

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

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House Legislative Sentiments
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ONE HUNDRED AND EIGHTEENTH LEGISLATURE
SECOND REGULAR SESSION
44th Legislative Day
Tuesday, March 31, 1998

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

Prayer by Reverend Sally Poland, West Scarborough United Methodist Church.

Pledge of Allegiance.

Doctor of the day, David Kaplan, M.D., Great Diamond Island.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 866)

**JOINT RESOLUTION ENCOURAGING THE DEVELOPMENT
OF
A SUSTAINABLE FORESTRY INITIATIVE**

WHEREAS, the Maine Legislature seeks to establish a process that provides for public reporting of the forest management of large forest landowners in this State; and

WHEREAS, there is no adequate or credible manner by which the public can be informed concerning the long-term implications of large landowners' forest management practices; and

WHEREAS, the public has a justifiable and legitimate interest in the public resources on privately owned forest land, those resources being air, water, fish and wildlife; and

WHEREAS, the large forest landowners of this State have formed a committee to implement a sustainable forestry initiative in this State to build programs to develop and build public confidence in their forest management practices; and

WHEREAS, the large forest landowners of this State are implementing those programs to demonstrate their commitment to fulfilling the goals of that sustainable forestry initiative; now, therefore, be it

RESOLVED: That the Legislature encourages the State of Maine Implementation Committee of the Sustainable Forestry Initiative to implement a sustainable forestry initiative in Maine to develop and implement a 3rd-party process that verifies compliance with forestry-related performance standards; and be it further

RESOLVED: That the Legislature supports an effort that is based on the following principles and guidelines:

1. To practice sustainable forestry to meet the needs of the present without compromising the ability of future generations to meet their own needs by practicing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat and aesthetics;

2. To have large forest landowners use in their own forests, and promote among other forest landowners, sustainable forestry practices that are economically and environmentally responsible;

3. To protect forests from wildlife, pests, disease and other damaging agents in order to maintain and improve long-term forest health and productivity; and to protect special sites and to manage the forest of large forest landowners and lands of special biological, geological, historical or other significance in a manner that takes into account their unique qualities;

4. To continuously improve the practice of forest management and also to monitor, measure and report the performance of the State of Maine Implementation Committee of

the Sustainable Forestry Initiative in achieving its commitment to sustainable forestry; and

5. On applicable lands, to employ an array of scientifically, environmentally and economically sound practices in the growth, harvest and use of forests; promptly reforest harvested areas; enhance wildlife habitat for game and nongame species; minimize the aesthetic impact of harvesting; protect company lands of ecological, geologic or historic significance; contribute to biodiversity conservation; improve wood utilization; use forestry chemicals prudently; foster the practice of sustainable forestry on all forest lands through cooperation with nonindustrial forest landowners and loggers and other forest industries; and publicly report progress and provide opportunities for public research; and be it further

RESOLVED: That the development and implementation of this 3rd-party verification process is expected to be conducted on a voluntary basis and to build public confidence by recognizing the need to take seriously the responsibility of large forest landowners to public resources on privately owned land; and be it further

RESOLVED: That the State of Maine Implementation Committee of the Sustainable Forestry Initiative is encouraged to establish a 5-member advisory panel, with one member representing the general public and the other 4 representing expertise in a broad spectrum of forestry management. This panel is expected to provide input and advice on the performance indicators to be applied to all companies being reviewed in the 3rd-party verification process; and be it further

RESOLVED: That the State of Maine Implementation Committee of the Sustainable Forestry Initiative is encouraged to establish a panel of 5 persons to monitor and observe all phases of the development of this 3rd-party verification process in the State of Maine through March 31, 1999; and be it further

RESOLVED: That the State of Maine Implementation Committee of the Sustainable Forestry Initiative or its appropriate panels are encouraged to report by March 31, 1999 to the joint standing committee of the Legislature having jurisdiction over forestry matters on the development of a 3rd-party verification process; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the State of Maine Implementation Committee of the Sustainable Forestry Initiative.

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

READ.

Representative DONNELLY of Presque Isle **REQUESTED** a roll call on the motion to **ADOPT** the Joint Resolution.

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 Brooklin, Representative Volenik.

