This bill, even though it was passed has been in trouble since day one. First of all we were informed that this has nothing to do with Goals 2000, and then we found out it indeed has everything to do with Goals 2000, because Goals 2000 is objected to by many people in this state. Again, this is a state mandate towards districts, we were told that there wouldn't be any cost. We were told it wasn't a mandate, now we find out that indeed it is a mandate and they can't even begin to calculate the fiscal note on it. I've asked my school, I've asked my principal and the teachers whom I know, most of them are dead set against it. My school, just won the National Engineering Design Contest, they've won many State and New England math championships. We're doing something right and we're a district

that probably pays our teachers less than anybody else. To have a mandate come before each school district, from the state level, I don't think is fair. I don't think it's fair to our taxpayers. I don't think it's fair to the people that live in the local district and we hear that all of the implementation will be decided on at the local level, from what I've heard around that isn't necessarily so, because what people come up with is criteria doesn't agree with what other people have mandated, they kick it back. I've heard this from two or three sources. I would ask, especially the guiding principles, I think nobody is against having high standards, higher standards, competitive standards for sure, and it's an insult to say that those of us who are opposed to this particular legislation are opposed to high standards. Not at all, but when you go and put into statute language that says a child must be, a child must become, then I have a problem with that. I don't think it has any place in statute. How on earth are you going to mandate a student being a clear and effective communicator? That's subjective. How are you going to determine when he is? How are you going to determine when a child is indeed an integrative and informed thinker? Who is going to determine that? I urge you to vote against the Majority "Ought Not to Pass" Report. Thank you.

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

Representative WATSON: Madam Speaker, Men and Women of the House. I'd like to rise in support of the learning results and I'd like to respond to some statements that were made by my good colleague from the Education Committee, Representative Stedman from Hartland, in reference to the guiding principles. We on the Education Committee, in the public hearing, not too long ago, had many, many people come and testify before us in support of this very important and historic legislation. One of the testifiers that stuck out in my mind gave a really good example to me, because I was unsure about the guiding principles myself for awhile and how these were going to be implemented in the schools.

One of the testifiers was a Laurie Lyndburg, from the College of Education at the University of Maine. In testifying before us, she was representing the University of Maine College of Education and the Maine Center for Coaching Education and she spoke in support of the guiding principles as adopted by the legislature in 1996. I'm going to read you some of her testimony because I think it will be enlightening to you, as it was to me in its application, in particular around the area of coaching and athletics in schools, an area, that I must confess that I do not have a lot of knowledge about. I'm much more in tune to the academic side. I would just like you to listen to some of the statements that were made. "These guiding principles," she states, "provide a clear coherent and appropriate direction for Maine educators in the area of coaching education. Today I'll describe an example of how the guiding principles encourage the process of identifying desired student outcomes, identifying educator actions to encourage these outcomes, and developing an assessment to ensure accountability and to identify professional development needs of coaches and educators. With funding from the UNA Foundation, the Maine Center for Coaching Education worked with the athletic department of Edward Little, Noble, Orono and Woodland High Schools to increase awareness of the guiding principles and how athletics contribute to the development of students' academic and personal skills. For each guiding principle, coaches first identified targeted learning outcomes for athletics and articulated related coaching behaviors to nurture these outcomes. For example, the guiding principle that states every Maine student will leave school as a creative and practical problem solver. A sample of the athlete's outcome would be, the successful athlete

is able to make sensible decisions by taking appropriate actions to learn from mistakes. A sample of coach behavior would be, every coach will assist athletes in evaluating decisions made during practices, contests and outside of sports. This process of using guiding principles to define both athletics and coaching qualities encourages coaches to consider athletic participation and their coaching roles from a new and important perspective. This model emphasizes that coaching is teaching, that coaches are high impact role models, that the value of the lessons learned on the playing field contribute to the guiding principles and can be applied in the classroom and throughout life." I hope that in some way this explanation through athletics has answered some questions that maybe some of you still have in your minds about exactly what the guiding principles are. I urge your support of the "Ought Not to Pass" motion that is on the floor. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I just want to make a few points here. One of the guiding principles is that each student must leave school as a self-directed lifelong learner and one of the points that they use is to use English and at least one other language. Not too many years ago when we had the use of another language, we were in the process of trying to outlaw the use of that particular language. Having been brought up with the use of French, it was almost outlawed, as a matter of fact, in some areas it was outlawed, you couldn't use it. Now all of a sudden it becomes a guiding principle for lifelong learners. Things have a way of changing.

I would like to bring up the top down principle which is no one asks the consumer of learning, the child, what they think they need to learn in order to succeed and survive in this world and I think that's a thing that we're not really considering and weighing as we should. I ask you to oppose the pending motion.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. I have a question, maybe two.

The SPEAKER: The Representative may pose his question.

Representative PERKINS: I remember a couple of years ago in this debate, there were people accusing the proponents that this is all tied in with the federal outcome based Goals 2000. I remember some people denying that, but I heard President Clinton, I believe in the State of the Union Address, say something about learning results type thing, and I'm wondering if indeed this is the same thing he was talking about or a cousin to it, or because of the federal push. I remember in particular he said, "Don't worry folks, these aren't federal standards, these are national standards." I wondered where George Erwell was when we needed him? Basically, I don't quite understand what this is about, if it's not a mandate. We already have it, it's been written, these are the guidelines and I applaud either the feds or the state to send out, in their wisdom their ideas for what teachers should be doing, that's fine, but to mandate, to put it into law, I don't quite understand. Why don't we just do it? Why don't the teachers just do it now, if it's a wise thing to do? I don't quite understand how we get from passing out advice and recommendations to telling them what to do. That's kind of a second and a half question. The third one is, what is the 2 million dollars in the budget for? I'm told it has to do with training the teachers to do this, partly, a big part of it. I asked someone on the Committee, a proponent, well who's going to teach the teachers? Who has the wisdom that these teachers don't have to teach the teachers? That's kind of a third question and I think the answer was something like, well they're going to be coming

from other states, there's a lot of people in other states that know something that our teachers don't. Basically, the most important question I'd like an answer to please, who on earth has the wisdom that our teachers in the State of Maine don't have, or within Maine, to teach our teachers something they don't already know? Thank you.

The SPEAKER: The Representative has posed a series of questions through the Chair to anyone who may care to answer.

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

Representative RICHARD: Thank you, Madam Speaker, in response to the three questions that I think I heard correctly, is this connected to Goals 2000? Yes and no, the way that it is connected, is that when Goals 2000 was prompted by President Bush and then thought to be good enough so that it was carried through by President Clinton, there was money available to states. The State of Maine took some money to help them with their plans, but did they adopt the federal plan. The plans have been revised and they are state plans, as I have said before, there have been hundreds of teachers with thousands of people who have had input, this is the State of Maine Program. This is not a federal program. We may have had some federal money to help us to start with, but this is a State of Maine Program. Why don't the teachers just do it? They already are doing it. I read through the high school English portion and looked at that and said, "That's what I was doing." The only difference is, as we have had new reform movements in the past, we have always said, and I was very much involved in the last reform movement, that's what we are using today, and we said what must students know when they come out of school and so we said, in order for them to know this, we must teach thus and so. The difference with this is, we're saying that they must know thus and so. We're teaching basically the same things and it depends upon what grade level you are as to how much professional development you are going to have to have. Who's going to do this professional development? Some has already been done and it's being done by some of our own teachers who have worked together, who have worked on this and have devised teams that they can go around and help other people and this is probably more necessary at the elementary level, where many things are involved, we talked this morning about art, involving art in the teaching of many different things, rather than doing it as an individual subject. So therefore, we may have some speakers come in from out of state, but I think you will find the teachers who are teaching the teachers will be some of the other teachers.

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

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

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I want to share my own experience with this, so that you can see where we're coming from as teachers. Let me say at the outset that all six of these guiding principles are posted in Room 16 of Winthrop High School and have been for a couple of years.

These guiding principles for the people of my community came about because parents, community members, teachers and students came together and said, "What do we want our kids to be able to do at the end of this?" Now my kids walk into the classroom in the morning and they don't say, "Mrs. McKee what are we going to learn today?" They say, "Mrs. McKee, what are we going to do?" Now what they're saying to me is, "You may

have some things that you expect us to learn, but what are we going to do with that? "Every single person sitting here wanted his classroom, or her classroom, to do something with what you learn. These guiding principles tell us what we want kids to do with all of that math, and English and history that we learnt. Those are the performance standards, those are the achievement measures. What do you do once you know what a metaphor is or imagery is? If your teacher never had you write a poem, she got no learning results. This is about learning results and frankly, I was insulted by this pink sheet of paper that came across our desks this morning. It seemed to make a mockery of something that I consider extremely serious, I can't think of anybody sitting here who didn't wish that you could be a clear and effective communicator on the floor of this House. We're constantly trying to take kids to that point, where they feel comfortable talking in front of a class or in front of a small group. I don't know about you, but when I was coming through school, we sat in rows, all 42 of us, or 36 of us, with the teacher up front, scared to death. Learning has changed. Reform is not what you're thinking it is. Reform is something that you hope education would be when you were in school. Some of you are parents, you hope that at a certain point your kid won't have to be told over and over, go brush your teeth, do your homework. You want them to be a self-directed person, a self-directed learner. We're asking students now to take charge of their own learning, through independent projects, setting their own dates for deadlines, determining what their thesis is, determining what the topic will be. On any of the area, one of the questions that's asked all students, "How many times did you get to choose your topic for writing?" Once, sometimes, always, never, and the point is the kids who are succeeding at writing, are they succeeding because the teacher is giving them an opportunity to make some choices?

