

MAINE STATE LEGISLATURE

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

Volume III

Second Regular Session

March 19, 1998 - March 31, 1998

Second Special Session

April 1, 1998 - April 8, 1998

Appendix
House Legislative Sentiments
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ONE HUNDRED AND EIGHTEENTH LEGISLATURE
SECOND REGULAR SESSION
36th Legislative Day
Thursday, March 19, 1998

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

Prayer by Reverend Edward Grant, Eliot United Methodist Church.

National Anthem by Mt. Blue Voices, Mt. Blue High School, Farmington.

Pledge of Allegiance.

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

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 865)

**JOINT RESOLUTION PROCLAIMING THE MONTH OF MAY
TO BE "IT'S MY FIGHT, TOO" MONTH AS A FIGHT
AGAINST BREAST CANCER**

WHEREAS, all of us in the State recognize that a woman's fight against breast cancer is a family matter and believe that children, husbands and brothers can offer strong emotional support as the women in their lives experience breast cancer treatment; and

WHEREAS, one out of every 8 women in the United States will develop breast cancer in her lifetime and it is especially important that this issue be highlighted to make certain that an entire family affected by breast cancer is helped in every way possible; and

WHEREAS, it is equally important that all our citizens educate themselves on how to support the women in their lives that have breast cancer; and

WHEREAS, the Northeast Health Care Quality Foundation has played a critical role in underscoring this disease as a matter for the whole family with its campaign of "It's My Fight, Too"; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, take this occasion to recognize the importance of involving the whole family in the struggle against breast cancer and that we designate May, 1998 as "It's My Fight, Too" month in Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Northeast Health Care Quality Foundation and the American Cancer Society, Maine Division, Inc.

Came from the Senate, **READ** and **ADOPTED**.

READ and **ADOPTED** in concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 446)

**MAINE STATE LEGISLATURE
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0013**

March 17, 1998

The Honorable Mark W. Lawrence, President
Maine State Senate

The Honorable Elizabeth H. Mitchell, Speaker
Maine House of Representatives

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Resolve 1997, chapter 72, the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People With Disabilities is pleased to submit its final report including recommended legislation. Copies of the report have been transmitted to the Legislative Council and the Joint Standing Committees on Judiciary and Labor. Copies of the report have also been placed on file with the Law and Legislative Reference Library.

Sincerely,

S/Senator Sharon Treat, Chair
Commission to Study the Funding
and Distribution of Teletypewriters
and Other Telecommunications
Equipment for People With Disabilities

READ and with accompanying papers **ORDERED PLACED
ON FILE.**

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Pursuant to Statute

Department of Human Services

Representative MITCHELL for the **Department of Human Services** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Section 71.05: Application Process; Certificate of Need for Nursing Facility Level of Care (Policy Manual), a Major Substantive Rule of the Department of Human Services, Bureau of Elder and Adult Services (EMERGENCY)

(H.P. 1649) (L.D. 2279)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent up for concurrence.

Pursuant to Statute

Department of Human Services

Representative MITCHELL for the **Department of Human Services** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 32: Rules for the Licensing of Children's Day Care Facilities and Chapter 33: Rules for Home Day Care Providers, Major Substantive Rules of the Department of Human Services, Auditing, Contracting and Licensing Service Center (EMERGENCY)

(H.P. 1650) (L.D. 2281)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Mt. Blue High School Boys Alpine Ski Team on being named the Class A State Champions. The team includes: Luke

Hardy, Jence Carlson, Matt Gopsill, J.R. Moreau, Bud Sinclair, Chad Flagg, Adam Parlin, Davis Oatway, John Beaudoin, Eric Beaudoin, Eric Walker, Jimmy Walker, Cedric Simpson, Joe Hodgkins, Derrick Tyler, Shawn Craig, Tyson Bourassa and Dylan Nickerson; and their coaches Rick Hardy and Mark Cyr. We extend our congratulations to the team;

(HLS 1282)

Presented by Representative GOOLEY of Farmington. Cosponsored by Senator BENOIT of Franklin, Representative LaVERDIERE of Wilton, Representative SAMSON of Jay, Representative DEXTER of Kingfield.

On **OBJECTION** of Representative GOOLEY of Farmington, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative GOOLEY: Madam Speaker, Ladies and Gentlemen of the House. This is a proud day for S.A.D. 9 citizens including Farmington, Wilton, Chesterville, Temple, Weld, New Vineyard, New Sharon, Vienna and Industry. Western Maine is proud of its rural heritage its highways and byways, farms, mountains, forests and a way of life which Christmas cards love to depict. At the same time our rural area offers the same opportunities to its students that rank with the best in Maine in the educational area. Seventy percent of S.A.D. 9 students go to higher education in Maine and throughout the United States. A few minutes ago you heard the Mt. Blue Voices, a group which has just returned from a singing tour at Disney World and that was witnessed by upwards to 100,000 people. S.A.D. 9 is also known for its string program which begins in the third grade and has 300 enrolled students in grades 3 through 12. Sports is alive and well in S.A.D. 9 and although the Class A football team and basketball team the gold ball has eluded us as we've talked about in the past couple of years, the boys and girls alpine and Nordic ski teams in 1998 are the state champions.

I believe this is the girls' Nordics teams seventh consecutive year as winners and who knows who will be in the 2002 and Olympics, they may be right here in this room today. So today we offer our congratulations to these students and singers for their tireless efforts to excel. America is a better place to live because of the efforts of coaches such as we have here and the students and I'll bet some of them will be occupying these very seats we now occupy in a few years down the road and before I end this tribute I want to make mention of a very special group of fiddlers. Franklin County Fiddlers headed by music instructor Steve Muse. You may have heard them last New Years Eve down in Portland. Some of the students are here today and they had played in this special group. Lastly, I just want to say that I taught skiing to some of these students as first graders at Titcomb Mountain ski area, which may seem like eons ago to them but to me it's not so long ago. Thank you very much.

PASSED and sent up for concurrence.

the Mt. Blue High School Girls Nordic Ski Team on being named the Class A State Champions. The team includes: Caitlin McPherran, Anna Washburn, Andaria Crespi, Liz Elman, Heidi Tripp, Zoe Siegler, Alissa Neal, Amanda Roberts, Lacey Guyette, Martha Yates, Sarah Washburn, Amanda Bitterauf, Hannah Bogar, Sarah Flint, Kate Wegner, Lynette Batt and Megan Caldwell; and their coach Jeff Meserve. We extend our congratulations to the team;

(HLS 1284)

Presented by Representative GOOLEY of Farmington.

Cosponsored by Senator BENOIT of Franklin, Representative LaVERDIERE of Wilton, Representative SAMSON of Jay, Representative DEXTER of Kingfield.

On **OBJECTION** of Representative GOOLEY of Farmington, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. I think I said all the words before that I was going to say. We do extend our congratulations to this team as well as the others. Thank you.

PASSED and sent up for concurrence.

the Mt. Blue High School Girls Alpine Ski Team on being named the Class A State Champions. The team includes Molly Milliken, Jesse Morrill, Jessica Bouchard, Kathryn Downs, Marcy Muller, Monica Hedstrom, Shanelle Lake, Lilah Violette, Katie Lawrence and Brianne Genschel; and their coaches Rick Hardy and Mark Cyr. We extend our congratulations to the team;

(HLS 1283)

Presented by Representative GOOLEY of Farmington. Cosponsored by Senator BENOIT of Franklin, Representative LaVERDIERE of Wilton, Representative SAMSON of Jay, Representative DEXTER of Kingfield.

On **OBJECTION** of Representative LaVERDIERE of Wilton, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative LAVERDIERE: Madam Speaker, Men and Women of the House. I hope you pay attention to the sentiment calendar today because you've seen four sentiments. Representative Gooley has indicated two of them, the Mt. Blue High School Boys' Alpine Team and he also recognized the Mt. Blue High School Girls' Nordic Team. I'm standing here to recognize and ask you to recognize the Mt. Blue High School Girls' Alpine Team and the Mt. Blue High School Boys' Nordic Team. As you can see Mt. Blue swept the skiing competition this year and we're very very proud of these individuals that have worked so hard to achieve that honor. Mt. Blue High School should be extremely proud today as Representative Gooley indicated the Mt. Blue Voices gave a rendition of the National Anthem as well as the concert before and I'm very pleased that all of you had an opportunity to enjoy that music and also to meet the members of our ski teams of which we are so proud. Thank you Madam Speaker.

PASSED and sent up for concurrence.

the Mt. Blue High School Boys Nordic Ski Team on being named the Class A State Champions. The team includes: Ryan Cook, Zach Pickrell, Matt Gopsill, Dylan Archard, Jon Mellon, Matt Rodrigue, Ethan Bogar, Ryan Hersey, Dylan Antone, Ian Hubbard, Zach Weingarten, Ben Hoisington, Steve Scribner, Seth Neal and Matt Mellen; and their coach Jeff Meserve. We extend our congratulations to the team;

(HLS 1285)

Presented by Representative GOOLEY of Farmington. Cosponsored by Senator BENOIT of Franklin, Representative LaVERDIERE of Wilton, Representative SAMSON of Jay, Representative DEXTER of Kingfield.

On **OBJECTION** of Representative LaVERDIERE of Wilton, was **REMOVED** from the Special Sentiment Calendar.

READ and PASSED and sent up for concurrence.

In Memory of:

Harvey Bevis Johnson, of Smithfield, who served in the United States Army during World War II, earning both the Bronze Star and the Purple Heart. He was a respected former member of the Maine State Legislature, having served in the House of Representatives during the 100th Legislature and in the Senate during the 101st, 103rd and 105th Legislatures. He had been the Senate Majority Leader, Chairman of the Executive Council and a special legislative assistant to Governor James Longley. He will be greatly missed by his loving family, colleagues and many friends;

(HLS 1274)

Presented by Representative MERES of Norridgewock.

Cosponsored by Senator MILLS of Somerset, Representative DONNELLY of Presque Isle, Representative CAMPBELL of Holden.

On **OBJECTION** of Representative MERES of Norridgewock, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. It's very important to me that I stand here today and ask you all to take a moment to remember Harvey Johnson. Harvey was person who was a very special to me as a person who lived in Smithfield who was a selectman and who was the husband of Evelyn Johnson, that's how I met him. At the time I met him I had little knowledge of the great man that he was. But I understood him as being a great man in his own right, because he lived and he worked with goals and with, I guess the word I want to get to is, he worked with the ideal that he presented here in this Legislature in the 100th Legislature. It was a part of his life. As Reverend Edward Grant said this morning, we all have a mission in life and I think that's so true when it comes to Harvey because he followed his heart and his mission from the very beginning. As you know here he was an Honorable soldier he gave everything he had and he was awarded that to protect our Constitution and our way of life in Maine and everywhere else. He went further to become a great father and great husband. It was obvious to me as I knew him how much his family meant to him and what a great family he had because those same ideals are evident in his children and they were evident in his wife Evelyn. I talk a lot about Evelyn because she herself was somebody who I knew very well and who was the longest consecutive member of the S.A.D. 54 Board of Education, a very honorable woman, and he served here with that same passion and that same commitment and he carried on those same ideals not only here in this body but in the other body he worked the executive and he also worked as a lobbyist here.

It's important for all of us to remember the heroes that preceded us because I think that we are all heroes here. We take on a challenge and we work forward for the betterment for our State and own lives. We forget so fast because we don't see back we don't have an opportunity often to hear the voices and see the results of those who preceded us. I was fortunate in that respect because I got to know Harvey as a person. He was somebody who I respected and who I looked up to. Not even knowing at that point that I would be representing Smithfield and being here in this body myself. So as our great Americans go on to a better life in heaven it's up to us to remember them, to remember their courage and to carry on with that same dignity that he was here that example that he gave us and yes I would

like to close by saying I believe Harvey Johnson was a great American.

The **SPEAKER**: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Madam Speaker, Men and Women of the House. It was 24 years ago that I first became interested in politics. I didn't know anything about it, just an uneducated woodsman and I won by one vote in a primary, well of course my opponent challenged me so I elected to let the Governor and the Executive Council decide and at that time it was Governor Curtis and so I went down to Room 334 and Harvey was there as Chairman of the Executive Council and being just a woodsman they tried to elbow me aside. Well, between Harvey and Governor Curtis I got recognized. Governor Curtis I've always admired him ever since. So then of course they took it to court, well I lost there because I found out what a kangaroo court was. Well the next time I succeeded in winning and guess what? I came down here and who did I see, Harvey Johnson, Special Assistant to Governor Longley. So we worked together the first two years I was here and then he came back and lobbied for the Maine Trucking Association, he was a fine gentleman he always had time to talk to anyone regardless of their position. He was also a fellow World War II Vet and we're getting fewer in numbers and once again he was a fine gentleman to work with.

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

Representative HATCH: Madam Speaker, Men and Women of the House. I rise today to give praise to Harvey Johnson's service here in the Legislature. I knew Harvey through his wife Evelyn I served on the same school board as the good Representative from Norridgewock at the same time that Mrs. Johnson served and I met her husband through her. Every time that I met him I was overcome by his graciousness and the way that he conducted himself.

When I ran for election I had finished a three year term on the school board and the following morning after election the very first call I received about 6:00 or 6:30 in the morning was from Harvey and Evelyn Johnson. They told me that they were really thankful that I had won and that I was their favorite Democrat. I don't know how many other people they knew, but at that time it meant a lot to me to have that endorsement. I talked to Harvey on several occasions when I met them when they were out and I had a chance to recognize in this man what a great individual he was. He loved this institution, he loved everything that happened here and I'm thankful that he passed our way and I'm thankful that I knew him and his wife. Thank you.

ADOPTED and sent up for concurrence.

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were **ORDERED SENT FORTHWITH**.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-952)** on Bill "An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit

Regulation and Office of Licensing and Registration under the State Government Evaluation Act"

(H.P. 1565) (L.D. 2198)

Signed:
Senators:

MackINNON of York
RAND of Cumberland

Representatives:

VIGUE of Winslow
BODWELL of Brunswick
MURPHY of Kennebunk
FARNSWORTH of Portland
CAMERON of Rumford
SIROIS of Caribou
SHANNON of Lewiston
MacDOUGALL of North Berwick
WRIGHT of Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-953)** on same Bill.

Signed:
Representative:

MACK of Standish

READ.

On motion of Representative VIGUE of Winslow the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-952)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-956)** on Resolve, Regarding Legislative Review of Chapter 820: Requirements for Non-Core Utility Activities and Transactions Between Affiliates, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

(H.P. 1611) (L.D. 2237)

Signed:
Senators:

CAREY of Kennebec
HARRIMAN of Cumberland

Representatives:

COLWELL of Gardiner
VEDRAL of Buxton
BERRY of Belmont
JOY of Crystal
TAYLOR of Cumberland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-957)** on same Resolve.

Signed:
Representatives:

JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
LaVERDIERE of Wilton
O'NEAL of Limestone

READ.

Representative JONES of Bar Harbor moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 1433) (L.D. 1997) Bill "An Act to Expand Access to Employment Security Data to Authorized Agents of Child Support Enforcement Agencies" Committee on **LABOR** reporting **Ought to Pass**

(H.P. 1632) (L.D. 2260) Resolve, Charging the Children's Cabinet Agencies to Support Efforts of Parents as First Teachers of Their Children Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(S.P. 854) (L.D. 2267) Bill "An Act to Amend the Charter of Great Northern Paper, Inc." Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass**

(H.P. 1124) (L.D. 1580) Bill "An Act to Improve Allopathic and Osteopathic Physician Oversight" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-958)**

(S.P. 737) (L.D. 2015) Bill "An Act to Clarify the Law Requiring the Appointment of the Pineland Development Authority" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-534)**

(H.P. 1494) (L.D. 2093) Bill "An Act Relating to the Protection of Maine Consumers in the Telecommunications Market" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-959)**

(H.P. 1525) (L.D. 2147) Bill "An Act to Amend the Laws Relating to Archives and the Retention and Admissibility of Electronic Records" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-945)**

(S.P. 796) (L.D. 2154) Bill "An Act to Improve State House Utilization" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-533)**

(S.P. 797) (L.D. 2155) Bill "An Act to Encourage Hospitality Industry Development in the State" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-532)**

(S.P. 814) (L.D. 2196) Bill "An Act to Expand the Maine Seed Capital Tax Credit Program" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-528)**

(H.P. 1575) (L.D. 2209) Resolve, Regarding Legislative Review of Chapter 302: Consumer Education Program; Electric Restructuring, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-948)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent up for concurrence.

(H.P. 1013) (L.D. 1405) Bill "An Act to License Timber Harvesters and Deter Timber Trespassing" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-951)**

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

The Committee Report was **READ**.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. I apologize for slowing this good bill down. There is a question that had not been answered in my caucus this morning as to where the licensure piece of this bill is that's reflected in the title. If someone from the Agriculture Committee could let me know if the licensure is still in the bill, or not, with the Committee Amendment would be helpful. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Ladies and Gentlemen of the House. No the licensure is not part of this, we stripped that, it was a joint hearing with the other committee and the review they came back with recommended not to do the licensing and the rest of the bill covers many areas that are proactive to try to correct some of the problems in the forestry area.

The Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-951)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-951)** and sent up for concurrence.

(H.P. 1250) (L.D. 1769) Bill "An Act to Authorize Additional Adjustments to the State Share of School Funding" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-955)**

On motion of Representative GOODWIN of Pembroke, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

CONSENT CALENDAR Second Day

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

(S.P. 505) (L.D. 1567) Bill "An Act to Reinstate Limited Rehabilitation Benefits under the Maine Workers' Compensation Act of 1992 for Those with Long-term Disabilities" (C. "A" S-519)

(S.P. 696) (L.D. 1931) Bill "An Act to Create Incentives for Employers to Contribute toward the Costs of Comprehensive Health Insurance for Families" (C. "A" S-521)

(H.P. 277) (L.D. 341) Bill "An Act to Open a Discount State Liquor Store in Calais" (C. "B" H-934)

(H.P. 1384) (L.D. 1938) Resolve, Directing the Preparation of a Bill to Make Nonsubstantive Changes to the State's Criminal Statutes (EMERGENCY) (C. "A" H-943)

(H.P. 1385) (L.D. 1939) Bill "An Act to Amend Certain Motor Vehicle Laws" (C. "A" H-930)

(H.P. 1401) (L.D. 1953) Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to the Names of Geographic Features in Passamaquoddy Territory" (C. "A" H-944)

(H.P. 1440) (L.D. 2004) Bill "An Act to Ensure Long-term Funding of the Maine Agricultural Experiment Station Research Farms Connected with Land Grant Colleges" (EMERGENCY) (C. "A" H-929)

(H.P. 1503) (L.D. 2125) Bill "An Act to Improve Public Sector Labor Relations" (C. "A" H-937)

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 AS AMENDED** and sent up for concurrence.