Representative **VOLENIK**: Madam Speaker, Men and Women of the House. I have a cold and I am losing my voice, so bare with me. I will make this brief. Here we have a resolve by the Legislature that calls upon the forest industry, which is mostly giant mega-million or mega-billion dollar, multi-national, non-Maine based companies, to voluntarily set up a process of auditing itself. To see if those members who chose to participate are practicing sustainable forestry. A voluntary self-monitoring system by the companies who fought tooth and nail in meetings of the Agriculture, Conservation and Forestry Committee to prevent any meaningful legislation now or well into the future. Companies which grew an annual average of 182 million cubic feet of softwood on land from which they cut an annual average of 360 cubic feet of softwood in the Maine woods, that is cut twice the rate of growth and then proceeded to tell us that they

weren't doing so. Companies that have removed 90 percent of the acreage of balsam fir saw timber and 90 percent of the acreage of mixed red spruce, balsam fir pole timber in Piscataquis County and turned it into acres of saplings and junk wood and deny it telling us that our data from USDA Forest Service is flawed. A voluntary self-audit system by these companies will, without a doubt, tell us exactly what these companies wish us to know. Skeptical, am I skeptical? Yes. We need to establish a mandatory audit system and quickly by a board established by and responsible to the people of Maine with clear goals and public accountability. Reject this resolve. It is bad public policy.

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, Men and Women of the House. To anybody who sponsored this resolve or anybody on the floor, could you explain to me on number 3, on the resolve, what it means to protect forests from wildlife?

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 Farmington, Representative Gooley.

Representative GOOLEY: Madam Speaker, Men and Women of the House. On item number 3, I think that is in error because obviously we, the forestry industry and foresters and landowners are not here to protect forests from wildlife. We are here to protect forests and wildlife. I think that is an error. Madam Speaker, would I be in order to table this until later in today's session.

The SPEAKER: Not at this time.

On motion of Representative CARLETON of Wells, **TABLED** pending **ADOPTION** and later today assigned. (Roll Call Ordered)

Non-Concurrent Matter

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)

PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-963) AND "B" (H-1052) AND SENATE AMENDMENT "B" (S-613) in the House on March 27, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-963) AND SENATE AMENDMENT "B" (S-613)** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to Tribal Land Use Regulation"

(H.P. 1403) (L.D. 1961)

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-997)** in the House on March 27, 1998.

Came from the Senate with the Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative THOMPSON of Naples moved that the House **INSIST** and ask for a **COMMITTEE OF CONFERENCE**.

Representative DONNELLY of Presque Isle moved that the House **RECEDE AND CONCUR**.

The Chair ordered a division on the motion to **RECEDE AND CONCUR**.

The SPEAKER: A division 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.

A vote of the House was taken. 49 voted in favor of the same and 66 against, the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **INSIST** and ask for a **COMMITTEE OF CONFERENCE**. Sent up for Concurrence.

Non-Concurrent Matter

Bill "An Act to Facilitate Delegation of the Federal Waste Discharge Permitting Program"

(H.P. 1291) (L.D. 1836)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AS AMENDED BY HOUSE AMENDMENT "A" (H-1035) thereto in the House on March 26, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910)** in **NON-CONCURRENCE**.

Representative ROWE of Portland moved that the House **RECEDE AND CONCUR**.

Representative CLARK of Millinocket **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: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Madam Speaker, Men and Women of the House. Here we go again. Last week we spent a considerable amount of time discussing this issue. A lot of things have taken place since that so I am going to take a couple minutes to refresh your memories on this particular issue. We are talking about a bill, with the amendment that is before us, that increases fees on municipalities and businesses in the state nearly \$600,000. As I indicated last week, one of the paper companies involved in this situation, Georgia Pacific down in Woodland, which we all know is currently having grave difficulty. I believe the mill is still closed not to open until sometime after the first of April. Their fees over the five year time period will increase from \$11,000 to \$250,000. Yes, we did hear last week that some fees go down, but if you look at the material, the decrease in fees is somewhere in the neighborhood of 30 percent. The increase in fees is in excess of 300 percent.

LD 1836 replaces a federal discharge permit with a state license with significant fees. Most and much of the confusion and expense of a dual licensing system that we currently have is a result of DEP adopting different and more expensive rules three or four years ago. Prior to that, our rules and the federal rules tended to be the same.

I would like to make one last comment on this particular issue. The last few days, I have been very concerned and I guess I would say somewhat offended by what has been taking place in the halls of this building. One day last week, I believe it was Friday, from my count and the count of others there were six staff people from DEP working the halls on this particular issue.

In addition, telephone calls have been made to businesses in many of the districts represented in this room. Those businesses have called Representatives and urged them to support LD 1836. Many of these businesses and Representatives have come to me in the last few days to discuss this situation. Many of those businesses would be facing permanent problems or have permits expiring with DEP and they personally feel that they do not wish to become involved in this particular fight because they are afraid of the carry over when they come before DEP. I find that, personally, very offensive that we are having arm twisting, lobbying is one thing, but arm twisting, to me, is another thing. Ladies and gentlemen of the House, I would urge your assistance with us to see that this bill disappears. Please follow my light on the roll call vote that will be coming. Thank you.