The third one, a creativity and practical problem solver. Men and women of the House, in the next century our population is going to grow, we're going to have a greater need for jobs, housing. There are going to be more and more problems in the environment. We need art more than ever. We need creativity more than ever, trying to figure out how to solve these problem that you and I are dealing with in Committees today. We've got to take that seriously. A responsible involved citizen, if you think your constituents are apathetic, perhaps it's because a teacher has not said to those kids, your views are important, what can we do with this citizenship class? Are there problems in this community that we could work on? Are there ways we can empower children to go on to become empowered adults and take responsibilities for this society? A collaborative and quality worker, I wish our teachers had done this when I was growing up. If you walk down most any classroom or any hall today, you will see students clustered in small groups talking to each other. My son's a math teacher, but he puts his students in small groups to go over certain things, brainstorm, figure out a solution, work with each other, a win, win situation. You remember the math class where you sat in rows, you exchanged papers and you called out your grades at the end, much to the shame of a lot of students sitting there. We're trying to get kids to work together. Why? Not only to build a more caring society, to help us to become greater competitors in a global market.

Finally, an integrated and informed thinker. Although most of our schools have walls today, we're trying to work together and I'll give you an example. When the history teacher gets to the great immigration, the history teacher doesn't do that necessarily in isolation anymore, the history teacher reaches out to me the literature teacher and says, yes, these are the facts in our history books about the Franco-Canadian Immigration into Maine, but what were the people themselves saying, what were they writing

about? What were their songs? What were the problems? So we collaborate together, because learning is not in a vacuum, and finally we say, as a learning result, we've done all this now, so what? So we ask kids then to say, based on what you have learned, can we apply this learning to a current problem? Well of course we can, we have immigrants in the State of Maine today. Could what we have learned about that Franco-American experience help us to understand the Cambodian-American? Of course it could. That's a learning result. So I implore all of you, think about these seriously, these are guiding principles. We must have those to understand what learning results are. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. The statements by good Representative McKee in many ways make the point. She speaks like a true teacher should speak, she sounds a lot like what I hear from my wife and what I heard from my father, what I heard from my mother, who were teachers and for that matter my grandmother, who had to ride horseback, literally to get to a one room school. Any good teacher does all of these things without it being mandated by the state. You can not mandate, and you should not mandate creativity, but creativity is at the absolute core of learning and the problem I have more than anything else with this is that top down, top heavy, laundry list approach to education. You're giving teachers 1,200 laundry list items that they've got to check off, like you're in a mill, or what have you and that will constitute education. You're not giving the teacher the scope and the freedom to be a teacher and you're not giving the students the ability or setting to be a true student. That's what it finally comes down to. I have no problem at all with any of these things being part of a curriculum guide as they have been part of curriculum guides in the past, but I have a massive problem with the state saying, "You must, must, must do this, and you must adhere to these 1,000 what have you standards." You will stifle educational creativity by this kind of approach. Now yes, there were many people who testified on learning results and many testified against it, not on the basis of being anti-education but pro-education. One brief example, which has been handed out by Representative Royce Perkins was from Dr. William Calendar who is a professor of education at the University of Maine and he sums up by saying, "It is decidedly not an imaginative design of the educational system of the 21st century, rather it is very obviously a last gas effort to protect the factory model of education of the 19th century." The child remains a captive worker and you get to this part about you must be a collaborative and quality worker, who demonstrates reliability and flexibility, as one of my good friends in the legislature says, "I don't have a Ph.D. but I know exactly what that means. You don't have anything in here for corporate CEO's what they got to do, but you have it for workers. This is a totally outdated approach to education, which goes against the trend in just about every state. Every state is more decentralized, every state is trying to do more of what Representative McKee was talking about and not education from the top down. Learning results has been rejected in just about every state it's been tried in and then they have moved on like Virginia and other states to real standards. Now I've been teaching for 27 years and I feel like I'm getting into the teacher mode here again and I apologize, but when you get right down to it, if we can finally get away from this bureaucratic top heavy approach then we can finally start to deal with real education reform. The question was asked, "Who teaches the teachers?" Well, we do have teacher education in the state, we have very good teacher education at St. Joseph's college. Everybody gets placed, they seem to do very well. We have

teacher education at the University of Maine and elsewhere, if we really want a commitment, put more of a commitment into teacher education, train them as best you can to that point, and then set them free in the classroom. That's where you're going to get a real education reform. So I'll conclude by saying a representative from the other body or the outer body, whatever we call it, as some of you know, accused me of being anti-education and against kids and it was on public radio and everything else. Well, that's pretty silly, as Representative Brennan and others have said, what we are debating here is not whether or not we do education reform, we're debating how we do it and if we do it right and I propose, if we want to do it right, than we vote against the majority report, do away with the guiding principles and then move on to deal with the content standards. You don't enact guiding principles into statute as law. As even Duke Albanne said, "We're unique." Well, this is one of those things, folks, where we don't have to be unique, we shouldn't be unique, so I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Madam Speaker, Ladies and Gentlemen of the House. As a teacher also, and I'm not going to give a big long story about it, but I'm looking at it like we are the leader. As a teacher, I was really reluctant about all of this learning results stuff myself, because it did sound like it was coming from the top down, but we as leaders of the whole state, are really giving a direction, we're not mandating that you have to do all this. All we would be doing by this is saying, "Hey these are some good things, I think they should be considered." We as the leaders of the state say, "Why don't you work on these at the school." Now I know that's true, because we've been working on them at our school system for over 4 years, but my sister who is in the Augusta school system says they're waiting to see what we're going to do here before they even start. That's why it seems to be kind of an argument while you're telling people, we have to say that this is a good thing, we don't have to mandate it and any money that you talked about, most of that is for professional development day. Just to sit down and talk about it. You know how you feel when you're told, do this. Some of you complain like you weren't part of the budget or whatever. When you all sit down together and discuss what the learning results are as a school system or just as teachers, you're working and becoming part of it and that's what real learning results really was suppose to do. We're just saying these are good. Let's try them and directing the State of Maine to take a look at this and for the school systems to work it. That's basically all it was and from there the teachers will learn to be part of that and they will only do that if we sit down and some time is spent to go through it with one another and then they will have and investment and this will eventually be part of things for the kids, because the kids are involved in that too. Don't be afraid of it, it's okay. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Ladies and Gentlemen of the House. I, too, would like to quote from Professor Calendar's letter where it says, "I think the child is a natural self-directed learner who comes to school, first to school joyously, having learned to stand up, walk, imagine, think and talk on his own without standards. Over time, we shut that learning down and turn the child into an over-instructed, over-tested, bored student." What we did is in this century, is we took education and we did, in fact, base it on the industrial model. We thought of human beings as parts and pieces and we took them apart and we taught them social studies, and we taught

them writing, and we taught them math. We got it so far to the point, where a student will be in his math class and chastise his teacher if that teacher grades his grammar. This is true, this is going on in our schools today. That's why we have the conformity. The guiding principles are the learning results are about helping teachers get back to being the kind of teacher that Representative and Teacher McKee are. She so exemplifies what teaching needs to be about and what has died in much of our educational system. I spent 4 years in the Gardiner School system and I can attest to how difficult it is for a teacher to move things forward without having the kind of support our leadership can give them to take a risk and say let's go outdoors and walk through a swamp and figure some things out. We might learn something that might not be able to be categorized quite into some of these boxes, but it is real and it's true and that's what keeps learning alive. That's what keeps motivation alive. In our system today, we tend to teach conformities and fit into our molds. If we are wondering about how to pay for it, we have people all over this state, like Linda McKee, an excellent teacher, we have the Miller School of Waldoboro, that a sentiment was tabled on today, that maybe you'll hear tomorrow. They won the Odyssey of the Mind Contest. They also earned National School of Excellence and they went to Washington, DC, to accept an award from the President. They were the only school that took students. That is what Maine is about in education. So learning results are not top down, the guiding principles came out of months, years and thousands of people working together to develop them. They're about bringing inspiration back into our educational system and if you think it's fair, go wander around a school. Drive by a school. Do you feel like going in when you look at it, not very many of them. We need to bring living back into learning. Thank you.

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

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. I wanted to answer a question that someone asked concerning the Goals 2000. This is from the final report on the Task Force on Learning Results. The Task Force on Learning Results expects to remain involved in the learning results implementation process in it's role as the Goals 2000 State Panel. It has the State Goals 2000 Panel, the Task Force is charged with the development of a detailed 5 year plan which includes benchmarks, a system to monitor and evaluate statewide progress toward increased student achievement and provisions for providing support to local school districts. In going down further, it said the Goals 2000 State Plan will be completed by June 30, 1996, and would add a detailed monitoring and evaluation system to the task force existing plan of education. That's the assessment piece that is still ahead of us. Then it says, in addition Maine Goals 2000 Plan will describe how all federally funded education programs will be connected under the umbrella of the Learning Results, including school to work transition programs and a cluster of federal programs including an improving America's School guide. This tells me that there is little distinction between Learning Results and the Goals 2000 program and if we follow this through, some of the recommendations that are coming out of this report by the year 2002, the Learning Results will replace the current Carnegie Unit high school graduation requirements in Maine law. In order to receive a high school diploma, all students must demonstrate achievement of the learning results. Local school units may establish a diploma requirement, this requirement will take effect in the year 2002 affecting those students now in the 6th grade. I guess what we are saying here, is that this really is the Goals 2000 plan that was suggested by the federal government and it's

being adapted to the state. I would just leave it at that at this point in time. Thank you.