(H.P. 1483) (L.D. 2082) Bill "An Act to Improve the Integrity of the Citizen Initiative Process" (C. "A" H-938)

On motion of Representative GERRY of Auburn, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

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

Representative GERRY: Madam Speaker, Ladies and Gentlemen of the House. It's very rare unless I really feel good reason to challenge a unanimous committee report. I feel that this is a very bad bill, what it tries to do or what it does is cuts down a citizens right to petition the State in their application process. Currently right now when you apply for a citizens initiative you get an okay to collect signatures for three years. When you get enough signatures you turn them in but they only count for one year but what this thing does is say that if after one year you don't get your signatures your paperwork, your signatures aren't good and you have to start the process over again. For legislators who have trouble with people complaining that there's so many people collecting signatures at the polls this will increase the number of people coming to the polls year after year for the same question.

Right now if a person puts in an initiative and it's good for three years the way it's written in law or at least understood is that nobody can put in the same exact language for three years. So by limiting it to one year if I have a good idea and I don't have the funding to fund my initiative and I get off to a late start and I end up not being able to turn in enough signatures for that date somebody else in the background can put in the paperwork and take this right out from under me.

I object to this type of law where it cuts down a citizens rights. When Legal and Veterans heard this bill the ones that spoke for the bill was the department from the Secretary of State's office and a couple of people from the League of Women Voters. There was a least 15 people there from other groups, Green Party, Reform Party and I was there so we all said we did not think this was a good idea.

When the vote is taken I request it be taken by a roll call vote.

Representative GERRY of Auburn **REQUESTED** a roll call on the motion to **ACCEPT** the Committee Report.

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

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I for one am very cautious and very concerned about the initiative process I've debated on many occasions to protect that right of the citizen process but I think that here the situation and the passage of the bill is a necessity. The bill changes the time period for submission of the direct initiative process and the validity of application for direct initiatives from three years to one to correspond with the petition signatures set forth in the present Maine Constitution. I guess essentially the reason why the unanimous committee supported this bill is that current statute is inconsistent with the present constitutional requirement that signatures are only valid for one year. Also legislation maybe come dated and inappropriate by the time that the signatures are collected. We had much testimony in the committee on this. There is presently an administrative problem arising, it is difficult to keep track of the rolling, so-called 12 month period, the three year period gives an opportunity to alter dates and to validate invalid signatures as many of us have read and have heard over the last year. Recent history of the process shows it doesn't take more than twelve months to collect the signatures and that's the reason why the unanimous committee report is before you. I would hope that you would support the present bill, it's a good bill, in all honesty I think it will make the process work a lot better. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Could somebody on the committee tell me how long the three years to collect the signatures has been in effect and whether the three year limit has ever been challenged constitutionally?

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 Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Ladies and Gentlemen of the House. Madam Speaker, just from my brief memory being in this institution I think it has been in effect since I've been here which is probably since 1979 and as far as the challenge I can't recall a specific challenge Representative Waterhouse.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. In light of that answer, I can see no compelling reason to limiting the access of our citizens to this process and I'll hope that you'll follow Representative Gerry's recommendations and vote against this pending motion. Thank you.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. If you find your register that has the Constitution of Maine in it you'll see the reference, I'm looking in my book on page 24, knowing we can't use props I will at least advise you at your desk to take a look at the section in the Constitution that this bill is designed to address which does in fact limit the number of months of twelve, one calendar year, to the amount of time that signatures are valid on a petition question that's been approved by the Secretary of State's office.

There are several reasons why this is a good piece of legislation for this body to pass and why the committee unanimously approved it after hearing a variety of testimony about this particular issue. Of all the petitions that have been successful in the last 20 years, all but one achieved the required signatures to go on a ballot in less than 12 months so one of the criticisms that was heard at the hearing that this denies people the opportunity to collect signatures seems to me in light of the specific data that was presented in order to support this particular request. Secondly, if a question like a property tax cap for instance which was presented and had three years for signatures to be collected, had that been successful, had that drive been successful, it would have been a loss of some \$350 million to municipalities because the question was designed in such a way to look at figures that were already three years old. So there's a policy issue involved and is affected by this extraordinary time period that's allowed.

This particular proposal in no way precludes petitioners from bringing the question forward. It does not in any way preclude or interfere with the process of this citizen initiated referendum. What it does do is make the statutory guidelines consistent with the Maine Constitution. It also has a third reason why you should be supporting this unanimous committee report is that it will perhaps discourage some of the attempts at forgery of signatures because they have been collected outside of that one year calendar period that's required. That means stale signatures, those that are over a year old can not be used again even under current law but the petitioners have the right to keep the same question and bring it to the voters for three consecutive years in order to get enough signatures to send it to referendum. Limiting that period to one year consistent with the Constitution can in fact reduce the possibility of the kind of forgery that this State has had to take to court.

For all of those reasons I was happy to sponsor this bill on behalf of the Secretary of State's office, I believe it's an example of good government. I believe it ensures the integrity of the citizen petition process to be used in the way it was rightfully intended. So for that reason I hope you join me in enthusiastically supporting the ought to pass report.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I would like to commend the previous two speakers on their accuracy in reporting what happened as far as our committee is concerned and if you remembered a few of things which have come down from our committee it's a rarity that we seem to get a common opinion and I think that's a strength of our committee. Certainly we must have some perimeters as far as our initiative process in concerned and within those perimeters we must have safeguards and I believe all of these things have been taken care of and I too hope that you would support the committee as far as this particular vote is concerned. I thank you.

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

Representative GERRY: Madam Speaker, Ladies and Gentlemen of the House. By limiting it to one year we will probably be taking the word citizen out of the initiative process. By that regards and I know some will take exception to that is that when somebody comes up with an idea the only way that they can get this thing passed if they don't have the volunteers is by money. By shortening the petitioning process to one year I feel that there is going to be more and more paid petitions from out of state coming in collecting our signatures. So it's not going to be a Maine generated initiative. Right now anyone that files an application for a citizen initiative gets contacted by an out of

state firm asking you how far along you are in your petition process, how's the signatures coming in? Do you have any money for funding? If you don't have money for funding do you mind if we come in and try to do some fundraising for you and help you collect your signatures? The art of collecting signatures on petitions and trying to enact laws or proposed laws that the legislature either can't or won't or haven't thought up yet is going to be more polluted than it is now with outside interest coming in. By leaving it at three years not everybody that filled out an application will take the three years granted but statistics are saying that it takes anywhere from three to nine months if you looked into it you'd see that these are almost all paid initiatives. I'll bet you there was only two out of whatever number with not paid but it was just volunteers. By leaving it to the way it is now it gives regular citizens the chance to get their idea out. It might take them three months, four months to get set up, get the money for their printing for their petitions, get them out to their volunteers and to get it going and on track. So it might take them 16 years, it might be 20, I mean excuse me 16 months or 20 months to get this thing going. It's granted. According to the Constitution that one year of signatures is valid but what date what date on the petition is that good is the one I collect today good for a year, the one I collected eight months ago good for a year. It does not specifically specify all it says is when we turn in an initiative we could only use one whole years cycle. So I ask you to vote down this bill. Vote it ought not to pass.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I have sought to procure some information in response to the query posed by the Representative from Bridgton. The initiative process along with the peoples veto is an example of a progressive era of reform in the early twentieth century and although I could not ascertain exactly the year, I do know that the people's veto, because we've been discussing that in State and Local Government, came in 1909 so my guess is that this process came in within that rough period in the first decade or so of the twentieth century. So in fairness to good Representative Tuttle who says its been around since he's been around it's probably been around a lot longer than Representative Tuttle has been around.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Could somebody point to me where in the Maine State Constitution they put the limit to one year? I've been looking through it and I just can't seem to find where it says one year.

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 Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. May I have the Chairs permission to hold this prop for the answer to the question?

The SPEAKER: The Chair would answer in the affirmative. The Representative is reading from the Constitution.

Representative KONTOS: Madam Speaker, Men and Women of the House. Thank you very much. If the Representative from Bridgton would look on page 24 of the register item 2 on that page the sentence begins in this way and I quote, "For any measure thus proposed by electors, the number of signatures shall not be less than 10 percent of the

total vote for Governor cast in the last gubernatorial election preceding the filing of such petition." The next sentence, "The date each signature was made shall be written next to the signature on the petition", and here's the critical part, "and no signature older than one year from the written date on the petition shall be valid." Thank you Madam Speaker.

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

ROLL CALL NO. 466

YEA - Bagley, Baker, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bunker, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Gooley, Hatch, Jabar, Jones SL, Jones SA, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Mayo, McAlevey, McElroy, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pendleton, Perry, Pieh, Plowman, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Wheeler EM, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Ahearne, Bodwell, Bragdon, Bryant, Buck, Bull, Bumps, Campbell, Chartrand, Cross, Dutremble, Gerry, Gieringer, Jones KW, Joyce, Kasprzak, Lane, Layton, Lemke, MacDougall, Marvin, McKee, Meres, Murphy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Rines, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Volenik, Waterhouse, Winglass, Winsor.

ABSENT - Cameron, Etnier, Fisk, Green, Honey, Joy, O'Brien, Watson.

Yes, 100; No, 43; Absent, 8; Excused, 0.

100 having voted in the affirmative and 43 voted in the negative, with 8 being absent, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-938)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-938)** and sent up for concurrence.

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20 Million to Stimulate the Maine Economy through Research and Development"

(S.P. 819) (L.D. 2205)
(C. "A" S-523)

House

Bill "An Act to Create the Kennebec Regional Development Authority" (EMERGENCY)

(H.P. 1612) (L.D. 2238)

House As Amended

Bill "An Act to Increase the Bonding Limits of the Maine Turnpike Authority"

(H.P. 535) (L.D. 726)
(C. "A" H-922)

Bill "An Act to Transfer State Ownership of Certain Railroad Rights-of-way, Create the Calais to Eastport Rail Authority and Authorize a General Fund Bond Issue in the Amount of \$4,500,000 to Fund Establishment of Freight Rail Service between Calais and Eastport"

(H.P. 1138) (L.D. 1594)
(H. "A" H-946 to C. "A" H-925)

Bill "An Act to Correct and Supplement Funding for the Maine School of Science and Mathematics" (EMERGENCY)

(H.P. 1450) (L.D. 2041)
(C. "A" H-927)

Resolve, Relating to Commercial Vehicle Fee Reciprocity with New Brunswick

(H.P. 1501) (L.D. 2123)
(C. "A" H-920)

Bill "An Act to Allow Liquor Licenses for Commercial Vessels" (EMERGENCY)

(H.P. 1502) (L.D. 2124)
(C. "A" H-915)

Bill "An Act to Establish the Office of Mental Health and Human Services Ombudsman"

(H.P. 1573) (L.D. 2207)
(C. "A" H-935)

Bill "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department" (EMERGENCY)

(H.P. 1592) (L.D. 2221)
(C. "A" H-947)

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.

Bill "An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Utilities and Energy Arising from Its Government Evaluation Act Review of the Office of the Public Advocate" (EMERGENCY)

(H.P. 1647) (L.D. 2277)

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

On motion of Representative JONES of Bar Harbor, was **SET ASIDE**.

The same Representative **PRESENTED House Amendment "A" (H-963)** which was **READ** by the Clerk.

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

Representative JONES: Madam Speaker, Men and Women of the House. This is a simple housekeeping issue. It authorizes \$443,000 to run the Office of the Public Advocate. It reflects a corresponding increase in the assessment and an additional dedicated revenue to the Public Advocate Regulatory Fund. Thank you.

House Amendment "A" (H-963) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-963)** and sent up for concurrence.

Bill "An Act to Amend the Uniform Health Care Decisions Law"

(H.P. 51) (L.D. 76)
(C. "A" H-942)

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 later today assigned.

Bill "An Act to Preserve the State House and to Renovate State Facilities"

(H.P. 1631) (L.D. 2259)
(C. "A" H-939)

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**.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. This was an item that kind of slipped by a little bit last night. There is some contention about it and it is worthy of debate any time we talk about spending \$57 million of the taxpayers money without asking their permission first.

Representative OTT moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative OTT: Madam Speaker, Ladies and Gentlemen of the House. I would like to move to indefinitely Postpone this Bill and all its accompanying papers.

This measure if passed was indicated to extend the authority of the Maine Government Facilities Authority by some \$23 million. This particular measure would utilize \$52.5 million of this fund or this authority to make some repairs first of all to the State House to the connector tunnel to the Capitol building and to two buildings over at AMHI. I don't think anyone would argue the necessity for the repairs I argue, and take exception to the process. I think too often we recognize that there's work to be done around some of our buildings in terms of repairs and physical improvements but we wait until the last minute before we decide what we're going to do and find ourselves in a situation where it's crisis management and I think this disregards the process. As I look at our Constitution under Article 9 Section 14 which addresses the authority and procedure for issuance of bonds and I'm reading from that Article where it says the Legislature shall not create any debt or debts, liability or liabilities on behalf of the State which shall singly or in the aggregate the previous debts and liabilities exceed \$2 million except, and this is the important part, except to suppress insurrection, to repel invasion, or for purposes of war. I'm at a loss to understand how these repairs come within this Constitutional exception.

Please support the pending motion. Thank you.

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

Representative KERR: Madam Speaker, Men and Women of the House. I'd like to address the good Representative, Representative Ott on the Constitutional issue, whether or not we can do this under the Constitution of the State. The answer to that question is simply yes and I would like to at least explain why and how we can do this. For those that are unaware we have really three areas that we can focus on to sending either documents out to the voters. One as we know is a general obligation bond and we do that it puts forth the full faith and credit of the State, that's one way that we can go out and bond. The second is the revenue bonds, which we use for the Maine Turnpike Authority where we have dedicated revenue to pay for

those bonds. The third area is what we refer to as the third party lease payment and what that is is that we can set up the Maine Governmental Facilities Authority which then pays for those bonds. The way that that is set up currently by law, and this is where the area where we get around the Constitution, is that the question was whether or not we could do it. I'm telling you that we can and in the law this is one of the areas where we do this. The Maine Government Facilities Authority currently the Judicial side is allowed to spend up to \$30 million as you know, the courthouse in Biddeford the one that's going on in Springfield or in Sanford, the one in Lewiston. We allow the Maine Government Facilities Authority to borrow up to \$30 million.

On the other side of the ledger, the non-judicial items we allow the same to happen in the legislative process up to \$30 million. What this proposal does is raise the cap on the non judicial side by some \$23 million. Of that \$23 million, as the good Representative had indicated, there's \$500,000 that's unspoken for. That \$500,000 needs legislative approval. So, can we do it? Yes we can. Is it Constitutional? The answer is yes. That is the three areas where we bond.

The other thing I'd like to articulate is we talked about capitol improvement and crisis management. I could not agree with the good Representative any greater. What's happened in the budget process, at least since I've been on the Appropriations Committee the last six years, and even prior to that when I've talked to my colleagues that have sat in those chairs before is that we don't fund for capitol improvements. We're guilty ourselves. We see what's around the State House. This is the only way that I believe that this project will get done is if we take the initiative and we use one of the three approaches. We have chosen to use the Maine Government Facilities Authority, which is allowed under the Constitution.

So I would urge you to vote against the pending motion and support the majority committee report. Thank you.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. I couldn't agree with Representative Kerr more on certain items here. I do think that this facility does need some work, there's no question about it. However, I don't think that circumventing the process is the way to do it. I don't think going behind the back of our constituents is the way to do it. When we discussed this in committee, Representative Kerr agreed with me. We need to have this done and we are going behind the back of constituents. I just can't feel comfortable with that. I suppose I'm hopelessly old fashioned and out of step but I just think that we need to be honest about it. Now three times in the past decade we've gone back to the voters and asked for money for the State Office Building, it wasn't the Capitol but it was half of this project, the State Office Building. Three times the voters of Maine have said no. So I just don't think that it's appropriate for the Legislature to take it upon themselves to make this decision.

The other thing I'm concerned about here is that we're sending a message to people that don't bother up keeping your public facilities go ahead and use the money that you should probably be using for maintenance on something else. Because when things get bad enough we'll just step in and take care of it for you and I don't think that's the message that the Legislature means to send to the people of Maine. So I would urge you to support the pending motion. Thank you.

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

Representative KERR: Madam Speaker, Men and Women of the House. A question has arose here whether or not we're circumventing the voters. I must tell you, you must decide that

for yourselves. I've explained to you the options that are available to us. We do not fund for capitol improvements in these departments, for the State House and frankly, for any building that the State owns. That's why we're in this dilemma to begin with. I think what is important is we all agree collectively that the work has to be done. This is one of the three viable options to get the work done. We can sit, debate, procrastinate, say no I don't want to spend the money let's send it to the voters. You can choose to do that. I'm suggesting to you that we stand up and we say we know this work has to be done, let's do it. The will is there to do it, we can do it. I don't think that the voters want to vote on every single issue. Half the voters or three quarters of the voters never even visit the State House, but for those who do, the children that you and I bring up, is this place appealing to them to go home and talk about? It is deplorable. We all know it. There is no other mechanism that I believe that this work will be done and we're talking about the work and I must tell you there are two buildings over at AMHI the Tyson and Marquardt will be taken care of. The tunnel that we all walk through will be taken care of and the state office buildings. These facilities are deplorable. We must and should take care of them. This is the vehicle that does just that to address this problem and I would urge you to vote against the pending motion. Thank you.

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

Representative OTT: Madam Speaker, Men and Women of the House. This debate, in my opinion, should not be over the need. I think we all agree with need. I suggested that I thought the process was flawed and that it was in violation of our Constitution but let's just get past that for a moment. If there's such a need to do these repairs, then I suggest to you, and I think has been suggested, that have just been left undone because of other priorities for spending. But let's say that there's commitment, a political will to do these repairs, we have \$300 million plus in surplus. If this is one time money, one time repairs, I would suggest that we should be looking at that funding stream rather than putting more debt service on the people of this State.

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

Representative LEMAIRE: Madam Speaker, Men and Women of the House. Representative Kerr has answered the question of can we? Yes. Is it constitutional? Yes. Is this the way to do it? Yes. There's a couple points that haven't been brought that I would like to tell you. One is, we do not meet any semblance of ADA requirements and we could very well be in litigation at any time. The other point I would like to make, if OSHA walked to any of the state office buildings or this State House, they would close us down and that is not a guess. I am telling you right now, OSHA has not been in here, this building is a disgrace. I'm embarrassed when I invite constituents up here and children up here and I look at the tunnel. Can you imagine someone in a wheelchair getting up that tunnel? Have you ever looked at the entrance outside the door where the Governor parks? Trying to get in there if you are disabled or in a wheelchair or on crutches. The time is now. Do I agree that we should have a contingency fund to take care of these problems? I recognize that the other side of the aisle recognizes also that there is a need to fix these facilities. This is a way to do it. We should do it now and stop holding off. Thank you Madam Speaker.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMPBELL: Madam Speaker, Men and Women of the House. I've been following the state office building renovations and when we began speaking about this we were also talking about working on the connector and some work in the State House. As we began speaking the number that I was hearing was \$35 million then it went to \$46 million. The question is how did we get to \$52 million and what is that extra \$6 million for?