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

Representative CLARK: Madam Speaker, Men and Women of the House. I believe it was on Friday evening when we were here late, myself and the Representative from Bath were out on the breezeway talking to the commissioner of DEP. We tried to come up with a compromise on this piece of legislation. In that discussion, the commissioner said that the company that I worked for has a mill in Wisconsin that pays six times the amount if this fee structure was in place. Let me tell you something, ladies and gentleman of House, my company has no assets whatsoever in Wisconsin. None. I would like to see how that came about. Also, we asked him to come back on Monday morning, which was yesterday, and see if we could reach a compromise. There was no budging whatsoever. The fee structures, I believe, are very irate. They go up for paper companies of that nature. After the House Amendment was put on last week, there was a lot of phone calls to every paper company, municipalities, food canning and processing plants and people that would be affected by this fee charge. When the phone calls were taking place, they wanted to know where I worked. They wanted to know what company I worked for. It is all common courtesy. It is right in the House Register where I work and what I do. It is no secret. Yes, I do work for BoWater. I am not supporting this for BoWater. I am supporting this for the constituents of my district, the municipalities of my district. We have a mill up for sale. We are trying to sell that mill so 800 people can stay in at work. The community where I am coming from in 1985 had close to 4,500 people working. Now we only have 1,700. The population was 10,000 and now it is 6,000. If this goes into effect, it is going to add to the price of that mill. Also, on the municipality side, it is going to go up for the Town of Millinocket. If we don't have the dollar values there for the mill, how can we pay it. I urge you to vote against Recede and Concur. Thank you.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I have a great deal of respect for the individuals who have spoken because I know they feel strongly about their positions. My particular municipality, the wastewater discharge permit fees would actually increase more than 10 times under this bill. I looked at this as did the members of the committee and, again, this was a unanimous committee report, as you may recall, as being what is in the best interest of the state as a whole. Yes, there are some companies and there are individual municipal water/sewer districts where the fees will increase. There are some where the fees will decrease. What this bill does is two things. It puts some statutory language in place to allow Maine to apply for delegation of the National Pollutant Discharge Elimination System Program. In other words, the

federal government would delegate to Maine the administration of the federal program.

It also, by increasing fees, will raise enough funds to put additional resources in terms of staff in the department to actually administer the programs. As you may recall, initially, the bill contained an additional \$250,000 to fund some additional positions to administer some car programs. Our committee, we vetoed that. That was put in the budget. What this does is bring those additional resources on that would be necessary to administer the federal program. The other day you may recall too that I thought this bill would bring fairness to the way that the fees were levied. I strongly believe that as do the other members of the committee. You know now that the fees are basically levied without regard to the amount of pollutants, the type of pollutants and without regard to flow levels. This bill will change that. I beg you to show me the unfairness with that. I share the same concern that some fees will increase. At least it is my opinion and I believe if you will ask people you will see this that one the whole the State of Maine will be a better place because what we are talking about here and if people had been lobbying and people had been upset and I can't speak to who has been lobbying this bill, but I do know that a lot of people have been advocating for the bill that are not associated with the Department of Environmental Protection. I know the Maine Chamber and Business Alliance and most of the paper companies do support this bill. Many municipalities support this bill. They believe that they will have a single point to go to in terms of getting their wastewater discharge permits approved. They also believe they will have a single point to go to in terms of getting technical assistance. They also believe that this bill will increase or will help decrease the amount of pollutants that go into Maine's rivers and streams. For those reasons, I would ask you to support the Recede and Concur and I would ask you to think about the state as a whole as you do this. Thank you.

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

Representative DRISCOLL: Madam Speaker, Men and Women of the House. I have been fighting since I have been up here, six years, trying to keep jobs in Washington County. It is a hard task. Everyday there seems to be another bill coming up in front of this House that is trying to reduce the economic advantage that Washington County presently has, which is very, very little. This particular bill is going to reduce jobs in my county. I hope that you will not vote for this Recede and Concur, but vote for the amendment that the good Representative from Millinocket has put before you. I hope that you will vote for jobs in Washington County. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. Let's address the facts connected with this bill. This bill puts in place eight new DEP staff members. If you believe that these are another word for taxes, there is a \$600,000 tax increase connected with this bill. It is a fact that those figures are right on the tracks that many of our municipalities are going to see a double, triple or quadrupling of their costs. Many of our employers, who are in a very fragile economic shape right now, are going to see 25 fold, 48 fold or more than 50 fold increase in their taxes or their fees to the DEP. Those are the facts connected with this bill.

Let's take a look at a bigger issue. The good Representative from Bath had brought up his concerns and I hope we all share it. We expect that when legislation is before us that we will see the associate commissioners and the assistant commissioners and sometimes the commissioner back behind the glass trying to twist our arms. When that department has a variety of permits

that they can issue and they reach into your district and start pulling chains and asking people to reach in here, that simply is called blackmail. When you are fearful of the DEP and you know within the next year or two you are going to be going to them for a completely different permit, that is blackmail.