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

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. I want to address primarily the issue of teacher involvement and basically the people who have been working on this project. This project started quite a long time ago, at least by 89 it started, and was known as the common core of learning in 1989. So far we have spent over \$10 million to arrive to the point where we are today. If you look at the membership of the group of people who have been working on this, contrary to what the Department and the Committee are telling you, it's really a very elite group of people. Basically about 10 people who have been working on this, there's been some other people that have been involved from time to time, but they seem to get very frustrated and then drop out. If you look at the list of the membership, you'll see that it's basically an elite group of people from the ivory tower. There's been no parents involved, no business people, the only business person is a banker. I feel very strongly that if we had had a wider variety of people, that were actively involved in this and maybe a couple of potato farmers and fishermen, it would have come with something that had more common sense than what we have before us today. You're going to hear a lot of propaganda over the next few days and that's exactly what it is. A lot of money is being spent, they've hired a couple of lobbyists even, to push this through. They're going to tell you that thousands and thousands of teachers have worked on this and all support it. In reality, that's not true at all. In fact, when the teachers do show up and express their concerns and ask their questions, they're given a song and dance show and told to shut up and behave themselves and go away. Yes, this is Goals 2000, yes this is Goals 2000. To some people that's a big issue, to some people it isn't. I don't frankly care. What I do care about, is that the pieces of work we have in front of us right now is just that, a piece of work and nothing to be proud of. One of the reasons why people are so interested in what Virginia has done is because they, too, were part of Goals 2000, they had a rebellion in the state, because they were appalled at the wishy-washy materials that came forward. They pulled out of Goals 2000 and Virginia developed their own standards. There's a lot of people that think we need to do something like that. That we need something that the liberals and conservatives can agree to, that the parents can understand and that the teachers can understand. Yes, this is Goals 2000, and yes this is outcomes-based education. When I first came here I didn't know what outcomes-based education was. It's very hard to describe, but once you understand it, you're not going to like it either. I remember sitting right back there my first term, sitting next to a very respected man, Omar Norton, on the Education Committee, and as they were passing the legislation to create this 4 years ago, he turned to me and he says, "Well, what do you know about outcomes-based education?" I said, "I don't really know, Omar," and he says, "Well, I don't either, but I don't think it's a good thing." I know today that Omar was right and he had a hunch and we should have just said no way back then, but they keep pushing this thing, they keep hiring the lobbyists. If you go down through this list, anybody who wants to see it, you'll see superintendent of school, you'll see a university professor from Farmington, you'll see a former commissioner of education, you'll see the one banker and then you'll see another professor, then you'll see the Chair of the Board of Education, a librarian from the Maine State Library, a principal from Lewiston and the Dean from Bates College, who got on this and ran his own agenda, has some kind of cockamamie idea in his head and has spent

millions of dollars trying to push this through. I just ask you all to use a little common sense and to read this document for yourself and to ask yourself some questions. Again, if this is such a good thing, why is it so difficult for them to get it through? Thank you.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative MACDOUGALL: Madam Speaker, Men and Women of the House. Last fall, during the campaign, I spoke with 2 school teachers from one of the school districts in my legislative district. They were 3rd grade teachers and they were genuinely concerned over these learning results. I hear a lot of positive things from some school teachers in this body today. How wonderful it would be to have classes they described. These 2 teachers felt that's what they had already and were now being handed something that they had to adapt to their teaching and not told how to do it. Their question to me is, "Where's the training? Where's the money to support the training?" It concerns me, ladies and gentlemen, that as earlier speakers have mentioned, the cost factor really is unknown. We are also in charge of the people's pocketbooks. What I see here of these 2 teachers, teachers who had had 8 to 10 years of experience, were very happy in what they were doing and now were being told they're going to have to do something different. I'm sure it shook their confidence. They didn't feel they could be successful without further training. I don't think this sends a good message at all. Thank you, ladies and gentlemen.

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

Representative O'BRIEN: With all due respect to the previous speakers, I feel that this is important to continue the debate and continue the dialogue regarding this. I wasn't here at the last term and I only wish that I had had more time to study this issue, because I think it is a very, very important one. Lest anyone think that I am anti-education, my family comes from a long line of educators, superintendents, assistant superintendents, principals, as I mentioned a few weeks earlier on the floor, my sister has won a national award as a wonderful teacher and I've spent 15 years of my life working towards the founding of a children's museum which is in essence an institution that teaches through the hands-on approach, the interactive approach to learning so it's very, very important to me. I really ask some questions, not being flippant in any way, I really would pose questions through the Chair to anyone who cares to answer these. Listening to Representative McKee, I would venture that her room is wonderful, creative as I heard it explained. Referring to another teacher one time, the room looked like children lived there and I think that's probably what her room looks like and I think that says a lot. I would venture that she is a wonderful teacher as are several others in this room, but as she was describing it, I couldn't help but say, so you don't need this mandate. You don't need this mandate, because you're doing it, and wonderful teachers, creative teachers are doing it already. So if I'm missing something, I really would like to know what it is that I am missing. Representative Pieh talked about inspiration and creativity and that is absolutely what our teachers should be doing, but again, I question whether that can be mandated, if someone is not creative and inspiring as a teacher, perhaps that's not where they should be in that career. Teachers should be most valued people, besides parents, in this society. I would pose a question through the Chair to anyone who cares to answer, or is able to answer. Representative Gagne said that she feels this isn't a mandate and it's suggestions. If it is indeed suggestions, then I'm all for suggestions, but at a price tag that we don't know what the price tag is right now, I am under the impression that it is a

mandate. A law is a law and if anyone can answer that, I really would like to know. Thank you.

The SPEAKER: The Representative from Augusta, Representative O'Brien has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Unity, Representative McElroy.

Representative MCELROY: Madam Speaker, Ladies and Gentlemen of the House. This is not a mandate. I have said it, I truly believe it. I can not make believers out of you. I had hoped really to avoid getting up today and probably, when I sit down I'll wish that I had avoided getting up.

However, when we go to the final report of the Goals 2000, the only part of the Goals 2000 report, if you want to use that word, and I don't know what it has to become such a negative phrase, anyway, the only part of that report that came back that is currently in law has to deal with the guiding principles. There is nothing in law about graduation. There's nothing in law that says what's going to happen in 2002. There's nothing in law except the guiding principles. I resent, as an educator, saying that the number of people involved were a bunch of high muck-a-mucks, were individuals who were bank presidents, were individuals who were heads of departments, were college presidents, I sat in, out of interest, not necessarily as a legislator, although you can't avoid that, when you go to those kinds of meetings. I sat in as an interested spectator. The people that were involved in there, the majority of them in the meeting, were certified, intelligent, capable, involved teachers. The majority of them. The people who put that material together were the typical people that you would expect to put that material together, they were the individuals of the departments, there were other staff people and I just thank the good Lord that I wasn't one of those people, because there were a lot of words there and a lot of sense had to be made out of the words. I also feel that learning results, the standardization, to some degree of what it is that is being taught in the State of Maine needs to go statewide. The reference was drawn to the good Representative McKee and that she does an excellent job, she maintains an excellent classroom. If she does that in one school, then why can't all teachers do the same thing in all schools? That's why I support learning results, because of the results that will come forth that will make this society and this state a better place for those kids who are educated. I have all kinds of material here, that I really have no great need to go into, other people are doing excellent jobs of explaining my point of view and I don't have a great need to stand here for a long period of time. I would mention the fact, teachers already have the knowledge, there is a need to know what teachers like Representative McKee are doing in her classroom. The only way that you can do this is cross pollination. Most of us, when we talk about the birds and the bees can relate to that and the same thing goes on. Take a good idea, let that idea grow, put it into that classroom, let somebody else be inspired by what goes on and grow some more. Learning results is necessary, accountability is necessary. We need both now in the State of Maine as soon as we can get involved in it. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative DESMOND: Madam Speaker, Colleagues of the House. I would like to speak very simply about a few of the concerns that I have heard about learning results, for the last few years actually. I would say that learning results is not a curriculum. This is simply a guide to help schools to help children reach the goals of what they need to know and what they should be able to do before they graduate from high school. It does not take away from local control. How our local district

decides to arrive at this goal is really up to them. It does not take away from creativity. How a teacher teaches in the classroom and how this teacher arrives at the goals is really up to the teacher and the district. I would think that a new teacher, especially, would really welcome these guidelines. I know that I would have as a new teacher. I don't feel that huge amounts of money are needed for teacher preparation. Learning results content is not new, as many have said, most teachers are doing most of these things already. Workshops for updating will probably suffice in most cases, so a huge amount of money, I think that is almost like a scare tactic that we use when we say money, because money seems to be the all of everything. Parents should appreciate the guidelines. They will know where their child should be in his or her learning. Districts have time to implement these learning results and they have until 2002, 2003 and this gives all the school districts time to get up to speed, to help their teachers in workshops or whatever is needed. Even before the learning results was amended, as a longtime teacher, I felt as if I could have used those guidelines to good advantage. I believe in high academic standards, we need high expectations and we would let our children down if we didn't have these high expectations and they do need to be committed. We need to have this commitment from them. I would urge you to vote yes on this pending motion. Thank you.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. There is still something I'm having trouble bridging the gap here in my thinking. By the way, on the two page thing I had distributed by Will Calendar, it's kind of long to read right now, but I would like you to take it home and read it. Apparently, he teaches at Gorham State and I think he must be a brilliant man, I'd love to meet him. I taught school one year, about 30 years ago in high school science, and I remember the hot topic in the teacher's room at the time was, are we professionals? Are we really professionals? What is a professional? Well, a professional like a doctor, lawyer, so forth, doesn't have to be told what to do. They know what to do. Half art and half science, but basically they get training. Very conscientious citizens of the community, they don't have to be told what to do. I'm having trouble bridging the gap between teachers and professionals. Are they professional? Why do they need to be told what to do, that kind of question? That's somewhat rhetorical. Maybe I'll ask a pointed question at the end here. I hear terms, the last speaker, my friend from Mapleton, mentioned that she wishes that she'd had these guiding principles a long time ago, well you've got them now, here they are. I hear it's not a mandate, but law is mandate. I still, and I asked earlier why do we have to make it law? Another one of my friends Representative Pieh said this is a helping hand. A helping hand, in all due respect, law, why make a law if it's a helping hand? I'm having real trouble bridging that gap. When you pass a law, it's a serious measure. You've got police powers, you've got sanctions, you've got penalties. This is serious, if we're just guiding principles, why not just send them out? You hear that it's not top down, well that's what law is, top down. If this came from the ground floor, the working folks out there, there would be no reason to make it law, they would be doing it. Law, by definition, is top down. But anyway, may I ask a question?

The SPEAKER: The Representative may pose his question.

Representative PERKINS: What are the penalties if this became law? Have there been any designated? I guess that's the main question. Are there any penalties or sanctions to back up this law, to enforce it, if you don't adhere to it? Thank you.

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

Representative RICHARD: Regarding sanctions or penalties, that's something that was considered last year when they were writing this, they had sanctions in it. I'm one of the people who worked very hard to get the sanctions taken out. I think if you say, this is a good idea, that the way to get people to work on it is to help them, not to punish them. That is the system that is in effect with this today, that if a school system finds that they are having trouble doing this, than they will come back to the Department and some help will be offered to them. Rather than sanctions, assistance will be offered.