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

Representative KERR: Madam Speaker, Men and Women of the House. Currently when we talked about the Maine Governmental Facilities Authority there's \$30 million in there for judicial and the other \$30 million is for non-judicial. What this proposal before you does is authorizes the increase to the Maine Government Facilities Authority an additional \$23 million. So when you add the two together you get \$53 million. Of the new debt that would be incurred if this bill is passed there's \$500,000 that is unspoken for. Those dollars can only be approved by the Legislature. That's how the total gets to \$53 million, when you include the other \$500,000 and that needs specific Legislature approval.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. When I left this House in 1988, we had taken the early steps on the Legislative Council to identify preserving and restoring the State House and I thought that we progressively would have the will and the integrity to commit the funds to do that and what I've heard on the floor today is that any where in the State House you travel you face a crisis, but in looking at what we've done historically, the will hasn't been there annually and I agree we're at crisis. I'd like to pose a question through the Chair if I could.

The SPEAKER: The Representative may pose his question.

Representative MURPHY: Madam Speaker, Men and Women of the House. If we are in crisis could someone please explain to me the cost of the new electronic score board or voting board in the Senate?

Representative TREADWELL of Carmel **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 Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. I'd like to address Representative Murphy. It's been brought to my attention it was about \$5,000.

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

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

The SPEAKER: The Representative may pose his question.

Representative BUCK: Why can't we use this so-called one time money that we have kicking around here? The figure is anywhere from \$100 million to \$300 million. If indeed the situation is so bad that we're in a crisis mode why aren't we

funding it that way rather than the way that you folks are proposing?

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

Representative KERR: Madam Speaker, Men and Women of the House. If I understand the question correctly, is why don't we use the "one time money" that exists. As this budget is proposed by the Governor the one time money is spent, it's only left, if in fact the budget is proposed by the administration is passed, \$100,000 left to the Legislature to address bills. I believe that the only way that this work can take place, which from what I hear we all collectively agree is whether or not it's constitutional and is the process flawed. I can tell you that it is constitutional and the process is not flawed. What we're allowing is third party lease payments and that is permitted to happen under the constitution. I think there's a lot of issues other than the State House and as you know and I know that we serve in this Chamber we see these problems every day. They don't rise to the level of what the Governor has put in the budget. Remember we're trying to develop a budget in public that meets the needs of 186 members of this chamber. When the Governor puts together a budget, it's done in private. So there's really no debate on the issue whether it should be done through this process, through a bond or anything else and I can only suggest to you that this is the process that we should use at this time. The one time moneys are being spent on this issue and other issues and there's not really enough one time money to take care of all the needs that we'd like to see and have been brought to the table by the various committees. We're trying to take care of most of the needs and again I would urge your support to vote against the pending motion so that we can move forward.

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: Is this going to contribute to the structural gap that we're hearing so much about in future budgets? 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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. The debt service on this will contribute to the structural gap.

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: Is that amount in excess of \$2 million annually?

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

Representative KERR: I believe in the aggregate it probably will be.

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

Representative OTT: Madam Speaker, Men and Women of the House. I just wanted to add a response of my own for Representative Buck's question. I think the answer is, yes, there

is an alternate funding strain and that would be the surplus. If we are truly, as I suspect, closing in on a \$4 billion budget for the next biennium, I think if we really want to look at the basic functions of government, then that money could be used if we had the political will to meet what we now consider an emergency measure. Thank you.

Representative KONTOS of Windham assumed the Chair.
The House was called to order by the Speaker Pro Tem.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. It is very hard sometimes to be the Speaker of the House and listen to debate and not get to participate. It is only on rare occasions that I come down onto the floor to share with you my views, my passions and my frustrations. For the better part of two years and probably longer, I have taken the people of the State of Maine on a guided tour through the shambles of what should be the pride and joy of every Maine citizen. With your cooperation and with the cooperation of the voters, we passed a bond issue last session to help deal with handicapped accessibility issues. We have appropriated funds with the help of a bipartisan effort on the Appropriations Committee because they too shared our dismay at the plight of our State House.

Unfortunately, many of the things that go on in the State House that need repair are inextricably related to the State Office Building across the way, which has had no attention either for a number of years. Our heating system for this building is located in the State Office Building. Though we passed a bond issue to improve the tunnel so that we can end, forever, the embarrassing connector between these two buildings when people in wheelchairs take their lives into their own hands trying to go down that incline which is acceptable to no one. Even those of us who walk, risk losing our heads bumping into water pipes as we walk across that tunnel. Guess what, we can't fix that tunnel unless we have a working improvement plan with the other building. There needs to be a connector which simply houses the cable, the wiring and the water system from both buildings. It needs to be replaced. We can't go forward with our handicapped accessibility entrance and I challenge any of you on an icy day to try to navigate that entrance. Try it in a wheelchair.

Last month I was standing out there and someone had inconsiderately parked in front of that entrance. Even if they hadn't, there was snow on the ground and it was a steep incline. Two people in wheelchairs separately came up to me and asked how can I get into the building. I cannot tell you how mortified I was as Speaker of the Maine House of Representatives to stand there and help two people in wheelchairs get over ice and snow and down a very dangerous entrance.

The master plan, for those of you who are interested, has been worked on on behalf of the State House by the Executive Director, Sally Tubbesing, and by our committee. It is not just something written on the back of an envelope. There are architects, engineers, historical preservation individuals. There is a master plan. Part of the money in this bill reflects years of work on a master plan to complete the work on this State House. The tunnel would be no longer used in the same capacity. That handicapped entrance would be changed. It would be moved upstairs to the nice semi-circular area where your lockers are now located. A place of dignity to come into the Maine State House.

The Representative from York, Representative Ott, has admonished us not to talk about the need that we all know that. Sometimes I wonder if we all know that because even though I represent many state employees, so do you all. They all work for the State of Maine. Go take a walk through the State Office Building. You should know. You work there yourselves when you conduct hearings in cramped rooms with wiring all over the floor. Go into the office places where workers try to work in staggering heat without adequate air ventilation. Shame, shame on us.

Let's talk about why we are doing it this way, Representative Marvin and Representative Ott. We do it this way because there is no other way. Those of you who are advocating using the \$300 million surplus, it is absolutely amazing to me your math. I am not a mathematical genius, but first you advocated reducing the sales tax by a penny. Quite a bit of change. Then every single thing on the table you want to use the surplus for. Let's be honest. We all are concerned about one time money. We also know that this Governmental Facility Act was enacted by all of us in a bipartisan way to allow us to build our court facilities and we have done that. It was set up for this purpose. If you had taken the time to listen to the commissioner of Finance and Administration, there is a cost savings to doing the State Office Building this way. You may not know this, but we rent spaces in the City of Augusta. There is an opportunity to bring some of our workers into better buildings after we repair them. As a matter of fact, we will save money. This is an option to do a lease-purchase. I suspect that most of you in this building did not pay cash for your homes, did not pay cash for the major purchases in your life, because sometimes it makes sense to bond. This notion of circumventing the voters is sheer foolishness. They know exactly how we are voting. You have an opportunity today to stand up and be counted.

I have listened to many hours of debate down in the Appropriations Committee. I have heard members of the Appropriations Committee berate people from the Criminal Justice Academy, berate the Governor, berate the Legislature, but I have never seen those same people vote one penny for a Capitol Improvement Contingency Fund. I am really tired of the rhetoric. You can fix the State Office Building now. You can fix the State House now. I don't believe any of you can go home and face your constituents when you have walked away from your number one priority here. You are the stewards of these buildings. If not you, who?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Vedral. The Representative will state his point of order.

Representative VEDRAL: Madam Speaker, according to Mason's Rules Section 124, personalities are not permitted in the debate on the floor and members debating from the floor should avoid referring to another member by name and should refer to them by their district or some other manner. I ask that you would remind members of this rule.

On **POINT OF ORDER**, Representative VEDRAL of Buxton asked the Chair to remind members of Sec. 124 of Mason's Rules whereas personalities are not permitted in the debate and members should avoid referring to another member by name and should refer to them by their district or in some other manner.

The SPEAKER PRO TEM: The body is so reminded and I thank the Representative.

The Chair so reminded the members.

The Chair recognizes the Representative from Hampden, Representative Plowman.

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

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

Representative PLOWMAN: Madam Speaker, Ladies and Gentlemen of the House. Is the \$17 million figure for renovating the Chamber part of this figure?

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

Representative MACK: Thank you Madam Speaker, Right Honorable Men and Women of the House. I don't think anyone is doubting the need for improvements and modernization in the State House and the State Office Building, but when I was going door to door in my district talking to people, I heard over and over again that there are many programs up here that one their own merits seem like wonderful ideas, more programs and more money than we would ever have in any budget than any of us would ever pass. But I kept hearing that I was sent up here to make the tough choices to prioritize which of these programs we should spend the money on now and which ones aren't a bigger priority that we should not spend the money on. Madam Speaker, may I pose a question through the Chair?

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

Representative MACK: Thank you and to the Representative from York or another member on the Appropriations Committee. Why was these tough choices not made so that the surplus money could be used for the State House improvements. The tough choices, why weren't they made so some of these other programs, even though they might be great programs, are not as high a priority as fixing the State House. I know I was sent up here to make these tough choices and I'd like to know why Appropriations had not made these choices?

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I certainly can't speak for all 13 members of the Appropriations Committee, I can only speak to my own experience there. I want to say first that my frustration with the debate today is that I see no Minority Report offering an alternative method. The only suggestion which has been made is that we spend the one time money on the building. As we've heard it's a \$57 million project and the choices that that would mean would be to not spend one time money on such other projects as the \$10 to \$12 million for Maine's roads; the \$40 million to repair the Youth Center, which I think we have all agreed it's a filthy and unsafe embarrassment to the State; the \$11.3 million to the repair and construction of the new Criminal Justice Academy; the \$39 million to address the so-called push which was the General Purpose Aid to Education payment which is owed to all schools but will significantly affect 23 schools who wrote it off, it's an accounting issue. And finally, another significant sum of money is about \$16 million for General Purpose Aid to Education which as it stands is a one time payment, a shot in the arm to all of our school districts.

Some of these issues are not my priority, but we are trying to craft a budget which will gain a majority of votes. We are trying to craft a budget which is responsible to the majority of districts we all represent and to the majority of Maine citizens. And I would suggest to you that if we spent all the money for this one purpose we would not have enough money to spend on other issues which I believe we do regard as a priority.

I want to add that I have not yet met a member of this legislature who is not willing to spend some money on some thing. Whether its a swimming pool in Machias, whether it's roads, any number of issues rise to the level of priority for a number of people. What we are trying to do is come up with a budget which will address the priorities of the majority of the people here. If we spend it all in one place it won't be available for all of those other purposes. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. There are points in a Legislature where we begin to make policy decisions and I think we're involved in a policy debate. The good Representative from Vassalboro, we all share those same concerns and we all have those same reactions whether we travel through this building or we travel through the building on the other side.

I have three paintings of this State House in my office at home and I can't tell you how many times in the last years that I've looked those paintings. For 12 years as I come over the hill and I see that State House for the first time that day I get goosebumps, the hair on my arms stands because I'm so proud of this House, I'm so proud of the men and women that preceded us and I'm so honored to be here. I love this building. I think we all do and we'll all have fond memories when we leave, whether voluntarily or involuntarily about our service in this historic building.

I think we have three choices as we look at what direction are we going to go in the future, actually a fourth, which would be do nothing. Which would be a tragedy because I would think we see this historic building crumble all around us. We've had one option which we've heard today, the quote was "get around the Constitution". I think if there's a mark or a measure of this Legislature and I think it started in the first session and it's been bipartisan, is that there's been a rejection of gimmicks and smoke and mirror that was so visible in the early 1990's and I think we can take an inventory and I think there's a reason why because I think that many of the men and women that serve in this body were selectmen, county commissioners, teachers or public officials and you saw the damage that smoke and mirrors does. To me that's not an acceptable way to go. You can't on one hand say we don't have the money and the commitment to do it on a yearly basis and then undertake a bond that's going to create a 30-35 year long structural gap.

Second alternative, a very honest upfront approach, if all the moneys are needed right now then take the bond to the people and make the case to the people for the people's House.

Third alternative would be, if any of these can be done in a long term, step then take those items year by year and budget the money long term and do it up front, do it the honest way, not with the smoke and mirrors, do an annual appropriation. I think the Appropriations Committee can come back to us. Without possibly a combination of a bond for the next election for those things that can't wait and those items that can be done on a long term basis. Then we, and I think the others who will be privileged to serve in this State House will have the courage and the honesty with the Maine people to make that annual appropriation.

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

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

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I'm asking the same question, would

some member of the body please tell me if the \$17 million that has been requested to work on the chambers is part of this amount?

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

Representative MADORE: Madam Speaker, Ladies and Gentlemen of the House. In my conversations with the Commissioner it is my understanding the \$17 million is included in part of that package.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. One of the members prior speaking mentioned that this is just a policy debate and I would respectfully submit that it is. Are we going to allow this building to continue to deteriorate and answer to the people why they can't come here whether they're disabled or what have you to participate in the public process we represent? So certainly it's a policy decision and the decision we have to make here today is are we going to continue to bar the needy people from coming here and participating and I think, respectfully speaking, I'd say the answer to that is no. And then further they say a policy decision, we can shorten this debate right now. I mean it's very clear, it's just to decide to bond or not to bond. That's the policy decision we're making here today and I think that's a very simple thing. Vote yes to obstruct allowing people to come into this building or vote no and oppose the indefinite postponement so we can move on and adopt or send this bond out to the people so they can decide whether they want to come to the place that represents them. Thank you.

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

Representative MACK: Thank you Madam Speaker. Madam Speaker Right Honorable Men and Women of the House. In response to the Right Honorable Representative from Portland, I believe she has inadvertently proved my point. She listed off a number of programs and things we wanted to spend on and as I said there are a number of things that on their own might look like wonderful programs but we were sent up here to make the tough choices, to set priorities besides the programs and spending projects and the supplemental budget are \$1.9 billion worth of spending in the budget we passed last year. They can not all be of the highest priority. I'm sure there are some extra funds in there that might be of the lower priority than fixing up the State House and the State Office Building.

I urge us to go back and look and find the things that we are doing or that we propose to do that are not as high as a priority as fixing the State House and, as it has been elaborately detailed today, there is a need to improve the State House and State Office Building, I would agree with that and I think it is imperative for us to find things that are less of a priority. Thank you and I urge a vote in favor of the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative KERR: Madam Speaker, Men and Women of the House. I think a lot of this debate is about the budget. So I want to share with you some of those tough choices and maybe then you'll begin to see the larger picture, that's it's just not this one issue dealing with the Maine Government Facilities Authority.

Let's talk about some of those issues that are important to us, collectively. In the Governor's proposal over the biennium, we're to put \$39.5 million into the Rainy Day Fund. For those of you that are unaware we have raised the cap from 4 percent to 5 percent, that's a good thing. So in case the economy takes a little dip, we'll be better prepared this time than we were the last time. The June payment as you recall, and I heard the term gimmick, was back in 1991 when we took the June payment and pushed it into July. That short changed some school districts. We did that for the purpose of having \$39 million during that particular time to solve the structural gap. In the Governor's proposal that \$39.2 million will be put back in so that once again we'll have 12 payments in each successive year.

The juvenile correctional facilities also being proposed to take \$38 million as one time money which is truly a small fraction of the total costs, because this only deals with the juvenile side. We must later address the adult side and as we all know and have read that amount is probably going to exceed \$160 million.

Then there's the public school renovations, there's an in depth study that was done that proposal came back at \$30 million of one time money and two bond issues for \$35 million each additional year. Frankly, it's one of those programs or studies that I think we should support in its entirety but not everyone gets what they want in this process. So today we're looking at just \$20 million for school renovations. The GPA increase is another \$16 million, even at the 5 percent in statute where it says you can fund up to 5 percent it would be \$11.3 million.

We talk about highway and bridge improvements. Because some of us can't make the tough decisions that we know have to be made the General Fund will continue to subsidize the highway fund when in fact, and I know it's going to sound funny when I say to you that really what needs to be done is to raise the gas tax. That's what the purpose of the gas tax is for. To take care of our highways and our bridges. But no, some of us don't have that intestinal fortitude to make that tough decision because it's an election year. So let's talk politics then and not just being fiscally responsible, that's what truly should have been done last year. But after the election I'm sure that the time will come when there will be the meeting of minds and that decision will be made. But instead, we're funding the highway fund and subsidizing it through the General Fund of \$10 million. There's another program called the Better Program whose sole purpose, as you know a few years ago, was to generate and retain jobs. Good concept in the beginning not well thought out. Today, that program is short changed, we've got to put \$5.2 million into this program just meet our current obligations. We found out a few weeks ago, after the change package from the administration was brought in that we need another \$7.2 million for this program. The tail is growing on the program. And as you all know, when it was time for the Circuit Breaker or when costs overrun in AFDC we changed the eligibility. I've urged the administration to modify the program. We can no longer afford it. If you total those numbers up, there somewhere in the area of \$175 million and it truly does not address all the needs and the reason why I say that is because at some point in time the adult side of the corrections, there's going to be another mechanism, I'm sure, other than going to the voters, because once again we've got to remember the 90 percent rule. There are some people that believe that that's etched in stone, that we must comply with the 90 percent rule. And as you know, over time if you only borrow up to 90 percent at some point it's not even worth borrowing. That's something that the next Legislature will probably have to discuss. But today here and now I know of no other mechanism to address most of the needs in this Chamber. This tool, if in fact we collectively agree this should be done, to

fund or increase the Maine Government Facilities Authority by \$23 million and that would only be on the non-judicial side, we can begin to address the current problems and needs of the State House.

I would urge you to vote against the pending motion. There's a lot of work that has to be done and I think it's time for a vote and I would urge you once again to vote against the pending motion. Thank you.

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

Representative CAMPBELL: Madam Speaker, Ladies and Gentlemen of the House. Earlier in this debate we had a question asked, are we going to let the buildings deteriorate down around us, the simple answer and only answer is no. There have been some options discussed, one time money. My big problem is with the dollar amounts that have continued to grow over the short life of this project. Myself and the good Representative from Portland, Representative Saxl are on a building committee to review this. I've expressed my concern from the beginning that these dollar amounts are simply grabbed out of the air and thrown on a piece of paper and then we begin to consider these large numbers, not by the simple components but by the ultimate amount that we're putting out to the people. Just one small item and we are working on it, one small item of estimate that was in one of our and this is the small project, the \$2 million project that we've currently embarked upon, is the interior of this Chamber. There are two items on that list, the painting and the carpet. There's a few of you who visited the Chamber this summer realized we've done the ceiling. The walls and the carpet are to be replaced for line item of \$165,000. I gave them the benefit of the doubt and said well maybe their using \$50 a yard carpet, measured the carpet and came up with \$27,000. I asked the contractor who's painted most of the State House over the years and I asked him to come up with an estimate to paint the walls, remembering that the ceiling has already been done. At the outside he said \$25,000, that's \$27,000 and \$25,000 to accomplish a line item which is penciled in at \$165,000. I also had the benefit of talking to the contractor that the architect requested the estimate for the tunnel. The architect called and said how much would it cost to lower the tunnel, he said, well \$4 million, that's the extent of the research that goes into these numbers. What I'm concerned about are numbers and they continue to grow. I'm not concerned about doing the work, I think it can be accomplished.