The other part of this bigger picture is over the last year and a half conventional wisdom, the pundits have looked at this 118th Legislature, the first legislature that has had term limits imposed upon it. Pundit after Pundit says, first term and second term Representatives won't be able to stand up to the bureaucracy. They are going to fall victim to the bureaucracy. Government will grow because we don't have the experience. I would argue against conventional wisdom that the leadership that Representative Clark has shown on this issue shows them wrong. We also have the opportunity in this House to show them wrong. As we said the other day, we have had, at least in my experience of serving here, three Governors, a Democrat, a Republican and now an Independent. They all promised to turn the attitudes around at the DEP. If we had another three weeks to this session, we would be able to, member by member, talk about the history of lost jobs, lost economic opportunities within this state. We have got to move forward and we are concerned about the future and the loss of potential jobs because of the arrogance and the attitudes of the DEP.

I would hope today, based on the issue of the tactics that have been used, a system that is not broken, empire building at the DEP, a \$600,000 tax increase, that we would show the bureaucracy today, show the conventional wisdom wrong. We can stand up to the bureaucracy and maybe three Governors in the past haven't been able to do so, but I would hope that the Maine House would say no.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative BRYANT: Madam Speaker, Ladies and Gentlemen of the House. Let's get one thing clear on this legislation. The committee did a lot of work on this legislation. I don't believe this legislation is about losing jobs. The only problem we have with the agreement that we made here is we have a few companies that don't want to pay their fair share. That is the issue here, not jobs. They have lobbied their people to bring that forward. Let's not forget that. I think I want to share with you why I believe that. First, the agreement that we reached saves companies money. We have heard that all through this. It reduces regulatory paperwork. When we were having our work sessions we had chances to question environmental managers from different mills. We asked the environmental manager from GP how much money he would save if, in fact, he enacted this? His response was that he may have to lay off some of his staff. I would question that as to he wouldn't need to do that, he would make his staff do something that was productive instead of shuffling paperwork. That is what we are here to do too. We are here to streamline the system.

You had before you last week, that was passed out, a lot of information from different companies. I am looking at one on my desk from the good Representative from Gray, Representative Foster. This company was saying that they figure that they are going to save \$17,000 by processing permits this way. We heard from other companies that they had been waiting six years so that they could expand their business and they felt that if they had this legislation there, they would be able to do that quicker. They wouldn't have been held off so long. There are a lot of positives in this. You hear some negatives, but we have to look at all the positives of this.

Secondly, what this bill does is it allows the people in the state to get their hands around a 780 million gallons of water that

gets processed daily into our lakes, rivers and ponds. It gives us an opportunity to get a handle on it.

Thirdly, you hear a lot about the funding. I don't think you can get any fairer than the funding is here. We have heard from companies that had the workshop when we questioned them. They felt the funding is fair. It is shared between three parties. It is shared between the people of the State of Maine, they put money into that agreement. It is also shared by the federal government. They are interested in clean water and their share is in that budget. It is also shared by the companies that process it. It is reflected in their costs by the volume of the water they process and by the toxicity of the water that comes out. In my mind, you don't get any fairer than that. What we have here is some that don't want to pay their fair share. If you look at GP discharges, the price is relevant to the volume of water that is processed and the toxicity of the pollutants they discharge. That is reflected in their costs. I ask you to support the unanimous committee report and vote for the pending motion.

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

Representative DRISCOLL: Madam Speaker, Men and Women of the House. In answer to the good Representative from Dixfield, as far as streamlining, GP just streamlined about three weeks ago. They fired 70 people. They streamlined last week by shutting down a paper mill for a week. If that is what you call streamlining, I don't know where, but not in Washington County. We consider that loss of jobs. Thank you.

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

Representative COWGER: Madam Speaker, Colleagues of the House. I ask you to join me in supporting the pending motion along with the rest of our unanimous committee report. I just want to add one more bit of information regarding fees, since that seems to be a topic this morning. I would like to use as an example, Great Northern Paper here in Maine. Great Northern, under their license, is allowed, right now, to discharge, pay attention to these numbers, 6,643,000 pounds of conventional pollutants into our river. By license, this is allowed. In addition, they are allowed to discharge 131,000 pounds of toxic pollutants. For this right, they are currently paying \$2,240. That is \$2,000 for almost 7 million pounds of pollutants into our rivers. The fees under this program would bring Great Northern Paper up to about \$55,000 for 7 million pounds of pollutants. I don't think that is unreasonable. In Wisconsin, Nacoosa Paper, which I believe is associated with Great Northern Paper discharges somewhat less, about 4 million pounds of conventional pollutants into their rivers and for that 4 million pounds, they pay over a half a million dollars, \$519,000 is their fee in Wisconsin. We are asking for Maine paper companies to pay a reasonable amount. I think that is fair. Please support the pending motion.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I have been, in a sense, taken out of the loop here because number one, normally I would fight either for or against, but the forces from outside have closed my mill. My people are not working. May I ask a question Madam Speaker?