I think this did come from a ground swell. The ground swell is the number of people who have said, "We are putting a tremendous amount of money into our education system and we are not getting well-educated students." The number of people who go out and hire youngsters who can not do the simple jobs that they are asked to do. I did not realize myself, that this situation was as bad until I came here to this House. I thought my education system was pretty good in my community and I think it is. However, as I listen to people from around the state tell about what's happening in their communities, I realize that that is not true all over the state. Consequently, I think this did come from a ground swell of people who are saying, why are we spending so much money and not getting a good product. The opportunity is there to try to do better. While I'm on my feet, I would like to read to you a paragraph from a statement made by Peter Geiger, and if you know the almanac that Peter Geiger publishes, and this is going back to the subject, which we are discussing, the guiding principles. If you ask the business community what kind of worker they need to be successful, they would not necessarily list each content area of the curriculum, but would talk in terms of having a collaborative and quality worker, an informed thinker, and an effective communicator. In this day and age, those are the qualities that must be found in every education experience. It is not good enough to say that someone who graduates from a public school experience can add, subtract, and multiply. Those are the nuts and bolts, but it is what one does with each of these content areas that will make them, not only a good, but a high quality worker, citizen, and that is what the guiding principles are all about.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I was here in the 117th when we had the debate on learning results. I attended the public hearing. I attended all the work sessions and I did quite a bit of research on the subject looking at outcome-based education across the country. This is not a new issue. It is not a new theory on education. This is John Dewey back again. I mean when you look across the country in other states that have tried outcome-based education, they have rejected it and Representative Winn was entirely right when she talked about Virginia. Governor Doug Wilder when he was governor at the time, had this before him and the education department came through with the guiding principles. The guiding principles, down there in Virginia, were not acceptable to the people down there. Governor Doug Wilder told the people responsible for these guiding principles to go back to the drawing board, come back with some better ones. They did, they were further rejected, because they were very esoteric and they couldn't thin them down. They came back for the third time and finally he said, "You're out of here, that's it." They went the wrong direction and they turned down the Goals 2000 money. At the time of the

debate in the 117th, there was a home grown issue in the State of Maine, that was very strange because all the research I did around the country, when they had this issue before them, it was the very same exact language, right down to the guiding principle. Exact same wording, so this is not Maine's home grown. This is legislation that's been tried across the country and a number of states have rejected it. Now I am very pro-education, I have 3 teachers in my family. I think it is a noble and honorable profession, but I don't think we should buy things carte blanc. I think these guiding principles are very esoteric and they don't belong in statutes. Just taking a look at them, and I agree with Representative Perkins, that you have these things now, why do you have to have them in statutes? Just take one for example, a clear and effective communicator. Well, what's the opposite of that? An unclear and ineffective communicator, what teacher would teach that? A responsible and involved citizen. What's the opposite of that? An irresponsible and uninvolved citizen, what teacher would teach that? I don't say this to be snide, what I'm saying is, we don't need this kind of language in statute. To me, and a great many teachers that I've talked to, it doesn't make any sense. It's unnecessary. I urge you to vote against the pending motion.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. It's very difficult for me to speak on this subject, because I know that I'm going to turn off those people that are for it and those people that are going to be against it, however, I did want to try in my own way to get people to understand that certainly there are things needed in education. There are things that need to be written down. There are things that we must have that cost money, and as far as I'm concerned, in that, our young people are worth anything that we can afford to give them. I'm concerned, I want to speak first of all about whether or not there are things out there that are going to cause people problems if they don't follow it to the letter, and I know it's not there in exact language and I want to take you on a little trip and whether you want to go, you're sitting here and I'm very pleased that many of you are listening to everyone. If you want to go back 30, 40 years, much to my chagrin even longer than that, is there anyone in this House that remembers the Regent's Examinations? Probably in going to school, or what have you, you have studied about it. Now the Regent were a testing program that was given in the New York schools, to find out whether or not the students were learning properly and the things that the people, educators, people who make the laws, so forth, felt that they needed to know in order to get into college at that time. Having studied those, I can tell you that the content, the idea was great until the people interfered and the media interfered to the point whereby the teachers taught to the test instead of continuing teaching the way that they did. Now I'll quickly bring you up 15 or 20 years, and then we changed things in Maine and then somebody had the bright idea to have the testing program, which we had, then somebody in the media decided with the right-to-know law now, that they had to be put into the newspaper so everyone could see them, and no one understood them, but everybody criticized the schools. I'm afraid of what's going to happen again, if we put too many laws containing as to what the people in schools do. I am very fortunate to have had the opportunity to teach both in the public and the private sector and I started teaching in a one room and taught everything, including handwriting and music. Music, I could handle, handwriting was a little more difficult for me, but we had a good time. I have had the opportunity to look and go across this great nation of ours and that was part of my job as headmaster of a private school, so that would be capabilities to

pick the colleges that our students may want to attend and I felt it necessary when I went to ask these colleges, what things were they looking for in order to admit students and it was really something to hear about in that they were really looking for a cross section of students and our students in Maine fared very well, because it was thought that those that did and want to go on at that time did a good job and they were well prepared. I've always felt that to look at schools in such a straight and narrow path was wrong. As far as I'm concerned, if you're better off tracing your students 5 years after they leave you, simply because you can tell whether or not they have dropped out or whether they were successful and had a job and were doing a good job. There are things that I worry about, I am going to vote for this, because I have never done anything I hope that would counteract what people are trying to do for education. We have some fine schools and I have had the experience to go to each and every high school and junior high school and places in unorganized territories in this state and in other states and in the world. You can be proud, if you look, I am surprised that we want such changes because it is showing that the teachers are doing a better job because how are we ranking in those really important things, you know the 3 R's, and I know that's old-fashioned, but I'm old-fashioned. I like the idea of inculcating different things together within the classroom. I'll bet you, I won't bet you literally, but I know that 20 years ago, good teachers were doing it then. I like the word master teacher and we've had those. I know generically, and so forth, that isn't correct because we're leaving out the fine lady teachers and I know we have some here. Ladies and gentlemen, we have got to try to understand that the world has changed and there are some people in our school systems, in our businesses, even in legislature, that perhaps should change a little bit. I find and I try to get together whenever I can with young people, because you can learn from them and what has already been said, when you go into a classroom in a situation where children are happy, you can tell and you don't have to go that far, you can just see them passing and going in the corridors. I am afraid that once we get into this, and I want to go back just a moment, remember we changed the MEA test, that bothered me, because we changed them because people, and I must say teachers said, we were not judged correctly and now I understand they want to do away with the band and the bands were the only thing that helped and created a possibility where you could say we are doing a good job because we're in the band. I certainly hope we keep those in there if we're going to have them. I am afraid, after 3 or 4 years if we find this isn't working well, if we do have a testing program, and a testing program that tests the entire teaching within the classroom. I understand that that may not be, there will be the 5 major components and I hope that that is not true. If not, we'll be right back again in 5 or 8 years, because there will be a demand to again change the testing. I personally think that the type of testing that compares us in a broad spectrum throughout the United States is important and is better than what we are trying to do. However, I will not vote against anything, even if it is that minute, to help any of the young people in this state.

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

Representative BIGL: Madam Speaker, Men and Women of the House. I had a pretty clear sentence for my children as they were growing up. It's okay to be smart. I told them that over, and over, and over again and we lived in a mill town, they all went on to college. They thought it was okay to be smart. I've got two now going for masters degrees. They're working but they're going for masters degrees. Now with that in mind, the other day I asked you to look around to basketball players from Bucksport High School point your finger up at them and tell them

to run for office. Now you know what I was really asking you to do, to help create a responsible and involved citizen. You can articulate it both ways, but it's well articulated this way.

Now the third thing I want to tell you, is I have a daughter that teaches kindergarten, she's taking courses for a master's degree. She just recently used the learning results and the guiding principles as she put together a program for social studies. What she told me, she says, "Dad, yeah, these are some thoughts and ideas that I've had, but this is so well articulated. We should pass this on."

Lastly, let's take these well articulated words and just imagine a kind of a cranky guy like me when I was young, going to the 1st grade, and I hear from all my teachers the same story and I hear that for 12 years, when I first walk into a class. I remember walking into high school and I told the teacher my name and she says, "Do you have brothers named William and John?" I said, "Yes." "Well come to the front of the room and sit down." That's not much for guiding principles, is it? You imagine every teacher for 12 years, when you come into class giving you these guiding principles. For 12 years, when you get out of that school, they're buried in there, they are part of your every day living and that's the way it's going to happen, because our teachers are smart enough to take something that is well articulated and use it. Thank you.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Madam Speaker, Ladies and Gentlemen of the House. I postponed speaking, because it bothered me to speak before a crowd. I feel quite at ease at this point speaking.

We've heard a great deal and I agree with all of it, but I want to point out that we can refuse to put guiding principles into law and guiding principles will survive on classroom walls. Guiding principles will survive in the minds of good teachers as what they're trying to do. The thing that divides us here, is not a desire for good education, I think that we are all agreed that the guiding principles are articulate and worthy goals. I think what troubles us is putting them into law, because they can't be enforced, they are goals. They can not be achieved 100 percent and we should not put something into law that can not really be achieved. When I first started teaching, I came out of Gorham State Teachers College and started teaching 6th, 7th, and 8th grade in Whitefield, very enthusiastic. The first thing I wanted to teach the 6th grade, was the oceans and continents and I said all these children will learn to find the oceans and continents. They will be able to point to them and they will be able to spell them. Every child will learn that. I tried and they tried and I said we will not go on until every person in this class can point out the oceans, continents and spell them correctly. I can't remember how long that went on, but I was boarding next year's schoolhouse in the farm, and the farmer said to me, he said at supper time, he said, "Jim, what's the trouble?" I said, "Well, I've been trying to get these children to learn the oceans and continents and I just can not make all of them learn the oceans and continents." He said, "Let me tell you something. You can't beat well water and get whipped cream." He didn't say well water, he used a much more graphic and colorful description from the barn, but I remembered that, and I remember it to this very day. You can't beat well water and get whipped cream. Not all students are going to achieve what you want them to, no matter how hard you try, no matter how stringent we make the requirements, no matter how high we raise the goals. Not all children will do it. When we say, all students must, we are setting some children up for failure, because they are not going to do it. We're setting our teachers up for failure, because they can not achieve it and they are going to make some schools look

bad, the parents, because the parents will say, "Here are goals. This is state law. These children should be lifelong learners. Why aren't you doing it? You're doing something wrong." That's my objection. Not all children can do this, so we should not put it into law. Someone pointed out the objection isn't the learning results, the objection isn't these standards, the objection is the way they may be interpreted, and some people are going to take this very seriously. Some parents are going to say, my children must graduate knowing these things or someone is to blame. Now a few years ago, someone must have said, "We are not going to kill any more whales." Now that's a laudable goal. No one would argue, we should not kill any more whales. The problem is in the implementation. Now they tell us, there's a threat they may shut down the entire lobster industry, because of that goal that someone set, and someone has taken it seriously. We should not put goals into law. We should use these. I think they should be on every classroom wall. I think it's wonderful that these things have been written down for all teachers to use and if I was still teaching, I am sure I would use them, but please, please, please, do not set up children for failure and teachers for failure, by saying all students will do this.