Let me talk a little bit about another set of projects that we're doing in the State, school construction. It wasn't long ago that the school construction project, big school construction project was \$2 million, now we're looking at schools that are going for \$12, \$14, \$29 and I've most recently heard of one going for \$33 million. What's wrong with this picture? The industry has subcontractors, contractors that are still working on the same if not lower percentages of overhead and profit but the numbers continue to climb and my greatest concern about this is our stewardship has been referred to earlier in this debate, our responsibility to the citizens to be cost effective and send them simply what we need and not an extended amount of \$52 million to simply rehab the inside of the State Office Building, put underground \$4 million when in fact the most cost effective way to improve the connector is to do an under ground above ground project between the two buildings. To me the stewardship is researching these numbers and not just grabbing higher and higher and higher and higher numbers to throw a bond issue out to the people so we can simply do what we want and not take responsibility for it. Once this is out, if it becomes approved, the money is gone. There's really no need, even though the members of this body are trying to be responsible about the

expenditures, there's no need for those involved in the project to continue to raise those numbers and spend all the money. I think if we could use the one time expenditure we would be much more responsible and I think that these numbers could be contained, maybe to the \$35 million, that's a lot of money.

I would advise you to support the motion and go on to be more responsible and work at this project in a different way. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I don't know when the Government Facilities Authority effort to renovate this Chamber and the State Office Building ever became a partisan event. I was just looking and I recommend to all you to look at the original piece of legislation sponsored proudly of course by the minority members from the Town of Augusta as well as the majority Senator from Augusta sponsored by the minority Senate leadership from the Senate as well as the majority Senate leadership. This is not and was not ever intended to be a partisan debate about this building, because Men and Women of the House, I was very proud of the good work that the Speaker of this Chamber has done to bring to all of our attention as well as to the public's attention the incredibly horrible condition of this building. In 1991 and since then, we've allowed this building, and if you look out the windows at the sills you can look yourself to see the condition of this building with the sills rotting out, with the drafts coming through the Chamber. I remember last spring when we were in here and all of a sudden the room was a bog because the air filter system didn't work at all. This isn't our building, this isn't my building, this isn't your building, this is the people's building. I've been delighted to hear today from all corners of this room that we agree that this building is in dreadful shape and I think that we all agree that we have not only a right but a responsibility to take care of it. Not for ourselves if we get reelected next year, but for these kids sitting in front of his here today. These people who have their first taste of Maine government and what we do when they come through these doors. The dignity with which we treat this House is crucial to the way we serve the people of the State of Maine and your right, each of one you who said we have a responsibility to do this, you're right and we have a responsibility to do this.

Now the good Representative from Standish has talked about well we should make this cut, there must be some room he hasn't mentioned a specific cut in the budget that he wants to make, but he has said that we should do that. But I would submit to you that when each of you bought your house or if you're able to buy a house, you did it with a mortgage and I would submit to you that if you even did replace the roof and did major renovation in your home that you did that incrementally with the mortgage. We need to think about how we deal with this State House and deal with this very important responsibility.

Now let's talk about the precedent and the propriety. As all of you in this Chamber should know, we have used the Maine Government Facilities Authority before and I'm sure that the good Representative from York has practiced in the new courthouse in Biddeford which was built using this very Authority. I know that he's practiced law down there, I'm sure of it. This has been used before, it's an appropriate means to meeting the needs of the people of the State of Maine and to meeting our commitment to this Chamber. Right now, as many of you know, the economy is good, we have surplus revenues, that's true, but we are paying old debts that have stocked up over years and years and years. We're putting money aside to build our schools and to make sure they're safe and healthy because 76 percent of them are unhealthy. We're meeting our commitment to paying

back old debts like the budget push on school funding because it's the right thing to do. But with these opportunities we also have the lowest interest rate in recent history so not only does this make good moral sense, this make good public policy but it makes good economic sense. We would be doing a disservice to the people of the State of Maine today if we disappointed them and we didn't have the integrity to stand by our convictions and what we all recognize is an imposing and immediate need to fix this State Office Building.

I just want to assure you that the good Representative from Holden and I have spent countless hours sitting side by side and I valued very much his expertise and his contracting background and because of his good work on that committee, a lot of these issues about cost containment have come up and I've worked very closely with him. And because of his good work and my good work with him we have put in mechanisms to make sure that this carpet isn't incredibly over-priced, that these walls don't cost more. In fact, we just put out for bid and the deadline for applications is tomorrow, something called an owners representative and those of you who have done contracting work know that that owners representative is there to make sure those costs are not out of line and it's because of the good Representative from Holden's perspective and experience that we have that owners representative. But not only that, the costs that have been outlined initially in this plan have to come back to the Space Committee before they're approved. But not only that, then they have to go to the Legislative Council before they're approved and if we're able to save a dollar if we're able to save \$100,000, if we're able to save a \$1 million or \$2 million from the expected cost of these renovations according to the Office of the Executive Director of the Legislative Council, Sally Tubbesing, we won't need to take that money. So not only is this the right thing to do, not only are there good precedents in York County and throughout the court facilities for this but we are doing this in the right way to make sure the dollars are well used.

Please join me in preserving the integrity of the State House, defeat the pending motion, go on to pass this and meet our commitment to children and the adults and all the people of the State of Maine.

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

Representative PERKINS: Thank you Madam Speaker, Colleagues of the House. Just an observation and maybe a question. Something troubles me in this if I understand it right. I heard way back a couple hours ago, I believe, that there had two already two referenda put out to the people regarding this, I guess I'm asking if this is true and maybe somebody could tell me when more or less what dates those were and maybe roughly how they were worded in other words, are they similar to what we're asking for now as far as repairs and so forth? That's kind of a question but an observation is that something troubles me if that is true if there were two referenda similar to this. I believe this is true that some years back there was a bond question put out to the people regarding renovations for facilities at Maine Maritime Academy and I believe this is true, they were rejected by the people of the State of Maine but lo and behold somehow money came around somehow and these renovations were done and that's in my district and one of the things I hear quite often when I go to Castine to visit with the people still is, boy, it doesn't matter what the people vote on, get around it anyway, and if that's what we're doing here, you know, that troubles me and maybe somebody could kind of speak to those questions.

The SPEAKER PRO TEM: 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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. The Representative from Penobscot has posed a question I think it warrants an answer. On November 3, 1987, there was 10 bond issues, the seventh bond issue read, "Do you favor an \$8 million bond issue for capitol repairs and improvements to State facilities and the removal of asbestos from State facilities", it does not talk about construction, it's just renovations and that was for \$8 million. Probably you and I both would have voted against this one.

The other bond issue that I have was November 8, 1983, authorized a bond issue in the amount of \$21,094,000 for the State facilities construction, renovation improvements and construction improvements of municipal facilities and a deauthorized unused portions of previous bond issues. Those are the only two that I've come across that deal with this issue. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative OTT: Madam Speaker, Men and Women of the House. There is in my information, to my information, one more bond issue and it's the most recent one that was in 1992 when there was an \$8 million referendum bond issue for capitol repairs for state facilities. It was a rather generic caption but that would have included all the state facilities and I assume that would have meant the State House, the capitol building and any other government structures. Thank you.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. I'm sincere when I say that I am torn and I desperately want to support this measure and don't know when you call for the vote Madam Speaker, how I will vote. But I will tell you that less than a year ago I was the proud cosponsor of the legislation that enabled the Governmental Facilities Authority and their bonding for \$30 million. I will tell you at the time I was assured by the administration that \$30 million would be adequate for any projects that came forward. Now, less than a year later I'm asked to increase the bonding authority by \$23 million. Perhaps that's appropriate, I don't know.

My second point this morning is that I am also a member of the Joint Standing Committee on State and Local Government we have oversight for the Department of Administrative and Financial Affairs, oversight for these buildings, this complex. As I stand before you this morning, not once has anyone from the administration approached our committee, made us aware of the scope of this work. I have no idea, none at all, what this \$52 million is going to be spent on other than the obvious things that seem clear to me as I walk into this building every morning. I'm assuming that those will be taken care of. So I will leave you with a thought, that if you set this aside, if you can table it, if you can slow down this process, make me aware of how this \$52 million will be spent, when you call for the vote, I probably will be able to support it. But until I have the information that I need I'm afraid that I'm probably going to be forced to support the indefinite postponement. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I'm sorry that this debate has been viewed as partisan. I view it as information seeking, part of what helps us make decisions.

I'd like to address a couple of points. First of all, when I went to get my mortgage on my house, they only gave me enough money to buy a house that I could afford to make the payment on and I think that if you're going to talk mortgage this morning maybe we ought to keep that in mind, that this is a mortgage. As I look at the fiscal note on Committee Amendment HP 1631, I'm sorry filing number H-939, I find that the Governor, excuse me, the Executive, Chief, whatever, the man downstairs, has put \$500,000 in his budget to handle the interest payment for this year. However, in the next budget cycle we will be required to come up with \$2,215,880 for debt service and in the following cycle we must come up with \$4,581,790. Now if we're taking out a mortgage at the bank and I go to the bank and tell them that I have the money for this year's payment but I have a huge structural gap in my income for the next four years. I don't think that the mortgage, the bank, is going to look very favorably on my application. The minority while there has been suggested there is no minority report, that does not mean that there is not \$30 million available to begin this project, which I understand is a three year project.

I object to the fact that with a known structural gap coming we are already cutting into the moneys that need to be found and used in future legislation and I would urge you to support the motion to indefinitely postpone. The Legislative Council can work with the \$30 million through the next year and next year can come back with us with a reassessment of the moneys they really need to finish the project. \$30 million is a lot of money, it can go a long way and I don't think that we absolutely have to do this, at this time. I would point out to you that even though interest may be low at this point, we would be borrowing \$80 million, principle costs to be added will be \$52 million and a half and exactly half again will be added, \$27,562,000 in interest. That's an awful lot of money to be talking about today that we might need in the year 2001 to finish the project. I think that this debate is premature and I think that we need to move on to indefinitely postpone this bill, take the \$30 million begin the work and take this up again when it has been appropriately put before the committee. I was quite disturbed to hear that this had not gone before the committee of jurisdiction.

So I would ask you to support the Indefinite Postponement. Thank you Madam Speaker.

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

Representative TOWNSEND: Madam Speaker, Ladies and Gentlemen of the House. I wish I had a black board here. I'm a visually oriented person and I'd like to lay out for you the dilemma that we face. We have a limited amount of money, although the press has been telling us that we're rolling in dough, there's a limited amount of money. Thanks in large part to an issue which the Representative from Kennebec has already raised. I've spent an enormous number of my waking hours in the past three to four years undoing those bad decisions made in the early 1990's, paying those bills, fixing those messes. Whether they were literally unpaid phone bills found in drawers, pieces of highway sold to other agencies of state government, bills left unpaid, people whose services were left unmet or the vast number of crumbling roads and buildings which exist in this State. There are a limited number of places we can go for this money. We could choose, as some have suggested, not to do anything. You need to know that the facing of the State Office Building may fall off soon and it may come down and it may hit somebody in the head and then we'll all be in here rushing to do something. So I would suggest doing nothing is not an option.

We can take it from cash. There a limited number of big ticket items in the budget which we would have to choose not to do in order to come up with the cash for this project. They are

roads, they are General Purpose Aid to Education, they are the Maine Youth Center, they are the Criminal Justice Academy and they are the repairs of your local schools. Which of those projects would you choose not to do? That is the question.

The other option, which has been suggested is bonding. That's fine. I personally am not obsessed with the so-called 90 percent rule of thumb of only bonding for 90 percent of the debt service which is paid off in a given year. You need to know that you have already voted out on a unanimous ought to pass report, \$37 million for roads and other forms of transportation. We voted out of this body yesterday, on a vote of 128 to 9, the R & B bond of \$20 million. That is a total of \$57 million. If we were to adhere to the 90 percent rule this year, we would need to only bond \$54 million. Which of those bills you have already voted on is it that you would like not to pass?

There are three other potential bond issues out there for environmental remediation, including those tire stockpiles which exist in some of your districts, for the removal of toxins in some of your districts, for the Land for Maine's Future and for the Maine Public Broadcasting Corporation. It may be that you will choose not to bond for any of those items, but certainly if you choose to bond for this building and the State Office Building you cannot stay within either 90 percent rule or the 100 percent rule and do it all. So while I appreciate the advice of the Representative from Standish to make the tough choices, I feel that I already have made tough choices and I'm asking you where is it that you don't want to spend money in order to pay cash for this? Or which road in your district, which school in district is it that you do not wish to repair in order to bond for this? Or did you not mean it yesterday when you voted for the R & B bond? Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Ott. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative OTT: Madam Speaker, Men and Women of the House. I think Representative Townsend has hit the nail on the head. We have a number of competing interests and she's outlined them as have other speakers. Which one are we going to choose? That's exactly the question. Certainly the repairs that we agree and I would take exception to the previous speaker saying that I have admonished this House about discussing the repairs, I think everybody who has eyes, who can hear and see and feel the condition of our state buildings, particularly this building that we're in now and the connector tunnel and the State Office Building would agree that those repairs are crucial, they are critical, we defined that today. But we've not said that these repairs and going to be in this mix of making the tough decisions. Instead, we are going to utilize a mechanism of getting around the constitutional requirements to try to put more debt service on the people of this State.

If we pass this measure, we are facing at least \$5 million or approximately \$5 million a year in our years that will add to the structural gap and when I said earlier that we're closing in on a \$4 billion budget, we are probably there today.

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

Representative BERRY: Madam Speaker, Men and Women of the House. First I'd like to respond to a comment of the good Representative from China. On the issue of public hearings, the Appropriations Committee did have public hearings to review the plans, we had several meetings to review the plans and certainly being public meetings he was free to attend. I would encourage him as the debate has shown to talk to the members of his own caucus and recognize the importance of the issue.

There's some comments that I think should be included in this debate and I believe it's the savings that we can recognize from this, we've talked to the cost. I believe the savings from eliminating one of our state buildings, the Education building, I went through that the other day and went through the maze, looked around I didn't see any sprinklers in the building. The building materials are old, I'm certain there's asbestos hazards there. The air quality was terrible and it's March.

We know that the State Office Building there's plans to spend some of the money now to repair, we approved money last session to repair elevators and it's just I think it's a good decision on the part of the Administration to wait and do the whole plan at once. I think that was a wise decision.

We know that there's lost time with employees, we know they work in conditions of great heat during the summer, poor air. I think that's an important consideration to take, take in mind. As I say, there's savings to the Education building not operating the Education building in the out years, consolidating operations within the State Office Building, make them more comfortable, I think that's important that they have a decent work environment. And I want to commend the Commissioner of Department of Administration and Financial Services. I think it took great courage and Commissioner Waldron did an excellent job stating how important it was to address these issues and the concern that she had for the workers in our state building. I know she was very serious about it, we had a discussion afterwards.

I've got another comment, I know you may say that they have a self interest and the Association of Building Contractors did come and speak in favor of this bill, certainly there's work for them. But they approved the plan in the budget. They didn't have a problem with that. I know many of us respect their opinions in this body. In closing I would ask that the Clerk read the Committee Report.

Representative BERRY of Livermore **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. There's been a lot of conversation here this morning that as far as I'm concerned questions my ability, if you will, to address a problem and be fiscally responsible to my constituents back home. This particular bill, as far as I'm concerned, I'll back it 100 percent providing okay, that I know what the money is being spent for so I can tell my people. In regards to public hearing in Appropriations, some of us had other committee reports and couldn't get there, we had to be in another committee. So I question highly, you know, the criticism that seems to come from the other side of the aisle that is wrong for us to be in our minds conservative when it comes to fiscal problems that we think we've got to address our people back home too.

I don't know how much money is being spent totally for different jobs. I listened to our floor leader here and he questioned some of the contracts and the amount of moneys, he said he discussed it with the majority Representative, I don't what they are, I haven't seen the figures, I'd like to know how much we're spending on what and what the plans are. If it's my problem because I didn't find it, I'm sorry but somebody, if they want me to back this bill, then I've got to know where we stand. Thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kennebunk, Representative Murphy. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative MURPHY: Madam Speaker, Men and Women of the House. Not wanting to be the one to keep us from going to lunch, I very much want to commend the members of the House that have stayed in the Chamber, we understand our colleagues are off on a field trip checking other parts of the State House and looking at the conditions quite closely. I listened to the two good Representatives from Portland. The first good Representative talked about that in our homes being stewards of our home that we take care of those homes and that we probably borrowed money to build that home and we want to protect its value, its integrity and its appearance. I think if we saw someone in town who had a home and the paint began to peel off the siding and we saw bare wood and we saw the flashing up by the chimney ripped and we knew the water was pouring into that home and attacking the integrity of that home, we would expect the steward of that home to make every effort to maintain and repair that house. We would be concerned if we saw that home in our village or town or city begin to disintegrate and we saw that homeowner build a swimming pool in the backyard.

The other good Representative from Portland had talked about choices. I began to get the impression that when it comes to competing with the other priorities, this State House always loses. When it goes to the people, it always loses. I can't believe that if our feelings are sincere, it should be a top priority. The reason why I raised the swimming pool analogy is I had asked a question earlier on the floor on the electronic systems down at the other end of the building. Over the last few years, the voice voting, request to speak and bill stamping system required an expenditure of \$310,000. This disintegration of the House has been in our face this year, three years ago and five years ago. When we made decisions on priorities to address our responsibilities as stewards of this House to put paint on the clapboards and replace the flashing, we went for the swimming pool in the backyard, an elaborate electronic system for a 35 member chamber. Something is wrong with the choices and the priorities. I think we have a very good Appropriations Committee, if this is Indefinitely Postponed, they are going to come back to us with the balanced long-term systematic proposal for us to support and the Maine people to support.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. Something I like to do when I am not spending the day in Augusta here, is travel with my children. One of the things we always do is go to the State Capitol in any state that we visit. Even as little as my children are, they have noticed the difference between the State Capitol in Maine and the State Capitol in many of the other states. I have said to them that I would like to see us be able to fix up our State Capitol, but right now it hasn't hit the priority list for the Maine Legislature. Right now in the budget that we have been passing out in Appropriations, we have put in money for things like R & D and DECD, criminal justice, GPA push. We have reeled them all off this morning, Maine Youth Center, the 13th year, the school construction and all of those things are great programs. You maybe can't get everything you want when you want it. Maybe we need to step some of this in and not do it all at once. You don't just continue on a spending frenzy because it is what you want. You have to look at what the bottom line is and what is going to happen. If we are to pass this bill out today, we are going to increase the structural gap. In FY 2000 it is going to be \$5.8 million and in FY 2001 it is going to be \$7.4 million. The numbers from Appropriations from last night were at \$16.5

million in the hole. That is how much, in the supplemental budget, we are more than existing revenues by \$16.5 million and we haven't put in \$40 million for the Youth Center and we haven't put in \$47.1 million for the homestead exemption. We cannot continue on this path. We need to slow down and think about what our priorities are and make sure we pay as we go. I urge you to support the Indefinite Postponement of this bill. Thank you.