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you Madam Speaker. My question to anyone who may care to answer it, is what effect would this have on the possibility of opening my mill? Would it be a positive or a negative affect? Thank you.

The SPEAKER: The Representative from Winslow, Representative Vigue has posed a question through the Chair to

anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. I rise to respond. I don't know. I am not sure anyone can answer that. I don't know what affect this would have on your particular mill. I am sure there are lots of other factors that would go into whether it would be reopened or not. I haven't investigated the numbers to see if there is an increase or a decrease or how it might affect, but if this program were to go forward and the mill were to be opened, I can guarantee that there would be a reduction of pollutants into Maine's rivers, streams and ponds. Thank you.

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

Representative VIGUE: Madam Speaker, Men and Women of the House. Based on the quizzical looks that I have had from most of the people in the chamber and the answer that I have received, I will oppose the pending motion based on the harm that could be done to my area. Thank you.

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

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. Although I am one of the members on the unanimous committee report, I want to speak against this bill. The people on my committee took a pole to find out how people are voting. They know how I feel about this. I am not surprising anybody here. One of the things that I am very concerned about and have been concerned about is the strong arming that has been taking place by the department to businesses. I am really concerned about that because I have a real ethical problem with that type of thing. When we have government coercing or at least putting pressure on businesses and this government has the potential to give them difficulty during committing. It is not that much different than the harassment that takes place in the work place between a worker and an employee. I am very opposed to that. That was not discussed during our committee work session.

I also have a real fundamental problem with our expanding government and, therefore, the eight jobs bother me. The fees that we are talking about here are really there to help fund those positions. We worked to try to lower those and we had to go through a couple of different formulas to do that. This isn't the first time that this came up. It came up in the past. We had a problem with that and they were talking about fees that they were going to use to pay for a hole in the budget in the past. There are some real definite problems with this piece of legislation.

We talk a lot about two permitting processes and getting the EPA out of the process. One of the things we learned in our work sessions was that the EPA is not going anywhere. They are still going to be overseeing this and they are still going to intercede when they feel it is necessary. That is another issue that should be cleared up. As far as businesses complaining because they are not paying their fair share, I mean, up until recently we had a whole different formula for the fees. This new fair share is evolved from this bill. My husband lost his job because of Kimberly Clark. I am speaking from the position of somebody who has walked that mile. I am not running again because of that decision. It has impacted our family in a big way. I can stand here and tell you from personal experience that it not a funny matter. I can personally tell you that anybody looking at that Kimberly Clark mill is going to look at all those expenses. My husband has been involved in that process. It is going to make an impact. I am going to ask you to defeat this motion. Thank you.

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

Representative CLARK: Madam Speaker, Men and Women of the House. Just a little verification from the Representative from Hallowell. Nacoosa owned our mill back in the early '80s. It was bought by Georgia Pacific and now it was bought by BoWater, which has nothing to do with Nacoosa now. Thank you.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. Think about it. You have a town that has taken a hit by a mill going out of business. Millinocket, in the past, has always been one of the most thriving towns in northern Maine. All of a sudden, you are voting to possibly eliminate the jobs that they have now. Think about it. Do you want to eliminate a town? I don't believe it. I hope that you will vote against the Recede and Concur.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. If I am not mistaken, 43 other states have gone to having state oversight of wastewater discharges. Why have they done that? Some of us who believe in home rule or honor home rule, we know that when we can put the jurisdiction as close to the source that we might be able to make a difference. So, with the positions at DEP, we might be able to make a difference not only for health reasons, but also for the benefit of Maine's largest industry, tourism. I represent a district and almost all of you do too also that relies on tourism. Quite frankly, many of those businesses have called me to say that we feel that we, and that is thousands and thousands and thousands of Maine workers, are being held hostage by the refusal on the part of some polluters to accept responsibility of the quality of the water that affect our industry, which is tourism. This is a good thing. If our waters are cleaner, tourism will flourish, health will improve and I believe that we will have a fairer system. If you look at the list, most of your towns that you represent will have a reduction in fees. Those who discharge the most, will pay the most. Thank you.

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

ROLL CALL NO. 559

YEA - Baker, Belanger DJ, Belanger IG, Berry RL, Brennan, Brooks, Bryant, Bull, Bunker, Cameron, Chartrand, Colwell, Cowger, Davidson, Desmond, Dunlap, Etnier, Farnsworth, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Kane, Kneeland, LaVerdiere, Lemaire, Marvin, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neil, Pieh, Povich, Powers, Quint, Richard, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stevens, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Wright.