Some high schools now, they tell me, have nurseries for girls who have had children, if we hold these children to the goals that they can not graduate until they obtain them, we are going to have geriatric wards in our high schools as well as nurseries. People vary a great deal in their intelligence. People vary a great deal in types of intelligence they have. People vary a great deal in their readiness to learn. I think the problem here is, if you take this literally, you are treating unequal people equally, and that is a mistake and it is contrary to what we know about good education.

Rather than setting up standards that all children must meet at a certain time, I think we should work on helping those children get rid of the things that keep them from attaining those high goals. We have high goals now. Many children can't reach them. Many can't climb the hurdles, or clear the hurdles, because they are weighed down. We shouldn't say, let's make them higher, we should say, let's help them clear those hurdles.

Someone has said that misfortunes come in for a door we have left open for them. Like in this whale controversy, the whales versus the fishermen. We set an unachievable goal, and someone took it seriously and now we are in big trouble. Troubles come through a door that we open for them, and I think if we put this into law, we are setting standards that are clearly unachievable. We know they can not be achieved. They are wonderful goals, but let's not enact it into law. They can be used just as well, posted on classroom walls, as long as teachers take them seriously and appreciate them. Thank you for your patience.

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

#### ROLL CALL NO. 173

YEA - Barth, Belanger IG, Berry RL, Bigl, Bouffard, Bruno, Bull, Bumps, Bunker, Cameron, Chick, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Fuller, Gagne, Gagnon, Gamache, Gooley, Green, Honey, Jabar, Jones KW, Kane, Kontos, Lemaire, Lemont, Madore, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Ott, Peavey, Pendleton, Pieh, Povich, Quint, Richard, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Watson, Wheeler GJ, Winglass, Madam Speaker.

NAY - Ahearne, Bagley, Belanger DJ, Berry DP, Bolduc, Bragdon, Brooks, Buck, Campbell, Carleton, Chartrand, Chizmar, Clark, Dexter, Dutremble, Frechette, Gerry, Gieringer, Goodwin, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, McAlevey, Meres, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Perkins, Pinkham RG, Pinkham WD, Plowman, Powers, Rines, Sanborn, Savage, Skoglund, Snowe-Mello, Stanley, Stedman, Tobin, Treadwell, Tuttle, Underwood, Usher, Vedral, Vigue, Volenik, Waterhouse, Wheeler EM, Winn, Winsor.

ABSENT - Baker CL, Baker JL, Bodwell, Brennan, Foster, Hatch, Perry, Poulin, Wright.

Yes, 74; No, 68; Absent, 9; Excused, 0.

74 having voted in the affirmative and 68 voted in the negative, with 9 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

House Divided Report - Committee on **Education and Cultural Affairs** - (11) members "**Ought Not to Pass**" - (2) members "**Ought to Pass**" on Bill "An Act to Prohibit the Denial of Teacher Certification Based on Refusal to Participate in Learning Results" (H.P. 1025) (L.D. 1442) which was tabled by Representative RICHARD of Madison pending her motion to accept the Majority "**Ought Not to Pass**" Report.

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

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. Again, I'm on the short list, on this item. LD 1442, was introduced because there was a teacher who did not get a satisfactory response from the Attorney General's Office. A question was asked, as to what happens to a teacher who seeks certification, or recertification who objects on religious or philosophical grounds with the learning results? I wish to introduce into the record, the request letter, the AG's response, and then some of the reaction to that response, by legal counsel from the teacher.

The letter was addressed to Dear Attorney General Ketterer, a bill recently enacted by the 117th Maine Legislature, LD 1791, An Act to Initiate Education Reform in Maine, contains a section which directs the Commissioner of Education to develop accommodations, provisions for instances, where course content conflicts with sincerely held religious beliefs and practices of a student, parent, or guardian. Given this language, I have two specific questions: 1. What accommodations, provisions, are available for public school teachers who have issues of conscience with sections of this legislation, based on sincerely held religious beliefs? 2. What accommodations, provisions, are available for public school students in instances where the guiding principles, themselves, rather than just specific course content, based on the guiding principles, conflict with sincerely held religious beliefs?

The Assistant Attorney General's response: I'm writing in response to your letter, and this was April 1996, asking whether there is any provision in the recently enacted legislation directing the Commissioner of Education to accommodate the religious beliefs and practices of teachers and students in developing a statewide system of learning results. From my examination of the Act, it appears that while the legislature did direct the Commissioner to accommodate the religious beliefs and practices of a student, parent, or guardian, it did not direct that such an accommodation be made for teachers and students, whether such accommodation would nevertheless be required by the free exercise clause of the first amendment, is something about which I could not speculate.

The attorney working with this teacher responded: With all due respect, the Attorney General's Office is required to do more than speculate about the free exercise clause of the first amendment and other applicable laws. Permit me to direct your attention to the Religious Freedom Restoration Act of 1993. This Act of Congress very specifically addresses the religious liberties of all persons, including teachers, in the public schools, under the terms of the Religious Freedom Restoration Act, any person showing a substantial burden upon the free exercise of his or her religious liberty, is entitled to an individualized exemption from an otherwise applicable law. As you will see, a legal analysis of the Education Reform Act, under this standard is not difficult to perform. So the point was made, and the legislation was introduced, because this person, a very qualified teacher, had requested a ruling from the Attorney General's Office, which she did not get, and a need to be satisfied under these conditions, as to whether she would become recertified if she did object to teaching a learning standard.

This is why the legislation is here, and I wanted an opportunity to put this on the record, because maybe later on if a teacher has any objections to this, and is denied certification, I'll have to say I told you so. Thank you.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. It's very important that you look at this bill, which is an Act to Prohibit the Denial of Teacher Certification Based on Refusal to Participate in Learning Results. Participating in learning results is not a criteria for certification. These are two different things, whether or not you refuse to participate in teaching in a learning results situation, or whether you are working for recertification. This is not a criteria for recertification. The bill stated something to the effect of, a person were a conscientious objection to this and there is nothing in the Department of Education certification that pertains to certification renewal, that would have language in it regarding conscientious objection of any type to require certification. This is really two different issues, certification and the learning results.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. If I heard the previous speaker, what she just said, if that's the case, and if teaching these learning results is not a criteria for recertification, may I pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: If that is the case, why not pass the Bill and Madam Speaker, I ask for a roll call.

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

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

The SPEAKER: The 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 Madison, Representative Richard.

Representative RICHARD: I would just say, the Bill is not necessary.

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

**ROLL CALL NO. 174**

YEA - Bagley, Barth, Belanger IG, Berry DP, Berry RL, Bigl, Bouffard, Bragdon, Brooks, Bruno, Bull, Bumps, Bunker,

Cameron, Chick, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagnon, Gamache, Gooley, Green, Honey, Jabar, Jones KW, Jones SL, Joyce, Joyner, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lindahl, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Spear, Stanley, Stevens, Taylor, Thompson, Townsend, Tripp, True, Usher, Vigue, Watson, Wheeler GJ, Madam Speaker.

NAY - Ahearne, Belanger DJ, Bolduc, Buck, Campbell, Carleton, Chartrand, Chizmar, Dexter, Dutremble, Gagne, Gerry, Gieringer, Goodwin, Jones SA, Joy, Kasprzak, Kneeland, Lane, Layton, Lemke, Lovett, MacDougall, Mack, Madore, McAlevy, Meres, Nickerson, O'Brien, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Skoglund, Snowe-Mello, Stedman, Tobin, Treadwell, Tuttle, Underwood, Vedral, Volenik, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Baker CL, Baker JL, Bodwell, Brennan, Foster, Hatch, Kane, Perry, Poulin, Shannon, Tessier, Wright.

Yes, 91; No, 48; Absent, 12; Excused, 0.

91 having voted in the affirmative and 48 voted in the negative, with 12 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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Resolve, to Establish a Task Force to Review the Applied Technology Centers and Applied Technology Regions (H.P. 771) (L.D. 1048) (C. "A" H-320) which was tabled by Representative KONTOS of Windham pending final passage.

On motion of Representative RICHARD of Madison, 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.

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-320) was adopted.

The same Representative presented House Amendment "A" (H-449) to Committee Amendment "A" (H-320) which was read by the Clerk and adopted.

Committee Amendment "A" (H-320) as amended by House Amendment "A" (H-449) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-320) as amended by House Amendment "A" (H-449) thereto in non-concurrence and sent up for concurrence.

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

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 9, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

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

**Fisheries and Wildlife** on Bill "An Act Relating to the Designation of Species as Endangered or Threatened" (H.P. 430) (L.D. 580)

TABLED - May 8, 1997 by Representative PAUL of Sanford.

PENDING - Acceptance of Either Report.