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

Representative PERKINS: Madam Speaker, Men and Women of the House. Contrary to common wisdom, I have not made up my mind. Usually the rumors are, everybody has already made up their mind. Well, I haven't. You get up to speak and you hear groans. I don't blame people. They want to go eat beans and hot dogs. You see facial expressions on the people in here and so forth. I just am confused about several things. One, it is important how I vote on this, is it possible to table it? Maybe it is and maybe it isn't and maybe nobody wants to table it. I am more perplexed about this. We have spent a lot of time debating whether we need renovations and both sides have agreed. Why don't we stop doing that? It is the mechanism. Somebody please tell me how we can justify using this mechanism of funding when the people have already said no three times, at least, fairly recently, for money for renovation of state buildings?

The SPEAKER PRO TEM: 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 Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. This is a new institution for the Legislature. As I understand the bond issue, just for clarification, they were for the State Office Building, but not the State Capitol and the State Office Building, so there is a little different twist on this. If you remember the debate last year on this governmental facilities building, there was no ceiling before they had to come back to the Legislature. I, as one member, looking ahead thought that would be one great way for them never to come to us to find out if they ought to do things. Since we control the purse strings, as I learned in fifth grade and government class, it seemed appropriate for any major project to come here. I think this debate is indicating exactly why it ought to come here. This is \$50 some odd million. The number has been thrown around several times and I am sure incorrectly by myself as often as anyone else. I think it is roughly \$52 million.

As I understand it, the project started out somewhere around \$35 million and has escalated as the ornaments have been added or preservation or the other items that are in here. The question that was thrown out earlier today on, do we buy our houses like that? People buy their houses with cash if they have it. I think that is the answer to that question. The fundamental question that is here that is perplexing me is that the constitutional authority is here. Representative Kerr from Old Orchard addressed that question earlier some, but I think each of us would, as much as those of us who are not attorneys in the House read the Constitution in a particular way have taken the opportunity to run it by some attorneys who I do hold in some high regard in the chamber and outside and they are not sure. They are not sure on their read of the Constitution. They think there is some wiggle room there, but they are not sure if the sections of the Constitution are in conflict with one another and if we can actually do this. Because it has been before, doesn't mean it is constitutional. It just means no one has asked the question. You can drive 80 miles an hour until you get caught,

too. It doesn't make it legal. The constitutional issue is the one that I think needs to be answered here and would lay a lot of comfort to most members who agree that this chamber ought to be fixed up.

Do I think we ought to go out with the entire \$52 million on a bond? No. When people go out for loans on their homes, to continue on the analogy of earlier, very rarely do they get to borrow 100 percent of the cost of that. As a matter of fact, the more you borrow away from 80 percent rule, which is a rule outside of this body. You can borrow up to 80 percent on property. It is a standard banking rule of thumb. The further away from that 80 percent you get, the higher the interest rate. The state is in a different scenario and a different position. It might not be bad to do a blend of these things. I have to admit that I have heard a lot of good arguments on both sides today. You can't help but admit that those arguments are good when you walk down the halls or you walk through the tunnel between the State Office Buildings. I think it is important for us as we leave the chamber and cast our vote today that we find out that we are operating within the degree of the Constitution and if the governmental facilities, we can put that argument to rest from here on. Each time they do this, that will be part of the argument.

Again, as I said a few weeks ago, having senioritis, it would be easy to cast my eyes away and say I only have two more weeks of this and they will have to deal with that same debate and that same argument next year, but I can read about whatever the reporters feel is worthy of reporting. It is important as we move forward to answer that question and have it answered. It is probably also important that if the state thinks this is an important priority then at least a portion of that down payment as you would when you are purchasing a home be done out of the state budget. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I have sat here for quite a few hours. I haven't left. I have tried to listen intensively, but I still have a couple of questions in my mind. One is, I have heard many people speaking about structural gaps. I suppose that means finances. I would like to know if the projections that we are saying, that we have said many times by many people, if it is figured on a projected budget, which was made some months ago or is it predicated on the monies, which I read that we have taken in on a monthly report whereby that we have certainly exceeded by a good many dollars the projections and so I would like to have someone try to straighten me out on that if you would, please.

Secondly, we have used the adage of we should think of this as mortgaging our homes. You know in this many faceted world today many people mortgage their homes three or four times. There is a reason for it because if you are in a certain class of economic progress, then it behooves you to do that because you can then reinvest the money for much more than what you borrow. I think that is a poor thing to bring up. It is not a good illustration.

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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. The good Representative from Fryeburg asked a question in reference to the structural gap. If I could just go back in a little bit of time. A year and a half ago when we started the biennial budget, as you recall, the Chief Executive Officer had said that the structural gap was somewhere around \$450 million.

As we began to work the budget, when we left here and we passed the biennial budget, that structural gap had been reduced to about \$236 million. As the good Representative indicated that as revenues continued to come in, there were reprojections of revenue back in December. In December that \$236 million structural gap was reduced to about \$104 million. As of about a month ago, there was another reprojecion of revenues. Again, that structural gap continued to decline. The Chief Executive submitted to us a supplemental budget, which was then modified and that structural gap went from somewhere around \$100 million and it increased to somewhere in the area of \$350 million. We begin this process where the structural gap fluctuates and it is predicated on spending and on reprojecion of revenues. That is how that structural gap bounces back and forth. Today, as we are discussing and just viewing if, in fact, we voted out the Chief Executive's budget as presented, we would probably leave here with a structural gap of somewhere around \$350 million. If revenues continue to increase and if, there is a lot of ifs in this because you have to remember that this is built on assumptions, but if, in fact, revenues continue to grow as expected then that structural gap whatever it is when we leave here will continue to decline. I hope that answers your question.

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

ROLL CALL NO. 467

YEA - Belanger IG, Berry DP, Bodwell, Bragdon, Bumps, Campbell, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Gerry, Jones SA, Joyce, Joyner, Kasprzak, Lane, Layton, Lindahl, MacDougall, Mack, Marvin, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Skoglund, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Vedral, Volenik, Waterhouse, Winglass, Winn.

NAY - Ahearne, Bagley, Baker, Belanger DJ, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Madore, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Pendleton, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Underwood, Usher, Wheeler GJ, Winsor, Wright, Madam Speaker.

ABSENT - Barth, Buck, Cameron, Carleton, Dutremble, Etnier, Fisk, Honey, Joy, Rines, Vigue, Watson, Wheeler EM.

Yes, 45; No, 93; Absent, 13; Excused, 0.

45 having voted in the affirmative and 93 voted in the negative, with 13 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-939)** and sent up for concurrence.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

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

SENATE PAPERS

The following Joint Resolution: (S.P. 869)

JOINT RESOLUTION IN HONOR OF THE MAINE FARMER AND MAINE AGRICULTURE

WHEREAS, farmers and others employed in associated industries make up 10% of the Maine work force, with about 7,400 farms operating on 600,000 acres of cropland; and

WHEREAS, Maine farmers provide \$500,000,000 in total farm income and are credited with a contribution of \$1,300,000,000 to Maine's economy; and

WHEREAS, Maine is first in the world in the production of wild blueberries, first in the world in the production of brown eggs, home of the world's largest bioagricultural firm, first in New England in the production of food, 3rd in the country in the production of maple syrup and 8th in the country in potato production; and

WHEREAS, Maine farms provide not only food for families but scenic views, open spaces, employment opportunities and a tangible link to our culture and heritage; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature of the State of Maine, now assembled in the Second Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State and to pledge our support and encouragement, and urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agricultural industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

Came from the Senate, **READ and ADOPTED**.

READ and ADOPTED in concurrence.

ENACTORS

Emergency Measure

An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1999

(H.P. 1443) (L.D. 2007)
(C. "A" H-870)

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 Ensure That Lump-sum Workers' Compensation Settlements Are Credited to Child Support Obligations

(H.P. 1467) (L.D. 2058)
(C. "A" H-864)

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.

Emergency Measure

An Act to Repeal the Sunsets on Certain Child Support Enforcement Remedies

(H.P. 1510) (L.D. 2132)
(C. "A" H-865)

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

On motion of Representative THOMPSON of Naples, 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-865)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-916)** to **Committee Amendment "A" (H-865)** which was **READ** by the Clerk.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. This amendment simply changes the number 10 to number 7. It is a technical amendment to correct an error that was made when we made a final draft of the bill.

House Amendment "A" (H-916) to **Committee Amendment "A" (H-865)** was **ADOPTED**.

Committee Amendment "A" (H-865) as Amended by **House Amendment "A" (H-916)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-865)** as Amended by **House Amendment "A" (H-916)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

Emergency Measure

An Act Relating to the Debt Limit of the Limerick Water District

(H.P. 1546) (L.D. 2175)
(C. "A" H-872)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Extend the Electric Rate Stabilization Program

(S.P. 818) (L.D. 2204)
(C. "A" S-505)

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. 126 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 1998-99

(H.P. 1584) (L.D. 2215)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the Commission on Eating Disorders

(H.P. 1411) (L.D. 1975)
(C. "A" H-878)

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

Representative CLARK of Millinocket **REQUESTED** a roll call on **FINAL PASSAGE**.

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

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

ROLL CALL NO. 468

YEA - Ahearne, Bagley, Baker, Belanger DJ, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Campbell, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones SL, Jones SA, Joyner, Kane, Kerr, Kneeland, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Mack, Madore, Mailhot, Marvin, McAlevy, McKee, Meres, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Pinkham RG, 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, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Wheeler EM, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Barth, Berry DP, Bodwell, Buck, Cross, Dexter, Foster, Gagne, Joyce, Kasprzak, Layton, Lindahl, MacDougall, McElroy, Nass, Nickerson, Perkins, Pinkham WD, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Winsor.

ABSENT - Cameron, Carleton, Chartrand, Dutremble, Fisk, Honey, Jones KW, Joy, Labrecque, Mayo, Mitchell JE, Perry, Pieh, Watson, Winn.

Yes, 110; No, 26; Absent, 15; Excused, 0.

110 having voted in the affirmative and 26 voted in the negative, with 15 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Extend the Commission to Examine Rate Setting and the Financing of Maine's Long-term Care Facilities

(H.P. 1534) (L.D. 2161)
(H. "A" H-881 to C. "A" H-857)

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. 126 voted in favor of the same and

1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 501: Exemptions to Fire Bans and Permit Requirements for Outdoor Fireplaces and Grills, a Major Substantive Rule of the Department of Conservation

(H.P. 1609) (L.D. 2236)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 8 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Amend the Statutes Pertaining to Emergency Medical Services

(H.P. 447) (L.D. 597)
(C. "A" H-879)

An Act to Enact the Uniform Transfer on Death Security Registration Act

(H.P. 965) (L.D. 1328)
(C. "A" H-860)

An Act to Clarify the Laws Concerning Claims Settlement Practices

(H.P. 1256) (L.D. 1783)
(C. "A" H-873)

An Act to Provide for the Termination of Spousal Support upon the Death of the Payor

(H.P. 1366) (L.D. 1916)
(C. "A" H-862)

An Act to Promote Competitiveness Regarding the Sale of Recreational Vehicles by Allowing Better Discounts

(H.P. 1370) (L.D. 1920)
(C. "A" H-853; S. "A" S-509)

An Act to Amend the Charter of the Sanford Sewerage District

(S.P. 709) (L.D. 1957)
(C. "A" S-499)

An Act to Amend the Laws Governing Liability Associated with Juvenile Offenders Who Participate in Community Service Programs

(H.P. 1424) (L.D. 1988)
(C. "A" H-863)

An Act to Establish a Migrant and Immigrant Worker Assistance Office in Central Maine

(H.P. 1430) (L.D. 1994)
(C. "A" H-869)

An Act to Protect Customers of Consumer-owned Utilities

(S.P. 740) (L.D. 2018)
(C. "A" S-504)

An Act to Amend the Motor Vehicle Laws

(S.P. 753) (L.D. 2031)
(C. "A" S-498)

An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Remediation and Waste Management

(H.P. 1496) (L.D. 2095)
(C. "A" H-866)

An Act to Grant the Joint Standing Committee Having Jurisdiction over Criminal Matters the Authority to Review the

Appointments of the Commissioner of Public Safety and the Chief of the State Police

(H.P. 1526) (L.D. 2148)

An Act to Provide for the Licensing, Inspection and Labeling of Farmstead Cheese

(S.P. 802) (L.D. 2172)
(C. "A" S-500)

An Act to Implement Recommendations of the Joint Standing Committee on Banking and Insurance Relating to the Review of the Bureau of Insurance, the Bureau of Banking and the Securities Division within the Department of Professional and Financial Regulation under the State Government Evaluation Act

(H.P. 1564) (L.D. 2197)
(H. "A" H-894 to C. "A" H-884)

An Act to Implement Recommendations of the Joint Standing Committee on Business and Economic Development Relating to the Review of the Maine Development Foundation under the State Government Evaluation Act

(H.P. 1603) (L.D. 2229)

An Act to Amend the Animal Welfare Laws

(H.P. 1640) (L.D. 2273)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, to Implement the Interim Recommendations of the Task Force on State and Federal Tax Filing

(H.P. 1544) (L.D. 2171)
(C. "A" H-867)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act to Grant the Treasurer of State Full Voting Rights on the Board of Trustees of the Maine State Retirement System

(H.P. 1359) (L.D. 1910)
(C. "A" H-868)

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

On motion of Representative TREADWELL of Carmel, 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. 469

YEA - Ahearn, Bagley, Baker, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bunker, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Hatch, Jabar, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Madore, Mailhot, McKee, Meres, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Bruno, Buck, Bumps, Campbell, Cianchette, Clukey, Dexter, Donnelly, Foster, Gieringer, Gooley, Jones SA, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Winsor.

ABSENT - Cameron, Carleton, Cross, Dutremble, Fisk, Honey, Jones KW, Joy, Labrecque, Mitchell JE, Perkins, Perry, Watson, Winn.

Yes, 84; No, 53; Absent, 14; Excused, 0.

84 having voted in the affirmative and 53 voted in the negative, with 14 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Amend the Laws Concerning Access to Capital for Maine Businesses

(H.P. 1489) (L.D. 2088)
(C. "A" H-880)

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

On motion of Representative VIGUE of Winslow, was **SET ASIDE**.

On further motion of the same Representative, 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-880)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-931)** to **Committee Amendment "A" (H-880)** which was **READ** by the Clerk.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This is strictly housekeeping changes. That is all that was really involved. There is nothing to the amendment. Thank you.

House Amendment "A" (H-931) to **Committee Amendment "A" (H-880)** was **ADOPTED**.

Committee Amendment "A" (H-880) as Amended by **House Amendment "A" (H-931)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-880)** as Amended by **House Amendment "A" (H-931)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 1999

(H.P. 1522) (L.D. 2144)
(C. "A" H-871)

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

On motion of Representative DRISCOLL of Calais, was **SET ASIDE**.

On further motion of the same Representative, 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-871)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-896)** to **Committee Amendment "A" (H-871)** which was **READ** by the Clerk.

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

Representative DRISCOLL: Madam Speaker, Ladies and Gentlemen of the House. This is strictly a technical amendment correcting a numerical error. Thank you.

House Amendment "A" (H-896) to **Committee Amendment "A" (H-871)** was **ADOPTED**.

Committee Amendment "A" (H-871) as Amended by **House Amendment "A" (H-896)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-871)** as Amended by **House Amendment "A" (H-896)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

Resolve, Directing the Judicial Department to Develop Recommendations to Implement Court Unification

(H.P. 992) (L.D. 1372)
(C. "A" H-861)

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

On motion of Representative THOMPSON of Naples, was **SET ASIDE**.

On further motion of the same Representative, 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-861)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-962)** to **Committee Amendment "A" (H-861)** which was **READ** by the Clerk.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. This amendment just changes the composition of a study committee, which is actually a very routine change. Thank you.

House Amendment "A" (H-962) to **Committee Amendment "A" (H-861)** was **ADOPTED**.

Committee Amendment "A" (H-861) as Amended by **House Amendment "A" (H-962)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-861) as Amended by House Amendment "A" (H-962)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (H-900) - Minority (4) Ought Not to Pass - Committee on LABOR on Bill "An Act to Give Collective Bargaining Rights to Legislative Employees" (H.P. 1497) (L.D. 2096)

TABLED - March 18, 1998 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

On motion of Representative SAXL of Portland, **TABLED UNASSIGNED** pending the motion of Representative HATCH of Skowhegan to **ACCEPT** the Majority **OUGHT TO PASS as Amended Report**.

HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-940) - Minority (2) Ought to Pass as Amended by Committee Amendment "B" (H-941) - Committee on JUDICIARY on Resolve, Regarding Legislative Review of Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs, a Major Substantive Rule of the Department of Human Services (EMERGENCY) (H.P. 1607) (L.D. 2234)

TABLED - March 18, 1998 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-940) Report.

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

Representative **WATERHOUSE**: Madam Speaker, Ladies and Gentlemen of the House. Last session we dealt with this issue as far as allowing the legal sale of hypodermic needles. The bill now before us is rulemaking to institute a Needle Exchange Program. These rules and this program are bad public policy. I don't know if you remember the debate we had on it. I was the only one to speak against it because some of the other people who were against the bill on the committee were not in the House at the time. I am going to try to keep the debate not too long. In fact, one of the other people that were going to debate on this have gone to committee I think. If you remember the impetus of the program was to allow certain people to set up a program to exchange needles with heroin addict intravenous drug users. Supposedly they would show up with a dirty needle and exchange it for a clean needle. The argument was that this would slow down the spread of HIV or AIDS. This was one of the claims. The problem with that claim is that in the drug culture and all the information I have read on it and the research, these very same drug addicts when they get clean needles, they share them. Even though they might have a clean needle when they

go to the house or where ever they go to shoot up, they share that very same needle that we give them. We heard some comments in the last session with the people who supported this program that there were some studies that supported the credibility of these programs in reducing the spread of HIV. I said at the time and I reiterate that there is no, absolutely no, credible scientific research that supports those findings. New Haven, Connecticut was one of the studies that was kept on being brought up as one of the studies.