NAY - Ahearne, Bagley, Berry DP, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Cross, Dexter, Donnelly, Driscoll, Fisher, Foster, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kerr, Kontos, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Rines, Sanborn, Savage, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Tobin, Treadwell, True, Tuttle, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Barth, Bigl, Bolduc, Dutremble, Jones SL, Joyner, Lemke, Perry, Poulin, Underwood, Winn, Madam Speaker.
Yes, 59; No, 80; Absent, 12; Excused, 0.

59 having voted in the affirmative and 80 voted in the negative, with 12 being absent, the motion to **RECEDE AND CONCUR FAILED**.

On motion of Representative CLARK of Millinocket, the House voted to **ADHERE**.

Non-Concurrent Matter

Bill "An Act to Opt out of the Federal Requirement to Use Reformulated Fuel"

(H.P. 489) (L.D. 660)

Majority (12) **OUGHT TO PASS AS AMENDED** Report of the Committee on **NATURAL RESOURCES** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)** in the House on March 24, 1998.

Came from the Senate with the Minority (1) **OUGHT TO PASS AS AMENDED** Report of the Committee on **NATURAL RESOURCES** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1038)** in **NON-CONCURRENCE**.

Representative ROWE of Portland moved that the House **ADHERE**.

Representative CAMPBELL of Holden moved that the House **RECEDE AND CONCUR**.

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

Representative ROWE: Madam Speaker, Men and Women of the House. This is the bill that deals with opting out of the reformulated gasoline program. As you recall, we had a vote in this body a couple of days ago and 100 of the members voted for Committee Report "A," which, as you recall, would have directed the Department of Environmental Protection to evaluate and develop recommendations regarding alternative fuels to reformulated gas and to report back to the Legislature with those options. As I said, 100 members voted for that. Unfortunately, in the other body, the result came out differently and we have it back before us today. Now we have a motion to Recede and Concur. I would strongly encourage you to vote against this pending motion. As you probably know, the RFG Program is an integral part to the state's plan to reduce volatile organic components. It is actually the cornerstone. If we were to opt out of the RFG Program, then we would be out of compliance. I don't know of any other way to say it. We would be out of compliance big time. We would have to institute something very similar to the old CarTest Program, tailpipe testing, to be anywhere near compliance with the Federal Clean Air Act and the EPA rules thereto.

I know many of you have concerns about MTBE and reformulated gas and the committee was sensitive to those concerns. That is why we have asked the department how this Report "A" would direct the department to look for alternatives and to report back. Now is not the time to opt out of this program. I would strongly encourage you to stay with your earlier vote and vote against the pending motion to Recede and Concur. Thank you.

Representative ETNIER of Harpswell **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: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative MACDOUGALL: Madam Speaker, Men and Women of the House. Good morning. I would like to share a few thoughts on this matter with you this morning. Please bear

with me with a little more specificity from last week's debate. A couple of the handouts that we have been doing the last few days, one of them concerns Santa Monica, California. Basically that article relates to the fact that this could be the first city with 100,000 people to shut down a large part of its drinking water supplies because of the contamination of the gasoline additive MTBE. In fact, they are going to have to close three out of the five wells that supply 40 percent of the drinking water. We just got through a debate on the previous bill where some of the things that were mentioned were the importance of our water as a resource. Of course, it is. I would just ask that you would keep that in mind because that is what this motion to Recede and Concur is all about. It is not about making sure we comply with the federal government at the expense of our people.

An interesting thing to note that the 1990 Clean Air Act, which requires the use of either MTBE or some other oxygenate. Also, it lists MTBE as a hazardous chemical whose presence in the environment should be reduced. It is known to be very toxic when present in drinking water. Unlike normal gasoline that easily dissolves in water. It is practically impossible to remove once it gets into the underground water supply. In Santa Monica we are talking about three out of five wells. It is interesting to compare the toxicity of benzene and MTBE. The EPA regulations require that certain quantities of either of these substances are accidentally spilled, they must be reported. The EPA regulation and 40CFR, I guess is the name of it, requires any spill of 10 pounds or more of benzene must be reported. Yet, only one pound of MTBE. It would seem to me that the implication there is that MTBE is 10 times more dangerous than even Benzene is. RFD gasoline strictly requires that Benzene be limited to less than 1 percent whereas they nevertheless require that RFG contain 11 percent MTBE or an equivalent. That doesn't match up.