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

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

Representative USHER: Madam Speaker, Men and Women of the House. LD 580 related to the designation of species as endangered or threatened, this bill gives the Commissioner of Inland Fisheries and Wildlife the authority to designate wildlife species as endangered or threatened, it authorizes them to consult, when appropriate, with federal agencies, other state agencies and other states that have an interest in a specific species. Endangered species and threatened species both are determined by the Secretary of Interior of the United States. The state biologists are the proper people to do the work and to record the information. This is where all the professional information is within. If the legislature requests a report or questions on a certain species, they may do so. The legislature would still have the final say in the listing process, as we did in LD 789. The Department does not advocate for or against this legislation, since it is a process bill. It does not change the intent of the need to develop an official list of endangered and threatened species.

I recall at the hearing of LD 789, which is the other bill on the listing that was done perfect, that actually, all we did as a Committee was rubber stamp all their work. The research was done by the Department, it was in the proper location, because we just don't have the time to do all the research to establish this list. I oppose the pending motion.

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. I will not mince words. This is a bad bill. The question that this bill poses is whether or not we, as a legislative body, will have a final say over the listing of endangered species, and contrary to the assertion of the previous speaker, we would not have an opportunity to make that assertion.

When this law was enacted two years ago, there was much debate on it, and I'm sure many of the people that were here at the time recall it. I was not here, however, I have had a chance to review that debate. The question over endangered species is always a thorny one, because determination has to be made on a broad base of reasoning. A great concern that always arises is whether or not you're putting human interests behind interests of, perhaps, superfluous species that are fading out of the scene anyway.

When we addressed the species list in LD 789, it was a very exhaustive body of research that was behind it. There were those of us on the committee that had serious questions about whether or not such a listing that included for the first time, invertebrate, mollusc, etc. was truly appropriate for the Department of Inland Fisheries and Wildlife to be expending precious resources on. We determined, given the evidence that was presented before us, as a committee, that that listing was indeed appropriate. I think it is a simplification to say that we rubber stamped it. I saw no evidence of rubber stamping in my presence in the committee.

This bill would allow the Commissioner to make up a list, essentially. This was how it was done before, and it was done under the auspices of the advisory committee and the argument for this bill is that, as legislators, we are not scientists, we are not

experts, we can not make these sort of determinations. I would hold before this body that we are not experts in many of the things that we are asked to consider daily, and if we are not experts in this field, then we are certainly not experts in items such as taxation, medical care, school funding, many of these things are as foreign to me as anything else that we discuss. You might as well be discussing the moons around Pluto, for all I know, half the time, but nonetheless, are asked to vote on these issues. Issues, in such a way, should not be left to lay people, they don't really understand the inner workings. I do not know the make-up of a previous advisory council, some of them are present today, but I will not give names, but I will give a brief rundown on occupations of this advisory council, which determines the endangered species list before us. We have a retired game warden, a supermarket manager, someone who works at L.L. Bean, a sporting camp owner, someone involved in town politics, someone who works for a guiding service, another town manager, among others. That's your group of scientists, that makes up this determination, if you approve this bill, if you vote against the pending motion.

Which is more political? If it's going to be a political decision, for my own part, I'd like to have the decision be made here, in the people's body. If it's going to be a political decision, are you going to leave it up to a sporting camp owner, who has no interest in the tomah mayfly, which has brought up a great deal of consternation before our committee and this body, because when the final tally is taken, as was pointed out by the former Representative Jacques, when people are affected by it, they are going to blame the legislature. They are not going to blame the advisory council, and there will be people who potentially could be voted out of office for something they had no control over.

We did an exhaustive study of this, it was brought before sharp questioning. The system works, and I guess this is my point why this is a bad bill and we come back full circle. This bill is a bad bill because it's saying that the system doesn't work. In other words, the people that are promoting this bill are actually working to cross purposes, it does not accomplish what they set out to do, because for the first time the people that really believe deeply in protecting endangered species, have what they want. They have invertebrates, insects, for the first time. I think it is a very good question to ask yourselves before you vote, why is that so? Because, before, the people that had interest in the outdoors, in making money off from it, would never allow such a thing to happen. The Department of Inland Fisheries and Wildlife must be dedicated to preservation and proration of all forms of wildlife, not just simply those which we can hunt and eat. As a committee we recognized this and we voted that bill through 12 to 1. This one is also a 12 to 1 report, against. I would hope that you would vote in favor of the pending motion and accept the Majority "Ought Not to Pass" Report. Thank you.

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

Representative UNDERWOOD: Madam Speaker, Men and Women of the House. Two years ago, I was a member of the Inland Fisheries and Wildlife Committee when we first heard this bill. We had a lot of debate here on the floor of the House. We had a lot of debate in committee. We passed the bill, pretty much overwhelmingly in the final tallies. The big fight that we heard two years ago was that this body did not have the scientific knowledge to address this issue and the Committee on Inland Fisheries and Wildlife did not have the scientific knowledge to look at these species. We heard that this will become a political list rather than a scientific list. Well, ladies and gentlemen of the House, that's all untrue. The list came before the Committee on Inland Fisheries and Wildlife, we listening to the research of the biologists. We listened to the testimony of the public and we

came out with a 12 to 1 report of "Ought to Pass" without removing any species from the list. This bill when it came up two years ago, one of the first statements that was made on the floor of this House from one of the good Representatives, that was here at that time, was, I'm concerned that we are solving a problem with this bill that doesn't really exist today. Ladies and gentlemen of the House, that's what we are doing here today. Okay, we are solving a problem with this bill that doesn't really exist. The new system has worked. People have been able to become more involved. We looked at the data, we made a decision. I say that what we did in the 117th Legislature worked, by passing this bill, we are going to put it back to the old system, where one man will make the listing and a council of what they consider experts, and the Representative from Old Town just gave you a list of these experts, will make the final decision. I think we are much more qualified to make that decision.

Representative UNDERWOOD of Oxford moved that the Bill and all accompanying papers be indefinitely postponed.

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

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

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

Representative FISK: Madam Speaker, Men and Women of the House. For the many freshmen here in this 118th Legislature, I think it's important that they understand some of the recent history that precipitated this bill. It's a very simple bill, as the previous 3 speakers have mentioned. It simply returned the authority of the endangered and threatened species to the Department of Inland Fisheries and Wildlife, where it is in every other state in the nation, and where it has been in Maine since the Endangered Species Act was enacted here.

In the last session, the Maine Legislature passed a bill that gave this body the final say of what endangered species would be protected. Last Thursday we voted on that list, the only legislature in the country to do so. I realize this was a controversial issue last session. In my preparation for understanding why the 117th voted as they did, I read all the floor debate, including the 20 or so pages from former Representative Jacques. I had a number of engaging conversations with my fellow legislators on this issue and although good points have been made in support of the actions by the 117th, the premise to pass that bill was, in my opinion, based on unfounded concerns, which I would like to address.

In 1973, Congress passed landmark environmental legislation Endangered Species Act. Millions of Americans were inspired to save America's wildlife heritage before it was lost forever. This historic piece of legislation was considered enlightened policy by conservation minded officials in countries around the world as explicit commitment to the conservation of biological diversity. Maine followed suit with a comprehensive, pro-active approach to listing endangered species, which has provided a stable, predictable environment for determining endangered species and kept Maine free on confusing and costly conflicts. Legislature and the people declared, it is in the best interest of all to maintain the diversity of Maine's native species for the many values it provides, aesthetic, ecological, educational, historic, recreational, economic, and scientific. Then after a strong 20 year record of accomplishment, the 117th Legislature usurped from the Department Inland Fisheries and Wildlife the right to make the final determination of what might be listed as endangered species. The geniuses of this action was the red herring that possible economic ramifications require legislative scrutiny. Yet not a single development, or project of Maine has been stopped since the 1988 amendment that

eliminated some original inconsistencies. What is truly remarkable about the Endangered Species Act, is not how many conflicts that it has spawned, but how few. The statistics are overwhelmingly supportive. It allows us to act pro-actively and not reactively. This, coupled with the successes in saving endangered species and endangered species minimal funding begs the question, why did the Maine Legislature fix something that did not need fixing? Furthermore, I would ask if you would consider these points: 1. This is a decision that should be made by scientists and biologists with the credentials for it. Not legislators who lack such expertise and be subject to special interest lobbyist. I believe this is a dangerous and potentially divisive road for us, to be taking the role of making these decisions. The vote Thursday, for the list went relatively easy, but there is no guarantee it will in the future. 2. Why burden the legislative process that had difficult decisions of education, budget, taxes and the like? Do we really have the time and should the legislature be micro-managing? 3. Legislators are not here for the immediate concerns of the people of this state, we are the long-term stewards of natural resources that other states envy. Not preserving our natural heritage for future generations is a terrible legacy that can not be undone. If we as legislators make a mistake in developing a welfare program, we can change it. It is a big responsibility, indeed, to make decisions that in part precludes any future lawmakers from ever correcting. 4. In the few instances of conflict, landowners and environmentalists are increasingly finding acceptable alternatives and resolutions. Early on the state worked with landowners to save the bald eagle here in Maine. Now I'm not insensitive to property rights issues, I'm a businessman and a landowner. Three years ago I expanded my health club in an area that had wetlands and worked amiably with DEP to get that project done. Endangered Species Act can not be used in a willy nilly fashion to restrict development. By providing basic information on what species are in danger of extinction, the listing process simply gives a factual solution, which Maine people can build Maine solutions. 5. In my opinion, we should keep politics and special interests out of the equation, there has to be a right to survive as a species and have the protection from extinction caused by human overpopulation, exploitation, and or indifference. We're the only species who can reverse the very troubling trend in which our grandchildren and future generations thereafter will be able to experience the multifaceted benefits of different species only in zoos, exhibits, and history books. If we can bring about the demise of an animal, what is wrong in spending some time and effort creating conditions favorable for its return or survival? The Department of Inland Fisheries and Wildlife is best equipped to do that. 6. Time is running out for some species and any future failure to act by this body increases the cost and difficulty of saving them from extinction. Thus, whether it is saving the bald eagle, or a butterfly that is only found in a small area of Mt. Katahdin, or preventing destruction of valuable wildlife habitats, we should not be in a position, or trying to prevent the watering down of landmark legislation while we lose biodiversity faster than any time in history. The performance of the Department of Inland Fisheries and Wildlife when the Endangered Species Act has been exemplary, and the decisions about which Maine species deserve protection from extinction should be without the potential of fear, antidote, and politics becoming part of the process. The past legislative action flies in face of Maine's reputation of being environmental leaders. Finally, each species is a product of millions of years of evolution, when we destroy just one species, we are destroying an ancient lineage forever. We have wiped out a part of Maine's history. I can not see why we became only one of two states in the country to fix something that did not need fixing. It is my hope that you will reconsider

that action and vote against the pending motion and let the biologists at IF&W make these important decisions. Thank you.