There was only anecdotal evidence in all those studies and this was self-reporting done by the very same people who were using the program, the drug addicts. All these programs and so-called studies were found to be scientifically flawed with no peer review. In fact, a lot of the needles that were turned in were not even checked for serum content of the HIV virus. There was no control. In the statement from the very exhaustive research for the Center of Disease Control Study pointed out that there was no scientific evidence that Needle Exchange Programs prevented AIDS. In fact, I quote from that very same study, "The effect of Needle Exchange Programs on HIV infection rates do not impart to the need for large sample sizes and the multiple impediments to randomization cannot provide clear evidence that Needle Exchange Programs decrease HIV infection rates." That is from the National Center of Disease Control.

One of the astounding things was that these programs were touted as this is how we get people off the streets and get them into rehab and rehabilitation. I stated in the 117th and I hate to go over the same material, but I think a lot of times we forget some of the debate on some of these very important public policy issues. Two news articles, the very same people who were pioneers in these programs, these are the people who are getting off the streets folks. These are the people we are supposed to be helping. John Waters, San Francisco, a researcher who helped pioneer the use of needle exchange died of a drug overdose. Brian Wells, founder of the city's Needle Exchange Drive, died of a heroin overdose. Two founding pioneers of these programs that were supposed to get these people of the street for rehabilitation. Complete these studies, especially the one on Montreal, showed there was actually an increase in the transmission of HIV in their Needle Exchange Program. Community segregation and there is several communities that have these programs. One in Braintree, Massachusetts. One in Worcester, Massachusetts and there were community activist groups that were vehemently against these programs and they had articles in the newspapers that some of these, I think, were addressed after I speak, shortly after. The Manhattan Lower East Side Community in New York, Ward 3, passed a resolution in November of 1995 to close down their Needle Exchange Program because the community had been inundated with drug dealers. Law abiding businesses were being abandoned and the much needed law enforcement was being withdrawn by the police.

This is our last shot at not putting this program in place. It is very permissive. It sends the wrong message. We are telling people that shooting heroin and other intravenous drug use is illegal, but we don't want you to have this disease HIV. We think this program might stop it, but there is conflicting data that says it won't. We are going to give you a clean needle to inject an illegal substance. You have to ask yourself what kind of message is this sending to the youth. You are telling the youth, don't use drugs, but just in case you do, we are going to give you a clean needle. I am asking that you defeat the pending motion and go on to the Minority Report, which says not to institute these rules. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. In order to have a more complete and full debate, I am just letting the House know that the Judiciary Committee is currently upstairs in the middle of a confirmation process. I want the good Representative from Bridgton to have a chance to make his point to a fuller body so he can have a full debate. I am going to ask my colleague to table this item until later in today's session when we can have a more complete debate and you can certainly share your thoughts again. My apologies to the Representative.

On motion of Representative DONNELLY of Presque Isle, **TABLED** pending the motion of Representative THOMPSON of Naples to **ACCEPT** the **Majority Ought to Pass as Amended** Report and later today assigned.

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-906)** - Minority (6) **Ought Not to Pass** - Committee on **UTILITIES AND ENERGY** on Bill "An Act to Require All Regulated Public Utilities to Report to the Public Utilities Commission the Sale, Lease or Other Transfer of Assets Paid for by Ratepayers" (H.P. 1477) (L.D. 2076)

TABLED - March 18, 1998 by Representative JONES of Bar Harbor.

PENDING - Motion of same Representative to **ACCEPT** the **MAJORITY OUGHT TO PASS AS AMENDED** Report.

On motion of Representative SAXL of Portland, **TABLED** pending the motion of Representative JONES of Bar Harbor to **ACCEPT** the **Majority Ought to Pass as Amended** Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System (H.P. 735) (L.D. 999)

TABLED - March 18, 1998 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to **ACCEPT** the **MAJORITY OUGHT TO PASS** Report.

On motion of Representative SAXL of Portland, **TABLED UNASSIGNED** pending the motion of Representative HATCH of Skowhegan to **ACCEPT** the **Majority Ought to Pass** Report.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-933)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Dan Corey and Nu Seed Corporation of Monticello to Sue the State of Maine (H.P. 1461) (L.D. 2052)

TABLED - March 18, 1998 by Representative DONNELLY of Presque Isle.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**. (Division Requested)

The Chair ordered a division on the motion to **ACCEPT** the Committee Report.

A vote of the House was taken. 54 voted in favor of the same and 33 against, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-933)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 20, 1998.

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

SENATE PAPERS

Bill "An Act Authorizing Certain Debt of Hancock County for Construction of a New Jail and Courthouse Renovations and Ratifying Certain Action Taken by Hancock County in Connection with the Authorization of this Debt" (EMERGENCY) (S.P. 867) (L.D. 2280)

Came from the Senate, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

Representative BERRY of Livermore assumed the Chair. The House was called to order by the Speaker Pro Tem.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Encourage Regionalization of Municipal Services" (H.P. 297) (L.D. 361)

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)** in the House on February 18, 1998.

Came from the Senate with the Minority (1) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT** was **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative SAXL of Portland, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Resolve, Compensating the Estate of Barbara Maxfield for Claims against the State (S.P. 800) (L.D. 2157)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494) in the House on March 12, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494) AS AMENDED BY SENATE AMENDMENT "A" (S-529)** thereto in **NON-CONCURRENCE**.

Representative TUTTLE of Sanford moved that the House **RECEDE AND CONCUR**.

Representative CLUKEY of Houlton **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

ROLL CALL NO. 470

YEA - Ahearne, Bagley, Baker, Belanger DJ, Belanger IG, Berry RL, Bodwell, Bolduc, Bragdon, Brennan, Brooks, Bruno,

Bull, Bunker, Chizmar, Cianchette, Clark, Colwell, Cowger, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Jones KW, Jones SL, Jones SA, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemke, Lemont, Lovett, MacDougall, Mack, Madore, Mayo, McKee, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Perkins, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Tessier, Thompson, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Volenik, Watson, Wheeler EM, Winglass, Wright.

NAY - Barth, Berry DP, Bigl, Bouffard, Bryant, Buck, Bumps, Campbell, Chartrand, Chick, Clukey, Cross, Fisher, Foster, Jabar, Joyce, Joyner, Kasprzak, Lane, Layton, Lindahl, Mailhot, Marvin, McElroy, Meres, Nass, Nickerson, Ott, Pendleton, Pinkham WD, Shannon, Snowe-Mello, Taylor, Tobin, Waterhouse, Wheeler GJ, Winsor.

ABSENT - Cameron, Carleton, Dutremble, Fisk, Hatch, Honey, Joy, Labrecque, Lemaire, McAlevey, Mitchell JE, Perry, Plowman, Winn, Madam Speaker.

Yes, 99; No, 37; Absent, 15; Excused, 0.

99 having voted in the affirmative and 37 voted in the negative, with 15 being absent, the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

JOINT RESOLUTION MEMORIALIZING THE CITIZENS' STAMP ADVISORY COMMITTEE AND THE POSTMASTER GENERAL TO ISSUE A STAMP COMMEMORATING THE 200TH ANNIVERSARY OF THE NAVAL SHIPYARDS

(H.P. 1641)

READ and **ADOPTED** in the House on March 12, 1998.

Came from the Senate **ADOPTED AS AMENDED BY SENATE AMENDMENT "A" (S-552)** in **NON-CONCURRENCE**.

On motion of Representative LEMONT of Kittery, the House voted to **RECEDE AND CONCUR**.

BILLS IN THE SECOND READING

House As Amended

Bill "An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit Regulation and Office of Licensing and Registration under the State Government Evaluation Act"

(H.P. 1565) (L.D. 2198)

(C. "A" H-952)

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

On motion of Representative VIGUE of Winslow, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-952)** was **ADOPTED**.

On motion of Representative SAXL of Portland, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-952)** 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. 662) (L.D. 915) Bill "An Act to Amend the Laws Concerning Juvenile Petition, Adjudication and Disposition" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-970)**

(H.P. 1456) (L.D. 2047) Bill "An Act to Implement the Recommendations of the Governor's Advisory Committee on Gambling" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-965)**

(H.P. 1457) (L.D. 2048) Bill "An Act to Provide Property Tax Relief and to Ensure Equitable School Funding" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-979)**

(H.P. 1469) (L.D. 2060) Bill "An Act to Consolidate the Administration of Home Health Services" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-977)**

(H.P. 1532) (L.D. 2159) Bill "An Act to Establish an Advisory Commission on Women Veterans" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-964)**

(H.P. 1556) (L.D. 2185) Resolve, to Provide Accountability in the Probation System Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-971)**

(H.P. 1601) (L.D. 2227) Resolve, Regarding Legislative Review of Chapter 181: Child Development Services System: Regional Provider Advisory Boards, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-978)**

(H.P. 1626) (L.D. 2254) Resolve, Authorizing Certain Land Transactions by the Bureau of Parks and Lands Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-969)**

(H.P. 1633) (L.D. 2261) Bill "An Act to Implement the Recommendations of the Commission to Study the Certificate of Need Laws" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-968)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent up for concurrence.

(H.P. 200) (L.D. 253) Bill "An Act to Require a Search Warrant to Investigate Private Property for the Purpose of Forestry Examinations" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-975)**

On motion of Representative PERKINS of Penobscot, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

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

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

Representative PERKINS: Mr. Speaker, Men and Women of the House. Apparently this was unanimous. Would somebody

please explain what this does? I have it in front of me. It scratches our entry into private property under this subsection. It is not a trespass. That is the only thing, as far as I can see, that is what this amendment does which replaces the bill. It scratches out entry into private property under this subsection. It is not a trespass. The word shall up above. If that is all it does, would somebody explain what the force of this might be?

The SPEAKER PRO TEM: 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 Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House. This is a very controversial measure it was passed in Agriculture, Conservation and Forestry to the Judiciary Committee. It apparently appeared to have constitutional concerns about private property rights. Initially it appeared that it may have been our one opportunity this year to talk about private property rights. I know some of you are disappointed that you didn't get that opportunity. However, in this particular report, it is a unanimous committee report. Basically, as I understood it, it very narrowly focused to deal with commercial forestry harvesting operations. There was one portion of the bill that basically suggested that those people who worked for the state, I think they were called agents in the statute, basically could enter onto private property and the enforcement of state rules, regulations and statutes dealing with, again, commercial harvesting of forestry. Further than that, they were exempt, apparently, in the statute, which passed some years ago from being prosecuted for trespass. Again, what we did was propose by the Department of Conservation what the committee accepted to eliminate that sentence that exempted the employees from being prosecuted from trespass. My interpretation of what we have now is if you look out your back window and you see a forest ranger walking through your back yard, this is not a legal interpretation, and you are sufficiently agitated by that. You can go to court, both you and the ranger can go see the judge and let the judge decide if, in fact, under what is left of the statute, whereby a forest ranger has the right to be on private property for the enforcement of the department's rules and regulations, has a right to be there or whether, in fact, as some people are concerned, the forest ranger was out there stirring up trouble or was out there for no purpose at all. Basically what we hope to do is leave that decision up to the judge. Finally, it is my understanding that this kind of paragraph is pervasive through the statute. This is a very narrowly focused attempt to address some people's concerns. In fact, if you look for these kinds of statutes, you will find them all over the place. Thank you.

The Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-975)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 20, 1998.

(H.P. 1277) (L.D. 1807) Bill "An Act to Provide for Commitment of Sexually Violent Predators" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-974)**

On motion of Representative THOMPSON of Naples, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-527)** on Bill "An Act to Amend the Laws Relating to Development and Centralized Listing of Municipal Ordinances That Apply to Forest Practices" (S.P. 583) (L.D. 1746)

Signed:

Senators:

KILKELLY of Lincoln
KIEFFER of Aroostook

Representatives:

BUNKER of Kossuth Township
LANE of Enfield
GOOLEY of Farmington
JONES of Greenville
DEXTER of Kingfield

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

Signed:

Senator:

PARADIS of Aroostook

Representatives:

SAMSON of Jay
VOLENIK of Brooklin
SHIAH of Bowdoinham
McKEE of Wayne
CROSS of Dover-Foxcroft

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527)**.

READ.

Representative BUNKER of Kossuth Township moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Mr. Speaker, Ladies and Gentlemen of the House. This LD, 1746, as you can see is a divided report. I just wanted to mention a few of the things that concerned some of us on the committee on the Ought Not to Pass side. The idea of a municipal forestry ordinance is one that has become more important in the recent years because people are concerned about forest practices in Maine and realizing that our current Forest Practices Act does not go nearly far enough in regulating forestry operations in as far as some towns are concerned. Some municipal ordinances have been passed. What this bill would do is really encourage towns from adopting if you look at the language in the amended version. I know the reason this is brought forward is to get uniformity with forestry terms and to get the Maine Forest Service to look at what the towns are doing. There is some merit in that, but there is also merit in local control and allowing people to do what they believe to be best for the forest in their town. This bill, I believe, would put too many road blocks in the way of it. Towns could still adopt ordinances, but there is a lot of hoops to go through now to do that. I know some of the proposals in there are minor as far as looking at the ordinances adopted before 1990, they will have to standardize the definitions and small things like that, but I just believe that the bill is really not needed. We had a vigorous debate in committee on this bill. Again, it is really a bill about allowing the state to step into local forestry ordinance discussions and I just believe it

goes a little bit too far and it is really not needed at this time. I don't want to spend a lot of time on this, but that is some of the reasons that I oppose it. Thank you very much.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. This bill has been several years in the making. For some time, landowners have confronted town ordinances on timber harvesting that are often confusing, vague, unreasonable and even contradictory. This is not true of all town ordinances, of course, but there are enough problems out there to pose real unnecessary difficulty to people who want to harvest timber on their land. Let me give you a few examples. One town that requires harvesting permits lists 12 vaguely stated criteria for issuance of these permits, such as will not result in the degradation of the rural semi-developed character of the town and will not result in the disruption of the economic and social way of life desired by the citizens. These are wonderful goals, but imagine a landowner trying to guess how 12 such criteria are going to be interpreted by the code enforcement officer or the planning board for the issuing of a permit. Another town says that harvesting operations shall be conducted in such a manner that a well distributed uneven stand of trees be retained without any further guidance or definitions. This could be interpreted to prohibit even the smallest clearing and even a shelter wood management system.

Another example, another town lays out a series of harvesting restrictions and then states that on request of the applicant, the planning board may waive the standards, but sets no time limit for that review. The town may then hire a forester to advise them at the landowners expense. Throughout the stack of municipal ordinances kept by the Maine Forest Service, there are numerous examples of terms used with definitions that differ substantially from the state's definitions or terminology without any definition at all. This presents great problems for landowners trying to figure out what is expected of them. It proposes special problems also for foresters and contractors working in several different towns and trying to deal with various terms and interpretations.

In 1989, the Forest Practices Act required that terms used in new harvesting ordinances passed by municipalities must conform with the state's definitions, but it set no deadline and did not cover existing laws. This bill will do both. The bill will also ensure that the Maine Forest Service participates actively in the development of harvesting ordinances. Forestry is complex, I guess, as we have seen over the last couple of years and so are the laws. Code enforcement officers don't deal with timber cutting laws as regularly as they do with zoning and building codes. Many towns that are considering forestry ordinances are pleased to have the Maine Forest Service involved. However, there have been instances where the forest service has not been given a chance to fully explain its comments. There are incidences where towns have not given any response at all to the forest services advice. This bill requires that representatives from the department meet in the community with town officials and continue to offer its guidance leaving the ultimate decisions to the town itself.

I recommend that we pass the Majority Ought to Pass as Amended Report. Thank you.

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House. Having had some experience at this, I just want to back up what Representative Gooley has said. In some towns you have to pay a fee. You have to appear before the planning board and in some cases it is quite an expense for

the landowner who simply wants to cut some trees even in good forestry practices. The other problem is the language which describes many of the forestry practices is simply not understandable by many of the code enforcement officers in dealing with this. We have had experience in at least one case where it cost the landowner another thousand dollars to get something straightened out between the town's code enforcement officer and the forester and the landowner, which is unfortunate. I strongly believe we shouldn't be putting a landowner through this type of procedure simply to cut some trees, even with good forestry practices. I think it is time so that the language is much more uniform between the towns it currently is and this bill will help solve this problem. Thank you.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I am not a forester. I am a small woodland owner, however. I do want to say that we already have in statute, current law, that takes care of this problem. If you look at the bill, it is pages and pages of regulations. My good colleague, Representative Perkins, has influenced me over the last couple of days of the wisdom of home rule as we have discussed jet skis. I couldn't help but think about that as I thought about this bill. This is a good opportunity for towns under the current statute to exercise home rule. By the way, this is a bipartisan bill. If you look at that list, we are evenly divided on these reports. It really has nothing to do with which side of the aisle we are sitting on here today. Under current law, a professional forester has to be involved in developing the ordinance. The town committee developing the ordinance must meet with the Maine Forest Service and public notice for the public hearing must be the same as any other public hearing. We already have, in statute, a way for towns to exercise home rule.

Another point, sitting on the Forestry Committee, I have the distinct feeling and those of you who have been there have noticed this too, our laws are under scrutiny. We are beginning to think about what we want to do with Maine forests. I would say that for now, we should leave the small woodland owner alone. Leave the towns alone and let's sit on this for another year and see how we feel about it next year. For now, let's let this one pass. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House. In response to some of the issues spoke about previously. Number one, if you have noticed the flyer on your desk, the Small Woodland Owners of Maine are the ones that are requesting to support and pass the Majority Report. In response to that, this would be discouraging towns from passing ordinances at the local level. I would say that this not true in any way, shape or form. There is nothing in this bill that discourages the town. As a matter a fact, I find that the language in the Majority report encourages towns to do it in a very thoughtful, open, public process that brings in the expertise of the Maine Forest Service and ensures that all terminology, whether it is in Fort Kent or Kittery that when you are addressing this in your local municipality, you are all talking from the same page and using the same technical terms and terminology. I think those are all benefits and brings a lot to the table.