Theoretically, once MTBE is in your tank, it should burn up inside your car's engine and leave no residue, but as we all know, no car burns 100 percent efficiently. So some of this MTBE comes out of the exhaust. The exact amount depends on how new your car is and how well tuned and so forth. In addition to the MTBE, the combustion also produces another chemical called formaldehyde in the exhaust. Formaldehyde is also known to be a toxic. It is considered to be one of the major sources of air quality problems and illness when indoors. The amount of formaldehyde emitted when MTBE is in gasoline is definitely higher than without, although the exact measurement is difficult to pin down.

When the MTBE is in the air, another chemical reaction also occurs. It can be converted into a chemical tertiary-butyl formate or TBF. The EPA and other MTBE proponents have totally ignored the TBF system and is probably responsible for many of the symptoms that many people are experiencing. Very little scientific information is known about toxic properties of TBF, but it can be purchased as a research chemical and the manufacturer gives this information as its toxic effects. Harmful if swallowed, inhaled or absorbed through the skin. The material is extremely destructive to the tissue or the mucus membranes and upper respiratory tracts, eyes and skin. It goes on, but for the sake of relativity, I will move on. TBF is a highly toxic chemical of the type known as respiratory irritant. Other chemicals with other similar toxic properties are known to induce asthma attacks as well as inhibit the bodies natural defenses against respiratory infections, such as colds and flu and the like.

It is important to understand that you do not have to be in a car or a gas station to be affected by these chemicals. They will be in the air throughout the polluted urban environment and even out in the rural areas. Some of the symptoms that people are reporting beyond the asthma occurrences that have been

documented in some areas of the country, a neurological symptom will include nervousness and dizziness, lightheadedness and headaches. Some people have described this like having a cloth wrapped around their head or being drunk. Some people have had trouble with short term memory. I know there has been continuing occurrence of ADD, Attention Deficit Disorder. It is very possible that this could even be one of the causes of that predicament. There you have it. We have water and air. The very thing that is supposed to help us keep it clean so that we can be in compliance with the feds throughout the country, particularly in California. A lot of evidence pointing to the fact that it has unintended consequences and that is why I ask you to vote with me in Recede and Concur. Thank you.

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

Representative BULL: Madam Speaker, Men and Women of the House. I rise today in strong opposition to the pending motion. The Representative from North Berwick has laid out some of the potential health affects from MTBE. While there is discussion about how bad MTBE is, people will agree that MTBE is not this harmless additive. What we need to do is look at the comparison between MTBE and regular gasoline. There are have been numerous proven health affects from regular gasoline. One of the biggest issues that we have here in Maine is the ozone problem. I am not talking about that stuff that has the hole in it up there in the atmosphere. It is the ground level ozone, which has been proven to be very bad. It has been proven to show adverse health affects for individuals, trouble breathing and people with asthma, particularly in the summer. Some people cannot go out of their houses because the ozone is so bad.

RFG was developed to try and deal with this issue. It was accepted here in Maine because as the good Representative from Portland, Representative Rowe, discussed the Federal Clean Air Requirements required us to address the issue of ground level ozone and to try and reduce it. What you need to ask yourself here is a balance. Regular gasoline is not harmless. You have to ask yourself which one is more dangerous. Which one, regular gasoline or MTBE additive, has more of an adverse impact on human health here in Maine? It is my conclusion and it is the conclusion, I believe, of many members of the committee, it not all the members of the committee, that the health benefits from MTBE, at this point, outweigh any potential health detriments from MTBE.

The Majority Committee Report was an attempt at a compromise. What we had here in the original bill was an opt out program. As has been discussed before, I don't want to play chicken with the EPA and I hope you don't want to play chicken with the EPA either because we have highway funds on the line and if we opt out of this program, the US EPA could walk in here and simply set their own CarTest Program with or without us. We are trying to get to a compromise here. Let's look at this issue more. Let us look at what are other alternatives other than RFG that will meet the requirements of federal Clean Air Act. Last week 100 people in this body agreed that that is a good compromise. Unfortunately, the other body did not agree. I hope that people still understand that this was an honest attempt by the committee to reach some consensus on this issue to address it in the future.

If we Recede and Concur, what we are doing ladies and gentlemen is we are voting to opt out of the MTBE, RFG Program. It will put us in non-compliance with the US EPA and that sanctions clock will start ticking into overdrive and I am really very worried what the consequences could be. The US EPA is serious about this. I don't feel like playing chicken with them. Ladies and gentlemen, you have to ask yourself, yes,

there are potential health issues with MTBE, but you also have to recognize the fact there are serious proven health problems with regular gasoline. Benzene is a known carcinogen. It causes ozone problems and it causes breathing problems in the summer. MTBE was an honest effort to reduce the bad components of auto exhaust to reduce ground level ozone and to make the air that we breath safer and healthier. Is MTBE the ultimate answer? I don't know. That is why we tried to get a study on this. Now we are not there. We are asking you to defeat the pending motion. Let this bill die. The department is going to study this issue. They are not just going to walk away from this. They have sat there in the committee and I feel confident that I have been given sufficient guarantees from the Commissioner of the Department of Environmental Protection that they will study this issue. They realize there are serious concerns with MTBE here in Maine. They are not just going to let this drop. They will study this, with or without the study program.