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

Representative BULL: Madam Speaker, Men and Women of the House. I urge you today to defeat the pending motion, indefinite postponement of LD 580. As the good Representative from Falmouth has just discussed, I think this is a very bad idea to be having legislative review of which species qualify for designation as threatened or endangered. Just for a minute, think for a second, why is it necessary for the legislature to even approve this list? What are we trying to achieve, as a body, by saying that we need final authorization over this list? Unfortunately, the only conclusion that I can come to is that we want to have the authority to take certain species off this list, if we deem it not appropriate. Then I ask you, how is it that we feel qualified to do this, because I know that I am not a biologist and to due respect to the Representative from Old Town, Representative Dunlap, I strongly disagree that we do have the knowledge necessary to make these technical, difficult decisions. The Department of Inland Fisheries and Wildlife, they have the specialists, and as the Representative from Westbrook, Representative Usher discussed, this is an exhaustive process, where they look at all these species and carefully consider which ones should qualify. I'm hard pressed to understand how we as legislators are equipped to second guess a decision of trained scientists. With all due respect to everyone in this body, myself included, I don't think we are qualified to do that.

Now, it has been discussed that the vote on LD 789, which we voted on last week, which is the actual list of the species to be included here in Maine did pass by an overwhelming margin. That's great. I couldn't be happier. The problem is, that we did have 37 people in this body that felt that that list was not appropriate for various reasons. My worry is that, okay there was only 37 this time, but if a different legislature comes and decides by majority that instead of being 110 for the list and 37 against, it could very possibly in future legislatures be 37 in favor of the list as is, and 110 opposed to the list as is. Just because we are successful in passing the list recommended by the Department of Inland Fisheries and Wildlife this year does not mean that in future legislatures that list and decision will not be overturned. Again, I ask you, is that good policy? Is it good policy for this body to be overturning the decisions made by trained scientists who spent exhaustive hours looking at this issue? I would say, no, it is not good policy. I find it very dangerous to politicize this issue of endangered species. When you bring politics into this issue, you are not making decisions based on good sound science. You're making decisions based upon special interest groups. I do not think that is a good way to be making public policy here in the state either. So ladies and gentlemen, I urge you to please defeat the indefinite postponement of this bill and then go on to pass LD 580. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I have taken part in the process of the subject being discussed here for two sessions. I rise to bring to your attention that prior legislators, this body and people in the future, it will be those people, like we are here this afternoon, to make decisions for the State of Maine. Not to send our problems to some far away place and pay a price to have somebody else make a decision for us. I believe firmly in the decisions, sometimes I may not be on the prevailing side, but I believe in this process 100 percent. It's the last place where we, in the State of Maine, can do things for our constituents from the State,

and I would recommend that you join in passing this motion. Thank you.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. I just want to make sure there is no confusion before we vote. It seems like there may be, even though a couple of my friends spoke earlier trying to explain that before the 117th Legislature, the people who had the final oversight, was the advisory committee to the Fish and Wildlife Commissioner, the advisory committee and as you've heard, these aren't scientists, these are lay people. The difference between whether or not, the way it was before the 117th and what we passed is who has the final oversight. In the 117th, we said the legislature should have the oversight. I can remember at one of the hearings somebody accused us two years ago of trying to circumvent the will of the people wanting the legislature to have the oversight. I thought we were direct representatives of the people. We passed the bill in the 117th, it's had one trial, one test, may I pose a question please?

The SPEAKER: The Representative may pose a question.

Representative PERKINS: I would like to ask a question of either my good friend from Falmouth or my good friend from Freeport, how have we failed, if indeed, based on this law that we changed in the 117th? Would you please tell me how we have failed so that you want to overturn it?

The SPEAKER: The Representative has posed a question through the Chair. The Chair recognizes the Representative from Falmouth, Representative Fisk.

Representative FISK: I would say we haven't failed. In the 118th we passed LD 789, I simply say we're the only state in the union that is doing this, therefore, there is a potential that we could in the future.

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

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. This is, I feel, is a very simple issue. LD 789, designates that the authority shall remain with the Legislature. LD 580, in the summary, this bill gives to the Commissioner of Inland Fisheries and Wildlife, instead of the Legislature, the authority to designate wildlife species as endangered or threatened. I hope you will support the motion indefinite postponement. Thank you.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I've heard some interesting dialogue here in the last few minutes. I heard an appeal to freshmen legislators, and I have heard the ability of the Legislature to make policy decisions being questioned. I guess I must remind my colleagues that feel that way that that is exactly the reason we have the hearing process, where people come in, with all sorts of varying degrees of expertise to enlighten the committee and then the committee can make a recommendation to the full body of the House and then we can have a debate here on those issues which are in contention.

I have also heard that there are no records of adverse actions taken because of endangered species. I think, perhaps, those who feel that way should talk to the timber harvesters out in the northwest. They should talk to people who discovered that they have a thing called a jumping rat on their property.

Let's take a different position if we want to go with the position that has been given by some of the legislators here today. Let's turn all of the issues that come before the legislature over to the heads of the various departments to which they pertain and let's let them make all of the decisions. Just

think of all of the money that we could save, but I would remind them that public policy is the duty of the legislature, and that's exactly why we were elected to come down here and present the views of our constituents. If we differ, that's the reason for debate. I urge you to support the pending motion and indefinitely postpone this bill and its accompanying papers. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I'm sort of the new kid on the block, as far as this committee is concerned, but I remember in my first term and when I went to school with the Clerk and the Speaker. One of things that was certainly imprinted in my mind was the fact that the committees of jurisdiction certainly must have the final say so, and because of the fact that nothing has happened since we did change it, and I think it was a good change. I think it ought to stay the way it is and that's the way that I have voted and I would ask this legislature, certainly, to go along with the committee of jurisdiction, which I believe was one vote shy from being unanimous for this vote and I ask you to indefinitely postpone the bill and all of its papers. Thank you.

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

Representative GOOLEY: Madam Speaker, Ladies and Gentlemen of the House. I also support indefinite postponement on this particular issue. I feel quite strongly about this, having been a professional forester and worked out west in Montana, and Oregon, and California and also here in the State of Maine. I think it was a good move, during the last session, to move this particular responsibility over to the legislature. There is just too much involved here. It can become a very emotional item and we all recall what happened out in the west with the northern spotted owl. It was a very political issue and it was overkill and I think that this body has the wherewithall, the maturity to make sound decisions in this regard. I support what we are doing now, so I support the indefinite postponement.

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

Representative BARTH: Madam Speaker, Ladies and Gentlemen of the House. For those of you that think that the legislature should not have oversight and the experts should pass on what is endangered, let me remind you of all of the literature that came across our desks a few weeks ago regarding the white whale and our lobster industry.

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

**ROLL CALL NO. 175**

YEA - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bouffard, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Clukey, Cross, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Frechette, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Honey, Jones SL, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, O'Neil, Paul, Pendleton, Perkins, Pieh, Pinkham RG, Pinkham WD, Plowman, Povich, Richard, Rines, Sanborn, Savage, Sirois, Spear, Stanley, Stevens, Thompson, Tobin, Treadwell, Tripp, True, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

NAY - Berry RL, Bolduc, Brooks, Bull, Chartrand, Cianchette, Cowger, Davidson, Farnsworth, Fisk, Fuller, Goodwin, Jabar, Jones KW, Kontos, LaVerdiere, Lemke, Marvin, McKee,

Mitchell JE, Morgan, Muse, O'Brien, Ott, Peavey, Powers, Quint, Rowe, Samson, Saxl JW, Saxl MV, Shiah, Skoglund, Snowe-Mello, Taylor, Townsend, Usher, Volenik.

ABSENT - Baker CL, Baker JL, Bodwell, Brennan, Colwell, Dexter, Foster, Hatch, Jones SA, Perry, Poulin, Shannon, Stedman, Tessier, Wright, Madam Speaker.

Yes, 97; No, 38; Absent, 16; Excused, 0.

97 having voted in the affirmative and 38 voted in the negative, with 16 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

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HOUSE DIVIDED REPORT - Majority (10) "**Ought to Pass**" as amended by Committee Amendment "A" (H-409) - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "B" (H-410) - Committee on **Health and Human Services** on Bill "An Act to Provide Funding for Mental Health Services for Homeless Shelters" (H.P. 660) (L.D. 913)

TABLED - May 9, 1997 (Till Later Today) by Representative MITCHELL of Portland.

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

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

The Bill was read once. Committee Amendment "A" (H-409) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, May 13, 1997.

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Resolve, to Establish a Task Force to Determine the Tuition Rates of a Receiving School for a Student from Another School District (EMERGENCY) (H.P. 632) (L.D. 857) (C. "A" H-305)

TABLED - May 9, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Final Passage.

On motion of Representative RICHARD of Madison, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Resolve was passed to be engrossed.

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-305) was adopted.

The same Representative presented House Amendment "A" (H-448) to Committee Amendment "A" (H-305) which was read by the Clerk and adopted.

Committee Amendment "A" (H-305) as amended by House Amendment "A" (H-448) thereto was adopted.

The Resolve was passed to be engrossed as amended by Committee Amendment "A" (H-305) as amended by House Amendment "A" (H-448) thereto in non-concurrence and sent up for concurrence.

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An Act to Clarify Requirements Pertaining to the Maine Certificate of Need Act (H.P. 767) (L.D. 1044) (C. "A" H-302)

TABLED - May 9, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

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

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

An Act to Require Economic Impact Criteria on State Procurement Procedures (S.P. 361) (L.D. 1220) (C. "A" S-147) which was tabled by Representative CAMPBELL of Holden pending passage to be enacted.