It also brings all the players. What you don't notice is we had quite a debate a couple of years ago, I brought a bill forward that when we do shoreline zoning instead of taking that big crayon and drawing a big thing at your local level and saying this is no do certain things within that yellow dim area that this ensures that all players that are going to be affected by the municipality that they notify those landowners and invite them into the

process. This is a mandate, so part of this bill sends those funds to the towns to ensure that all those players and all the landowners are involved. Those are all great things. I think it is wonderful. As you know, it has been a very long and difficult process dealing with the forestry issues up to this point. You can imagine that if we don't take some kind of action like this if somebody for some reason thinks that the State of Maine isn't going to act properly. Let me go target five or six towns and we are going to do some really serious restrictions within those towns. I would sure hate to think that if we are going to move the forestry debate battlefield from the state level to individual towns that we don't give them the tools necessary, mainly the support of the Forest Service and the definitions and the expertise of that town that wishes to go forward in a more restrictive ordinance than state and has all the tools necessary for all their landowners. I ask that you move forward with the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House. Maine law currently allows municipalities to adopt ordinances that regulate timber harvesting that differ from state law. State law may not pre-empt these municipal ordinances. However, municipalities are required to utilize a licensed professional forester when developing an ordinance, conduct face to face meetings with representatives from the Department of Conservation when developing an ordinance and hold a public hearing on a proposed ordinance. These are already in law. The department also must provide a municipality with guidance on how a municipality can use sound forestry practices to achieve its timber harvesting goals. This is already in law. There is already in a law a provision requiring a centralized listing of municipal ordinances. Any landowner currently may check this centralized listing to see if the particular town has any municipal ordinances affecting any harvesting that he might want to do. It is just a phone call away. Please do not restrict any further the ability of the individual municipalities to enact their own ordinances as they see fit within the current bounds of state law. Thank you.

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House. I see this as a landowner protection bill. If I might read one section and it says, "Municipal timber harvesting ordinances may not be unreasonable, arbitrary or capricious and must employ a means appropriate to the protection of public health, safety and welfare." What that says is that anything that is passed they have to notify the landowner and it is also saying that the town can't pass undue restrictive ordinances. I find that to be a real benefit these days of changing ordinances and are more and more restrictive even on the local level. I think the landowners have a right to be notified of any changes and that is what this bill does. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. I have mentioned that municipal forestry ordinances have often been prepared and enacted without the input or even the knowledge of the people that would be most affected, the landowners. A proposed ordinance may be published in small print in a local newspaper after it has already been prepared, but woodlots don't get cut continually or every year. They are not like farms or day to day businesses or houses that you live in. A woodlot owner may not know that an ordinance that is being considered today will affect his or her land 10 years from now when it is ready for a harvest. Many times a landowner will never

even hear about a proposed law until it is too late to have any say at all. Many landowners live in towns separate from their woodlots. Some live out of state. This bill provides that landowners will be notified by mail when a timber harvesting ordinance is being considered and it simply gives them an opportunity to have a say in the process. Again, the town is free to do what it wants. The town will be reimbursed by the state for the mailing costs. The bill has been carefully written so as not to violate home rule. There are 100,000 small woodlot owners in Maine. Most of them individuals and families. If we want to keep woodland growing and providing all the other benefits that it does, we must ensure that the owners of those lands had confidence in the laws. We must also try to ensure that all our state and local officials have the best information they can get as they prepare these laws. I would hope that we would accept the Majority Ought to Pass as Amended Report. Thank you.

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

Representative CROSS: Mr. Speaker, Men and Women of the House. Again, I am sure by this time everybody has looked at the bill and seen why that I happen to be on one end of the spectrum here, which is again an unusual position for me to be in. My first reaction to this bill was that it was going to cost the municipalities money again and also time from their offices. My immediate reaction then was to be in opposition to this. Again, after talking with some of the people, I have come to the conclusion that the good from the bill outweighs the bad. Therefore, I will be voting for the bill instead of being against it. Okay?

The Chair ordered a division on the motion to **ACCEPT** the Majority Ought to Pass as Amended Report.

Representative GOOLEY of Farmington **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 as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 471

YEA - Ahearn, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Bruno, Buck, Bumps, Bunker, Campbell, Chick, Chizmar, Cianchette, Clark, Clukey, Cross, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Foster, Frechette, Gagne, Gagnon, Gamache, Gieringer, Gooley, Hatch, Jabar, Jones SL, Jones SA, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Lane, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, Meres, Morgan, Murphy, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Plowman, Poulin, Povich, Richard, Rines, Rowe, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Tuttle, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Baker, Berry RL, Brennan, Brooks, Bryant, Bull, Chartrand, Colwell, Cowger, Davidson, Fuller, Gerry, Goodwin, Green, Jones KW, LaVerdiere, McKee, Muse, Pinkham WD, Powers, Quint, Samson, Shiah, Skoglund, Stevens, Townsend, Volenik.

ABSENT - Cameron, Carleton, Dexter, Dutremble, Fisk, Honey, Joy, Labrecque, McElroy, Mitchell JE, Perry, Underwood, Winn.

Yes, 111; No, 27; Absent, 13; Excused, 0.

111 having voted in the affirmative and 27 voted in the negative, with 13 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-527)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, March 20, 1998.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a Discovery Rule"

(S.P. 261) (L.D. 869)

Signed:
Senators:

LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives:

ETNIER of Harpswell
MAILHOT of Lewiston
POWERS of Rockport
PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-541)** on same Bill.

Signed:
Representatives:

THOMPSON of Naples
WATSON of Farmingdale
JABAR of Waterville

Came from the Senate with the Majority **OUGHT NOT TO PASS Report READ and ACCEPTED.**

On motion of Representative ETNIER of Harpswell the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (H.P. 1644)

Representative MITCHELL from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Implement the Recommendations of the Interagency Task Force on Homelessness and Housing Opportunities"

(H.P. 1651) (L.D. 2283)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 1644).

Report was **READ and ACCEPTED.**

The Bill **READ ONCE** and assigned for **SECOND READING** Friday, March 20, 1998.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Limit Indemnification in Construction Contracts"

(H.P. 1179) (L.D. 1670)

Signed:
Senators:

LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives:

THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
JABAR of Waterville
MAILHOT of Lewiston
POWERS of Rockport
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-973)** on same Bill.

Signed:
Representatives:

PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass Report.**

On motion of Representative DONNELLY of Presque Isle, **TABLED** pending the motion of Representative THOMPSON of Naples to **ACCEPT** the Majority **Ought Not to Pass Report** and later today assigned.

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

Bill "An Act to Authorize Additional Adjustments to the State Share of School Funding" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-955)**

(H.P. 1250) (L.D. 1769)

Which was tabled by Representative GOODWIN of Pembroke pending **ACCEPTANCE** of the Committee Report.

Subsequently, the Committee Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-955)** was **READ.**

Representative GOODWIN of Pembroke **PRESENTED House Amendment "A" (H-972)** to **Committee Amendment "A" (H-955)**, which was **READ** by the Clerk.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. I would urge that you not support this amendment for several reasons. First of all, the amendment did not ever come before the committee, so the committee has not had an opportunity to discuss this. If you look at the amendment, what the amendment requests that the Department of Education shall figure the education formula on the 1985 formula. I don't think you really want that done. In 1985, that was 13 years ago, a lot has happened in these 13 years. Granted, in 1985 there was a 55 percent of the cost of total allocation that came from the state that was good. There have been a lot of things that have been added to the educational formula since then, especially special education costs. The cost of tuition, books, fees, transportation for courses taken at post-secondary institutions, child care costs, costs of educational services to students unable to participate in regular instruction. No special consideration for Medicaid revenues was given as far

as debt service is concerned, many of you are involved with leases and under the leases, the purchase or cost of construction of temporary classroom space was not included in the 1985 formula. There were no out of district placement adjustments in the 1985 formula. There were no payments for state agency clients, special education and transportation costs in the 1985 formula. I have a whole page. I won't read them all to you, but they were not in the 1985 formula. I know better than anybody else in this House that there are many of you who are concerned about the education formula.

Two of the issues that are most discussed are the COLA and the percent reduction. We have talked a lot about the COLA, the cost of living adjustments. That was voted in by this legislative body in 1996. It was thought that it was going to answer the problem that so many people had, that all of the cost of education was placed on property tax value. Perhaps it is not worked the way that it was intended to work. The Education Committee this year has tried in a small way to help regarding the COLA. We have refigured it. Last night the Appropriations Committee accepted the refiguring and this refiguring does help the towns in Washington County and small towns elsewhere in the state. The other issue that we hear a lot about is percent reduction. This is something that has been necessary. It is approximately 23 percent of program costs now. I know that is taken right off the top. That was not done in 1985. If you were to put that money back in, it would be somewhere between \$155 and \$161 million. Do we have that amount of money? I wish that we did, but I am not sure that we do have another \$160 million to put into the budget every year.

I have said before and I probably will say again before the next week is over that we do have a committee that is reviewing essential services and programs. They will bring a report back to us January 1, and then a funding formula will be enacted to work on the essential services and programs that it is felt that the state should be paying for. There are many members in this body who are determined that during this summer they will come up with a new funding formula for the 119th Legislature. I am sure that some of those will be something that will be considered when we see our essential services and programs report. I well know and I share all of your concerns about school funding, but I do not think that this amendment is the way to address those. Therefore, I move, Madam Speaker, Indefinite Postponement of this amendment and all its accompanying papers.

Representative RICHARD of Madison moved that **House Amendment "A" (H-972) to Committee Amendment "A" (H-955) be INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative GOODWIN: Madam Speaker, Men and Women of the House. This amendment just directs the Department of Education to submit to the First Regular Session of the 119th Legislature legislation that replaces the school funding formula in place on the effective date of this act. We are going to tell the Department of Education to do this. The 1985 formula was proposed by the good Representative from Vassalboro in 1984. It was one of the best formulas in recent times. It was suggested by a commission on the status of education. It worked until 1991 when the money ran out. When the money ran out, we are trying to correct that today with a \$39 million push, as they call it. The push is just replacing the 12th month payment that was never made to all the schools across the State of Maine. I serve on a school board in Washington County. Since 1991, we have traditionally lost \$1.2 million. We expect to lose a million dollars this year. As I said earlier in this House, if the Chief Executive puts \$50 million in a pot, we will still lose money until we change the formula. We need

legislation to do that. I ask the House to consider this. When the vote is taken, Madam Speaker, I ask for a roll call. Thank you.

Representative GOODWIN of Pembroke **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-972) to Committee Amendment "A" (H-955).**

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 Brennan.

Representative BRENNAN: Madam Speaker, Men and Women of the House. I would urge you to vote for the pending motion to Indefinitely Postpone this amendment. Representative Goodwin is correct in saying that the 1985 school funding formula was viewed as good formula, but now it is 1998. It is not 1985. To pick this particular formula for review by the Department of Education to submit back to us, there is only one of any number of different proposals that we could have. As the Representative from Madison already pointed out, this proposal totally circumvents the Education Committee process where we have already spent a number of hours and times talking about school funding formulas. To pick one approach that goes all the way back to 1985 and doesn't take into consideration all the changes in amendments that we have made to the school funding formula doesn't make any sense at this particular time. I would urge you to vote for the pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-972) to Committee Amendment "A" (H-955). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 472

YEA - Ahearn, Barth, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Bryant, Bull, Bumps, Campbell, Chick, Cianchette, Clark, Cowger, Cross, Davidson, Desmond, Donnelly, Dunlap, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagnon, Gamache, Gieringer, Green, Hatch, Jabar, Jones SA, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Lane, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McAlevey, McKee, Meres, Morgan, Murphy, Muse, Nass, O'Brien, O'Neil, O'Neil, Ott, Paul, Peavey, Pendleton, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stedman, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Vedral, Vigue, Waterhouse, Watson, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Bagley, Baker, Belanger DJ, Belanger IG, Brooks, Buck, Bunker, Chizmar, Clukey, Colwell, Driscoll, Gagne, Gerry, Goodwin, Gooley, Jones KW, Jones SL, LaVerdiere, Lemke, Mack, Nickerson, Perkins, Pinkham WD, Sanborn, Snowe-Mello, Stanley, Tobin, Tuttle, Usher, Volenik, Wheeler EM.

ABSENT - Cameron, Carleton, Chartrand, Dexter, Dutremble, Fisk, Honey, Joy, Labrecque, McElroy, Mitchell JE, Perry, Treadwell, Underwood, Winn.

Yes, 105; No, 31; Absent, 15; Excused, 0.

105 having voted in the affirmative and 31 voted in the negative, with 15 being absent, **House Amendment "A" (H-972) to Committee Amendment "A" (H-955) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-955) was ADOPTED.** The Bill was assigned for **SECOND READING** Friday, March 20, 1998.

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

Bill "An Act to Amend the Uniform Health Care Decisions Law"

(H.P. 51) (L.D. 76)
(C. "A" H-942)

Which was tabled by Representative DONNELLY of Presque Isle pending **PASSAGE TO BE ENGROSSED as Amended**.

On motion of Representative PLOWMAN of Hampden, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-942)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-967)** to **Committee Amendment "A" (H-942)**, which was **READ** by the Clerk.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. The amendment merely adds the words or life saving, following the word life sustaining. As we talking about last night, this is where a surrogate can make health care decisions for someone who is incapacitated, but not in a vegetative state or a coma. As this point, a surrogate may make decisions, but may not make any decisions with regard to withholding life sustaining treatment. Life sustaining treatment is defined as artificial respiration, a respirating machine, water and a feeding tube. Life saving is defined as life saving measures as an operation or the administering of antibiotics. This just gives one more safeguard to the patient that the surrogate may not make inappropriate decisions.

Representative THOMPSON of Naples moved that **House Amendment "A" (H-967)** to **Committee Amendment "A" (H-942)** be **INDEFINITELY POSTPONED**.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. We had an extensive debate on this bill yesterday and this issue was discussed in committee and rejected by the committee. I would ask that you would vote with me to Indefinitely Postpone House Amendment "A."

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-967)** to **Committee Amendment "A" (H-942)**.

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-967)** to **Committee Amendment "A" (H-942)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-976) to Committee Amendment "A" (H-942). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 473

YEA - Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Chartrand, Chick, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Jabar, Jones KW, Kane, Kerr, Kontos, LaVerdiere, Lindahl, Lovett, Mailhot, Mayo, McAlevey, McKee, Morgan, Muse, O'Neal, O'Neil, Paul, Perkins, Pieh, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Buck, Bumps, Campbell, Chizmar, Cianchette, Clukey, Cross, Donnelly, Foster, Gerry, Gieringer, Gooley, Jones SL, Jones SA, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lemaire, Lemke, Lemont, MacDougall, Mack, Madore, Marvin, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Poulin, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, True, Tuttle, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Cameron, Carleton, Dexter, Dutremble, Fisk, Hatch, Honey, Joy, Labrecque, McElroy, Mitchell JE, Perry, Rines, Treadwell, Underwood, Winn.

Yes, 72; No, 63; Absent, 16; Excused, 0.

72 having voted in the affirmative and 63 voted in the negative, with 16 being absent, **House Amendment "A" (H-967)** to **Committee Amendment "A" (H-942)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (H-942)** was **ADOPTED**.

The **SPEAKER**: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I still have some reservations about this legislation and some really deep concerns. For the record, I would like to read a letter I received. Other members may have received such a letter. It is from Robert Robinson from Robinson, Kriger and McCallum, attorneys at law. "Dear Representative Ahearne, As a member of the Maine Bar Associations Advanced Directives Committee and being somewhat responsible for some of the language contained in the existing law, I write to you to urge you to vote no on LD 76, 'An Act to Amend the Uniform Health Care Decisions Act.' This bill is intended to make the health care delivery system more efficient, but in reality it is a dangerous measure that would place the most vulnerable in peril. It has been argued by the proponents of this legislation that the existing law of 18-A MRSA, Section 5-805, Uniform Health Care Decision Act, that it is so narrow as to prevent the surrogate from performing any act or making any health care decision on behalf of his ward or patient, except in those cases where the patient is in a terminal condition or in a persistent vegetative state, thus the need for this amendment. The proposed amendment was intended to broaden the scope of duties of the surrogate to include other health care decisions. This purpose is laudable, but unfortunately the language used to accomplish this purpose is seriously flawed. The statute, as amended, authorizes the surrogate to either act or fail to act in the administration of any and all health care decisions, whether the patient is in a terminal condition, persistent vegetative state or otherwise, which is intended to be an improvement over existing law in that something can be done where before nothing could be done by their surrogate except where there was a terminal condition or persistent vegetated state. I am aware that there are some checks and balances in place intended to provide certain protections to the patient first in the presumed goodness and competence of the surrogate and also in the power of a competent physician and in case of error or mischief on the part of the surrogate. The right provided a family member or friend to petition the court to guarantee the security and well being of the patient is also a protective measure that is meritless. I am not unmindful of the improvement created in the current amendment, which was not considered available in our existing statute. I am aware of the good faith attempts to provide certain protections in the law, however, under these critical circumstances where actual life or death of a human being is an issue. The goodness, competence, checks, balances and

protections, as good as they are, are not enough. One of the defects is that a surrogate under one of the prescribed classifications of this proposed amendment can be a veritable stranger. Such a stranger may be competent to perform certain health duties for an incompetent patient. Do we really want to assign to such an unknown the responsibility of determining whether this incompetent patient shall live or have life supports removed? Our culture and tradition has always been to secure and protect the helpless and those incapable of protecting themselves. This proposed amendment would be a first step in breaching that tradition. We can and must be able to draft language which will protect and secure the well being of the incompetent, poor, homeless and those with no family or friends to stand in their behalf to protect their rights. Drafting effective legislation which will govern and set the standard in a society burdened with ever increasing social complexities. We must create a beacon of light and safe haven for all and especially the weak and the downtrodden and we must employ every safeguard in our best efforts to prevent the creation of a casual standard which can be subjected to weakness, fraud and possibly unwarranted suffering and death. The stakes are too high, the risks too great for us to settle for less than our very best in creating guidelines and setting appropriate standards to protect those who cannot protect themselves. I am, therefore, prepared to acknowledge the improvements in the act, constrain to urge you to vote no on this amendment. It is my expectation that a more complete resolution of this important matter will be forthcoming from the competent efforts of men and women of goodwill who seek to uphold the highest values of our culture and traditions. Sincerely, Robert C. Robinson."

I share those same concerns that Mr. Robinson does and I ask you to vote against the pending motion.