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

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

An Act to Reestablish the State Compensation Commission (H.P. 999) (L.D. 1391) (C. "A" H-309)

TABLED - May 9, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative KONTOS of Windham, 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.

The same Representative presented House Amendment "A" (H-440) which was read by the Clerk.

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

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

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Would someone explain what this amendment does?

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

Representative KONTOS: Madam Speaker, Men and Women of the House. Reading from the summary printed on the amendment, the amendment requires the members appointed by the presiding officers must be made within 15 days of the effective date of the bill after notice of the appointments, the Chair of the legislative council shall convene the first meeting. The amendment also requires any staff assistance needed by the commission be requested from the legislative council.

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

Representative DONNELLY: May I pose an additional question?

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Is there a fiscal note, and if so, how much?

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

Representative KONTOS: Reading from the fiscal note on the amendment, the additional cost associated with providing staffing assistance to the State Compensation Commission during any interim between sessions can be absorbed by the legislature utilizing existing budgeting resources.

The SPEAKER: The pending question before the House is adoption of House Amendment "A."

Subsequently, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-309) and House Amendment "A" (H-440) in non-concurrence and sent up for concurrence.

#### TABLED AND TODAY ASSIGNED

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

The Chair laid before the House the following items which were tabled and today assigned:

An Act to Authorize Shellfish Management Committees to Determine Fees for Clam Licenses (H.P. 1292) (L.D. 1837)

TABLED - May 9, 1997 by Representative CHARTRAND of Rockland.

PENDING - Passage to be Enacted.

On motion of Representative CHARTRAND of Rockland, 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.

The same Representative presented House Amendment "B" (H-434) which was read by the Clerk.

Representative ETNIER of Harpswell moved that House Amendment "B" (H-434) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. First off, I want to let you know that I have never been able to move to indefinitely postpone anything before and this is a rare opportunity to do so with a good friend of mine. Hence, the indefinite postponement motion to my good friend and Representative from Rockland, Representative Chartrand. The problem I have with his proposed amendment that is before you now is process with a capital P. What he has brought forward is an amendment that I could probably very well support given a bill to this effect and a public hearing on the concept which has not taken place at this point in time. I would strongly urge that he bring this issue forward, perhaps, for the next session of legislature, and at that point I might be willing to embrace it wholeheartedly, but given the fact that none of the towns on the coast of Maine and there's 79 of them that have municipal shellfish ordinances at present, 72 of them would be directly affected in an adverse financial way by this amendment that is before you. I think it is not good, to say the least, to do this without giving them a chance to speak to this. Again, I think it basically a sound amendment and the concept, I think, is something that needs to be looked into further and quite possibly something I could support in the future, but on the basis of process alone, I ask you to support the indefinite postponement. Thank you.

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

Representative CHARTRAND: Madam Speaker, Ladies and Gentlemen of the House. I hope you'll vote against that prevailing motion, and I'll explain why I submitted this amendment. Basically, the bill I'm trying to amend is a bill that gives municipal shellfish committees the right to set their fees at any level they choose. Until now, in Maine law, they've had those levels capped at \$200 for residents of a community that belong to a shellfish management committee. The non-residents in Maine were capped at twice that level. That meant that anybody who didn't reside in one of these towns or cities in shellfish management zones who wished to get a license, they are paid twice the fee of a resident. In addition, the current law caps the amount of licenses that had to be given out to non-residents at 10 percent of the amount of residents. So what that picture is, if you live in a town or city that doesn't belong to a shellfish management zone, if you're lucky enough to be one of the 10 percent who gets a license to dig clams in that zone, you'll pay twice the fee of a resident. Now that present structure, I

didn't have a problem with, this year the shellfish management committee presented a bill to have their fees uncapped completely. They wish to set their fees at any level they so choose. The reason for that, is in order to provide more money to manage the resource and I support that. I support the committees and their right to determine the fees they'll set. What I'm afraid of is that any non-residents are going to be priced right out of any possibility of digging in these towns. We're talking about twice the level that the residents will pay. Right now, that's at \$400, if the shellfish management committees move their resident fees to \$500, we're going to be talking about non-residents paying \$1000, and that's quite conceivable. We had a bill that come before the legislature in this session that was to do away with all shellfish management committees completely. That bill did not pass and I think it was a more extreme measure than we need, but it is a very strong indication of the amount of disenchantment there is to anybody that does not live in one of these shellfish management zones. Clam harvesting, originally, was done throughout Maine by people from many towns in other towns. It's been a kind of resource that was not confined only to the residents of a town or a shellfish management zone. The management committees were set up to help conserve those resources, but with licenses set at twice that fee for non-residents, there's been a lot of complaints and a lot of irritation from people who don't live in these zones. Now we're giving them carte blanc, so to speak, to raise resident fees to any level, whatsoever, and all I'm asking by this amendment is to set non-resident fees at one and a half times the level of residents. That's still a significant differential, and another thing the amendment does is to postpone the lessening of that fee for non-residents until July 1st, 1998. That gives any shellfish management committee time to completely analyze the impact on next year's budget. If they would like to raise their fees to make up for the small 2 1/2 percent reduction they'll see by this amendment taking effect, they will have the right to raise fees as high as they so choose. We could have a bill submitted into the next session and go through this all over again, which the Chair would like to have the processes as open as possible. I would submit that we're determining shellfish management zone license fees tonight with this bill, and we're giving complete uncapped license fees to the management committees. All that we ask with this is that it be confined to 1 1/2 times that amount for non-residents. We're giving them a year to get in line and realize that in the impact on the budget. I think that's a good time to do this and not waste a lot of time in the next session rehashing this, when pretty much we can predict what all parties will have to say about this type of amendment. Some of the shellfish management committees will oppose it and say they don't want any restriction on what they can charge non-residents. Anybody who doesn't live in one of those zones and would like to harvest clams will certainly testify that they think capping it at 1 1/2 times is the least we can do, and I submit that we can do that tonight. Give the shellfish management zones plenty of prior notice and give some ability to non-resident diggers to continue with their method of making a livelihood.

Just as a note, on a shellfish management committee near my district, they currently collect about \$28,600 from all their licenses together. Having this amendment take effect, if they made no increases, would only impact that by 2 1/2 percent, \$715. I'm sure they can handle that in budgeting for next year, and that would make a big difference to any of the non-residents who choose to have shellfish licenses. I would urge you to vote against the prevailing motion and support this amendment. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative GOOLEY: How much are non-residents paying currently?

The SPEAKER: The Representative from Farmington, Representative Gooley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Thank you, Madam Speaker. I believe I understand Representative Gooley's question, how much are non-resident fees at the moment? The current law is that a resident fee can be no more than \$200 and that a non-resident may not exceed twice that. It doesn't have to be twice that, but it may not exceed twice the resident fee.

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

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

The SPEAKER: The Representative may pose his question.

Representative TRUE: What was the vote on the original bill, LD 1837?

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

Representative ETNIER: In response to Representative True's question, it was an unanimous committee report, "Ought to Pass" on LD 1837.

The SPEAKER: The pending question before the House is to indefinitely postpone House Amendment "B."

Representative CHARTRAND of Rockland requested a division on the motion to indefinitely postpone House Amendment "B" (H-434).

The Chair ordered a division on the motion to indefinitely postpone House Amendment "B" (H-434).

A vote of the House was taken. 92 voted in favor of the same and 16 against, House Amendment "B" (H-434) was indefinitely postponed.

Subsequently, the Bill was passed to be engrossed in concurrence.

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

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

**ORDERS**

On motion of Representative TRIPP of Topsham, the following Joint Order: (H.P. 1323)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Taxation report out legislation relating to the taxation of domestic group disability income insurance companies to the House.

Was read and passed and sent up for concurrence. Ordered sent forthwith.

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**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought Not to Pass**" on Bill "An Act to Provide Public Information on Forest Management Practices" (H.P. 804) (L.D. 1092)

Signed:

Senators: KILKELLY of Lincoln  
PARADIS of Aroostook  
CASSIDY of Washington

Representatives: LANE of Enfield  
GOOLEY of Farmington  
CROSS of Dover-Foxcroft  
DEXTER of Kingfield

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-431) on same Bill.

Signed:

Representatives: BUNKER of Kossuth Township  
SAMSON of Jay  
VOLENIK of Brooklin  
SHIAH of Bowdoinham  
BAKER of Dixfield  
McKEE of Wayne

Was read.

Representative BUNKER of Kossuth Township 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, May 13, 1997.

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**Divided Report**

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought Not to Pass**" on Bill "An Act to Protect Maine's Wild Lands" (H.P. 881) (L.D. 1198)

Signed:

Senators: KILKELLY of Lincoln  
PARADIS of Aroostook  
CASSIDY of Washington

Representatives: BUNKER of Kossuth Township  
LANE of Enfield  
SAMSON of Jay  
GOOLEY of Farmington  
BAKER of Dixfield  
CROSS of Dover-Foxcroft  
DEXTER of Kingfield

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

Signed:

Representatives: VOLENIK of Brooklin  
SHIAH of Bowdoinham  
McKEE of Wayne

Was read.

Representative BUNKER of Kossuth Township 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, May 13, 1997.

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**BILLS IN THE SECOND READING  
As Amended**

Bill "An Act to Encourage Art Education in the State" (H.P. 29) (L.D. 54) (C. "A" H-349)

Bill "An Act to Expand Access to Maine's Technical Colleges" (H.P. 263) (L.D. 327) (C. "A" H-348)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Process for Inclusion of a Competing Measure (S.P. 269) (L.D. 877) (C. "A" S-115)

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

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Bill "An Act to Provide Equal Political Rights for Classified State Employees" (H.P. 740) (L.D. 1004) (C. "A" H-429)

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

On motion of Representative DONNELLY of Presque Isle, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and specially assigned for Tuesday, May 13, 1997.

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

Representative COWGER: In reference to Roll Call 169 on LD 254, if I had been present, I would have voted yea.

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

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On motion of Representative SIROIS of Caribou, the House adjourned at 7:15 p.m., until 9:00 a.m., Tuesday, May 13, 1997.