On motion of Representative KONTOS of Windham, **TABLED** pending **PASSAGE TO BE ENGROSSED** as **Amended** and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-973)** - Committee on **JUDICIARY** on Bill "An Act to Limit Indemnification in Construction Contracts" (H.P. 1179) (L.D. 1670)

Which was **TABLED** by Representative DONNELLY of Presque Isle pending the motion of Representative THOMPSON of Naples 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. It is Judiciary evening in the Legislature. Indemnification is when one party agrees to make whole another party. It is a legal term. It doesn't sound like much until you are a small contractor or a subcontractor trying to win a bid on a job and the owner says that this is the contract that you are going to sign. In this contract you are going to agree to indemnify me. If I make any decisions that cause someone harm, you are going to make sure that I don't have to pay for it. The reason I brought this forward is it is a fairness issue. I believe that the person making a decision and resulting in the outcome which is harmful to another should be the paying party. Right now we have very large companies in the State of Maine who offer what is called broad form indemnification. Basically it doesn't matter what they decide or how they implement decisions, the contractor when signing the contract with a large owner must agree to buy

insurance to take care of anything that happens that is the fault of the owners. The contractor then turns around gives the same kind of contract to small subcontractors and they agree to indemnify the contractor. If the contractor makes a decision that results in the harm of someone, I don't mind paying for the harm that we cause. It is very hard, one, to control the actions of others and two, to be responsible for paying when you have absolutely no control over the access of others. We had testimony from a small business owner who installed sprinkler systems. He bid on seven contracts and scratched out the indemnification clause in all seven contracts and was awarded one contract because he would not agree to pay the costs of someone else's mistakes. This is an issue of fairness. I ask you to please vote against the Majority Ought Not to Pass and to go on and pass the Minority Ought to Pass Report. It is an issue of fairness.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. Simply put, if I ask you to join me in the Ought Not to Pass vote on this bill, this bill would in essence, take choice away from people who are entering into contracts. This bill would set it as state policy that a business cannot negotiate an indemnification contract when they are putting something out to bid. This would interfere with the free market. It is a process that has been going on in Maine since there have been contracts. Right now whoever is putting out a contract, a homeowner, a business for construction, can require the people bidding for that contract to indemnify them if there are things that happen on the job site that results in lawsuits. This lets the property owner or the business owner get the contract done by someone that is really out of their control and not have to worry about being sued because they are the owner of the property. Everybody who bids on the contract, bids under the same conditions. They buy an insurance policy to cover them for the job. They all are subject to the same bidding criteria. Sometimes they can negotiate the indemnification clause out. Sometimes they can't.

When we started talking about this bill, I checked with Rich Murke at Hancock Lumber. He is in my district and asked him about it. His opinion of it was in essence that there are times when I wish I didn't have to submit to an indemnification contract, but there sure are other times when I would love to be able to have someone else sign an indemnification contract. His final outcome on the bill was clearly let the marketplace decide what is in the contract between the two parties. I would ask that you join with me in voting Ought Not to Pass on this bill.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. I didn't sit in on this public hearing from the Judiciary Committee, but we did hear this bill in the Business Committee last year. During that hearing many, many owners of projects came forward. What this does is this protects the owners from things that would happen on the job site. These owners have nothing to do with the job construction or the job conditions. The State of Maine, the City of Bangor, Hannaford Bros., all came forward and said that they need this. When there is an accident on the job site, it is a common practice for lawyers to come forward and look for the people with the deepest pockets. Why should the owners that have nothing to do with the job site other than owning it have to be the ones to pay? All the contractors have to play by the same rules. All the contractors know what they are getting into when they get into it. I suggest that we accept the Majority Report and move on.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. A total of 32 states have gone on to do away with broad form indemnification. This not a new contract. This is a contract that has come to the State of Maine. Owners will not be held responsible for actions that happen on their job site if they have no hardiness, if they have not made the decision that brings about the action. Neither will a contractor be held responsible if a subcontractor is a person who has caused it. Every single person on the job site must provide proof of insurance in order to be on the job site. Every one of these people has a deep pocket, otherwise known as their insurance company. What this comes down to is the little guy and the big guy. I have before me in a file two letters from the same law firm. One goes to an owner advising the owner to always obtain a broad form indemnification clause, to always employ one. The second letter goes to a small subcontractor and it says never sign a contract with broad form indemnification in it. Some people say we shouldn't start messing with contracts, but when you have the same law firm offering advice that is exactly the opposite depending on where the person is on the scale, then there is a problem that needs to be worked on. It is an issue of fairness where sometimes the government has to step in and say okay, you may be big, but you can't be the bully. The fairness issue will come to rest. There are deep pockets at every level. This isn't a deep pocket issue. This is an issue of who is responsible and who pays. Thank you.

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

A vote of the House was taken. 79 voted in favor of the same and 27 against, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-940) - Minority (2) Ought to Pass as Amended by Committee Amendment "B" (H-941) - Committee on JUDICIARY on Resolve, Regarding Legislative Review of Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs, a Major Substantive Rule of the Department of Human Services (EMERGENCY)
(H.P. 1607) (L.D. 2234)

Which was tabled by Representative DONNELLY of Presque Isle pending the motion of Representative THOMPSON of Naples to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I want to apologize for debating this again. I know everybody is tired. We might have to go over a few more things that I had mentioned earlier. Again, I apologize for that. It is a very important public policy decision or else I wouldn't be doing it. I also didn't expect to be debating it. When I first started we were up before the Judiciary Committee for confirmation hearings. I expected this bill to be tabled. I want to express my sincere gratitude to the Representative from Portland, Representative Saxl for tabling this for me. He is very much of a gentleman for doing it. As I said earlier, for those who weren't in here, this Needle Exchange Program is bad public policy. It is not supported by any credible scientific data. All the so-called scientific reports are self-reporting from drug addicts.

None of the needles were looked at for serum conversion to see whether they had been shared.

The program is supposed to give clean needles to drug addicts, but as I said earlier, in the drug addict culture, it is well-known, if you look at the documentation that they share the very same clean needles that they get in these Needle Exchange Programs. One of the things that I didn't mention earlier was the very high incidence of HIV that is passed through a high incidence and a rising incidence of crack cocaine. With that crack cocaine is sexual inhibition and sexual activity, which is also one of the prime spreaders of HIV. Certainly, this doesn't address this situation. I also said that there is community degradation. I mentioned a few examples. The one in the lower east side of Manhattan in New York. They passed the resolution in 1995 to close down their Needle Exchange Program because of the community degradation and the infiltration of drug pushers and the lack of police protection because of these Needle Exchange Programs.

I also mentioned the mixed message. We tell our young people that we don't want them to use drugs. Certainly heroin is very deadly. We have a law in the State of Maine that first time possession of heroin is a felony and yet we are going to give people clean needles so they can shoot up with heroin so they possibly get HIV. It is a very complicated mixed message as far as I am concerned. There is a lot of things wrong with this program. The Center for Disease Control has issued statements saying that none of these so-called studies are credible. Like I said earlier, see what the pioneers of these Needle Exchange Programs, the very same programs that are supposed to get help and rehabilitation to these drug addicts, died of a drug overdose. For all those reasons and even though in the short term this may sound like a compassionate thing to do, we don't want anybody to die. God forbid. What I am trying to make the case here is that there is no credible evidence that these programs do that. In fact, they could very well increase the spread of AIDS.

What I am asking this body to do is to take a long-term view of the mixed message, the lack of concrete scientific data and the degradation of the community. I would hope that you would vote against the Majority Ought to Pass. Madam Speaker, I ask for the yeas and nays.

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. Despite the statements from my good friend from Bridgton, Representative Waterhouse, what we are debating here are rules. Already last year we passed the bill to set up the program and to send out the department to develop these rules and what came before our committee were the major substantive rules for the program. The rules were what we wanted. They called for a one for one exchange. You cannot get any extra needles. You have to come in with a dirty needle before you can get a needle issued to you. It makes the department oversee the program to make sure that the records are kept properly and that the statistics are kept properly and that the program operates with the intent of implementing legislation. There were no objections in the committee to the rules that were submitted. The committee voted 11 to 2 to accept the rules. The two members who voted against acceptance of the rules are people who want to vote to not accept any rules so, therefore, are voting against the program. I

have no problem with their position on that they didn't support the program last year and they don't support it now and I respect that of them, but we did implement the program and we have rules that are acceptable and I ask you to pass the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. I happen to serve on that rulemaking committee. I was asked by the Department of Health to be a member of the rulemaking committee. I can tell you that we went over every aspect of this program in rulemaking to make sure that it would be safe for everyone. We tried to follow some other states that have implemented Needle Exchange Programs very successfully. The evidence shows overwhelmingly a huge reduction in HIV transmission by passing out clean needles versus allowing people to reuse needles over and over again. I was asked to speak at a conference out in Chicago this summer by the CDC. There are many recent studies that show reductions of over 50 percent in transmission rates. Right now, the most HIV infections are passed along by IV drug users. It is not the sexual acts that pass on HIV transmission as much as dirty needles. Please support the committee. I echo Representative Thompson when he said we are arguing the rules here. We are not arguing the public policy of needle exchange. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

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

The SPEAKER: The Representative may pose his question.

Representative AHEARNE: Madam Speaker, Men and Women of the House. To my good friend from Raymond, Representative Bruno, when the committee was looking at terms of other states in statistics, were there any states that showed that, in fact, there was not a significant HIV spread through this type of Needle Exchange Program or were there any other states that it proved to have no effect at all?

The SPEAKER: The Representative from Madawaska, Representative Ahearne has posed a question through the Chair to the Representative from Raymond, Representative Bruno. The Chair recognizes that Representative.

Representative BRUNO: Madam Speaker, Men and Women of the House. None that I am aware of. If the Representative from Madawaska can point me in the direction of some proof of another state that did not have a good experience, I would be interested in it.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I am going to beg to differ with the good Representative from Raymond, Representative Bruno. I have been following this issue for over a year now and looked at all the relevant studies up to date. I have all the stuff from the law library. I had a big huge text from the National Center for Disease Control. I read a little earlier and there hasn't been any update to this, this is a quote from that big volume. There is about 400 or 500 pages of it. "Studies of the effect of Needle Exchange Programs on HIV infection rates do not impart to the need of the large sample sizes and the multiple impediments of randomization probably cannot provide clear evidence that Needle Exchange Programs decrease HIV infection rates." I also mentioned that there was a study in Montreal. The Montreal study shows a serum conversion rate of 5 percent among Needle Exchange Program participants more than twice as high as those found in non-needle exchange participants. Notwithstanding the

previous comments from the previous speaker, I am convinced there is not any significant scientific evidence. There is only self-reporting evidence from drug addicts saying that they don't share the needles. I urge you to vote against the pending motion. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. While I believe the committee that worked to develop the rules worked very diligently one of the rules bothers me. That is that they will try not to give a syringe to a minor. We are trying not to in a state where we have just decided that minors cannot possess tobacco and that the penalty of \$50 for the child possessing it and for anyone who furnishes it, by giving the cigarette or selling the cigarette, the penalties are much higher. We have gone and said that cigarettes are very dangerous and you may not distribute them. We have a very weak approach to distributing needles for the purposes of shooting up with absolutely no penalty and no way to hold them accountable if they do, indeed, distribute needles to minors. This rule bothers me. It is in conflict with some of the other very strict measures that we have taken regarding providing materials to juveniles and I find it very difficult to accept the report. I ask you to reject the report. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. Perhaps I should read from the rule that the good Representative from Hampden is referring to. It says the program shall not knowingly distribute syringes to persons less than 18 years of age. I don't think that says they shouldn't try to do it. It says they shall not knowingly do it. Shall. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Men and Women of the House. This is bad policy, in my opinion. Yes, I did not vote for the legislation in the previous session, but what we are thinking of doing is sending out a horrible message to our youth. I would hope that we have a zero tolerance policy on drug use. For the state's goal to allow to hand out drug paraphernalia. I think it is ridiculous. What we should be doing, ladies and gentlemen, is we should be doing some very aggressive outreach and education programs to reach these people, not provide them with more needles. We can't guarantee that these people will seek treatment, but we have to set a policy here to show our youth that drug use is not tolerable. There is treatment. This policy in these rules does nothing to do that. I think it is so wrong for the state to condone drug uses.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Just two very short points. I think what the Representative from Hampden, Representative Plowman, was trying to address was that in the rules it says that someone should not knowingly give somebody a needle in this program. What it says in the tobacco laws, it doesn't even mention knowingly. It just says a person, I am reading from the statute, "A person may not sell, furnish, give away or offer to sell a tobacco product to any person under age 18." It doesn't say anything about knowingly. There is a fine for doing this. Knowingly or otherwise. You can get fined for giving somebody

some cigarettes, but not for giving them a hypodermic needle to shoot up heroin, as far as my reading of it.

The other comment made was that we are not talking about voting against a program. We have the program. We are now doing the rules. I beg to differ. The legislation from the 117th, directed to come up with rules to institute a program. If you vote not to institute the rules, you have no program. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. The reply to the good Representative from Madawaska, if you read the rules it says that when you come in for needle exchange, there will be an outreach program to provide some guidance on whether or not you should go out and seek treatment. You can't force someone to go seek treatment, but it is in the rules. We are trying to stop the spread of drug use. That is what we are trying to do. Where else can you do it better than someone who comes in with a drug problem. Please review the rules and look at how tight they are. The panel was made up of the Bureau of Health, myself, the Maine Chief of Police Association. These are not people that normally just go around and say isn't this a nice thing to do. We are actually trying to help people. We are trying to stop the spread of disease. Please vote in favor of the motion. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. I voted for the bill. I am going to vote for the rules for two reasons. The first is that I very strongly felt that if we can get people out of cardboard boxes, alleys and empty warehouses and they can come into the light of day that there may be an opportunity for them to grab the life preserver and break that addiction. The second and most important reason why I voted for that bill and why I am going to vote for the rules today is that if I remember correctly, the title of that bill said to prevent disease. The disease that is in my mind the most is AIDS. I haven't been to the law library today, but five years ago I spent the last week of my brother's life with him as he died of AIDS, not from the use of needles. He was a young man. He was an actor and one of the most handsome kids you would have ever seen in your life. He was HIV positive and died of AIDS. I watched him go from that description that I just described to someone who lost half his weight, lost his hair, couldn't raise his arms to take nourishment. I made a promise to him, because I looked AIDS in the face and I looked death in the face, that I would do anything, go anywhere, spend anything if I could save one brother's life, one daughter's life, one spouse's life or one grandchild's life. If your family hasn't been touched by AIDS yet, I think there are many other families that have been touched. Visit the AIDS hospices that are all throughout Maine. The bill proposes, the rules propose to prevent disease. If this bill will save only one life from dying of that terrible scourge, it is a great investment.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. What we are talking about is a very sane approach to a very insane addiction. You are asking people to rely on the fact that people who are loved ones of IV drug users to rely on the fact that they are part of a Needle Exchange Program and that they will continue to use clean needles and stay HIV free. The insane part of being addicted to heroin is that when you need a fix, you need a fix. Clean needle, dirty needle, you get the heroin any way you can and that means coming out of wherever you are to obtain it. You find the money somehow, either by prostituting, drug dealing, mugging or if you can, you

keep down a job. When the urge for the fix comes, you don't care if you have a clean needle. You can approach this issue with all the sanity in the world, but you cannot anticipate that this is going to be 10 clean needles and I won't do it again until I can get 10 more. You can't do it. Heroin doesn't allow that luxury. The wife or the girlfriend who depends on the fact that her spouse or her partner is now in a Needle Exchange Program and he was HIV free before, could very easily be lulled into thinking that he is no longer at risk. If she is, she has underestimated the power of the addiction to heroin and so have we.

I talked to my Police Chief and we have heroin in my high school. I imagine you have heroin in your high school. These kids are going to get the needles, but they are not going to get them at a Needle Exchange Program. They are going to get clean needles that they can walk into a pharmacy and buy them, which, by the way, is not against the law. It costs about \$6 in comparison to coming up with the money for your heroin, \$6 for a dozen needles is chump change. You can't tell me that juveniles or minors from the area are not going to approach this program. They are going to approach this program because they use heroin in high schools. They are going to be turned away because they are juveniles or someone is going to make the decision that nobody is watching and we will give juveniles needles. You still have a problem. The problem is that you have sent the wrong message. Yes, you need treatment. These people do need to come out of wherever they are to get treatment. First and foremost, they come out of wherever they are to obtain drugs and needles. It is a false sense of security that you are offering if somebody is going to have a clean needle and you can rely on not getting AIDS from your partner because he or she is using clean needles.

I believe that if we have a problem in our high schools with heroin, then this rule is not going to be effective because it is only a rule. It is not a law and has no power of law and it has no consequences. The first time some mother taking her kids to the playground where the high school kids are shooting up and her child carries a needle from the sandbox and calls me and says, do you know why we have needles all over the place? I am going to say because we have a drug problem. In addressing the drug problem, we decided to hand out more needles, but I am not going to vote for it.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I really apologize. I said I was not going to get up again, but when I hear very compassionate statements made by a fellow legislator and believe me, they do tug at my heart, all of us that have been around have had people who are very close to us that have died. My own parents, my father wasted away in my arms. He didn't die from AIDS, he died from another debilitating disease. What I would say to the good Representative from Kennebunk, Representative Murphy, this is not the answer. We should try to do things to promote people to stop using drugs. This free needle idea defeats the whole purpose of promoting comprehensive education treatment and rehabilitation. In one breath we say drugs are bad and dangerous and in the other breath we give them needles so they can shoot up drugs. Why don't we join together and get some programs for rehabilitation and treatment without a mixed message? Nobody in this House, I am sure, wants people to die. Nobody in this House can stand and listen to a compassionate speech like the Representative from Kennebunk and not feel very emotional because it strikes home to us who have also lost

dear ones. What I am saying to you is that this is not the approach. This is not the answer. It is bad public policy.

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

ROLL CALL NO. 474

YEA - Bagley, Baker, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Chartrand, Chick, Cianchette, Clark, Colwell, Cowger, Cross, Davidson, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Gagne, Gagnon, Gamache, Gieringer, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, Mayo, McKee, Meres, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Volenik, Watson, Winglass, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Buck, Bumps, Campbell, Chizmar, Clukey, Desmond, Donnelly, Foster, Gerry, Gooley, Jones SA, Joyce, Kasprzak, Lane, Layton, MacDougall, Mack, Marvin, McAlevey, Nickerson, O'Brien, Ott, Pinkham RG, Pinkham WD, Plowman, Sirois, Snowe-Mello, Stedman, Tobin, Treadwell, Vedral, Waterhouse, Wheeler EM, Wheeler GJ.

ABSENT - Cameron, Carleton, Dexter, Dutremble, Fisk, Fuller, Honey, Joy, Labrecque, McElroy, Mitchell JE, Perry, Pieh, Underwood, Usher, Vigue, Winn, Winsor.

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

92 having voted in the affirmative and 41 voted in the negative, with 18 being absent, the **Majority Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-940) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, March 20, 1998.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by**

Committee Amendment "A" (H-976) on Bill "An Act to Require the State to Be Responsible for the Costs of School Employee Record Checks and Fingerprinting"

(H.P. 1536) (L.D. 2163)

Signed:

Senators:

PENDLETON of Cumberland
SMALL of Sagadahoc
CATHCART of Penobscot

Representatives:

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

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

Signed:

Representatives:

BARTH of Bethel
SKOGLUND of St. George

READ.

On motion of Representative RICHARD of Madison the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-976) was READ** by the Clerk.

On motion of Representative KONTOS of Windham, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-976)** and later today assigned.

Pursuant to House Rule 201, the Speaker appointed Representative ROWE of Portland to serve as Speaker Pro Tem on Friday, March 20, 1998.

On motion of Representative KNEELAND of Easton, the House adjourned at 6:43 p.m., until 9:00 a.m., Friday, March 20, 1998 in honor and lasting tribute to Hon. Harvey Bevis Johnson, of Smithfield.