Ladies and gentlemen, please do not support the pending motion. Do not Recede and Concur. Let us not play chicken with the EPA. Let us look into this issue more. Let's keep MTBE here in Maine until we find a suitable alternative that is going to meet the requirements of the EPA so we can truly have clean, healthy air here in Maine. Thank you ladies and gentlemen.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Some years ago a friend of mine gave me a book called, *Real Women Don't Pump Gas*. When I am in Augusta, I don't pump gas if I can help it. I wait until I get home. Pregnant women shouldn't pump gas. Asthmatic women shouldn't pump gas as well as asthmatic men. The problem with breathing isn't only in the summer. It is in the winter when you are pumping this gas. It is oxygenated. It gets into your bloodstream right away. When I do find myself having to pump this gas, I immediately go and wash my hands. Frankly, this is not a good idea for the people of the State of Maine. Every month that goes by and the thousands an thousands and thousands of gallons of MTBE that is burned in the State of Maine as gasoline leaves its residue and for the people who spoke so eloquently about our whitewater rafting in our rivers and our lakes and our streams and our drinking water and the DEP and mercury and all of the other unhealthful things that we put into the atmosphere and into our groundwater, this seems to be the one that has the blessing of the State Legislature. Why this one? The EPA says here is the dollars and you will comply and you will poison your water systems and you will poison your people or we will hold money back from you.

The difference between the two reports. We adopted (H-1037), the Majority Report. The Minority Report adds a fiscal note and says that we are going to opt out until you can tell us exactly what this stuff does. With what we know these days, would we knowingly have advocated for all the chemicals that have been put into Maine's system? You are today. You are knowingly advocating for something that is oxygenated. You made it so it is that much easier to be absorbed 365 days a year, not on high ozone days, not on high pollution days, but 365 days a year no matter who comes for gas. Whether it is me, you or the employee who is paid to stand there all day long next to a tank filled with a poison and fill your tank and the other thousand customers that drive in that day. You can speak out of both sides of your mouth and talk about the purity of the water of the State of Maine and the purity of the air and the health of citizens and you can take a chance on a substance that hasn't been proven, except that we know it makes us sick. It makes some people extremely sick.

I, for one, don't mind opting out until we find out what in the world is going on. The states that started before us are pulling out. They have a year or two on us and they are finding out that it makes a difference in their water. It makes a difference. They are willing to buck the EPA because it is good for the people of their state not to be ingesting poisons at several different levels. First, at the gas pump. Second, through your skin and third, through your water. I will drive to another country before I gas up. I won't put MTBE in my gas tank when my kids are in the car. Some people don't have that choice. Some people don't have another county to drive to. We are talking about cancer rates going up in Maine for some strange reason. We can't figure it out just yet. Other states are figuring it out and it is time for Maine to catch on and say that we are opting out of this. Prove it that it is not hurting us. Prove to us that you are not endangering our children and prove to us that it is not endangering our water resources. Until then, don't make us use this. I ask you to please Recede and Concur. Thank you.

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

Representative TRIPP: Madam Speaker, Men and Women of the House. I would be remiss if I didn't speak on my own bill. Let me refresh the memory of some of my colleagues here. In 1996, the Legislature approved a study committee to study the health effects of reformulated gasoline. Earlier in the session you received this study on your desk. If you had a chance to read it, you may recognize some of the information that I may present to your know. That study committee was a bipartisan committee. It was made up of Senator Harriman, Senator Carey, Representative Cowger, Representative Savage, Representative Lovett and myself. We held several public hearings and came up with a report. I will just mention a couple of things that we found in this report. The committee found that there is an enormous amount of very complex and often contradictory information available regarding reformulated gasoline and one of its constituents, methyl tertiary-butyl ether, MTBE.

The committee finds that Maine's 15 percent VOC, Volatile Organic Compound Reduction Plan, which RFG is an integral part. It complies with the requirements of federal law. However, the committee is frustrated by the lack of agreement on whether there is compelling scientific evidence that an actual VOC reductions that can be attributed to RFG in Maine. The committee finds that there is a cause for great concern that the use of RFG has and will continue to result in contamination of groundwater, surface water and drinking water of the state. The committee further finds the concern is heightened by the solvability of this chemical.

Finally, I will leave you with our final finding. The committee finds that the lack of consensus of issues relating to RFG and the amount of new information emerging as a result of studying RFG justified continued study in the public's best interest. However, we did not recommend continued study by the bureau. The committee recommends the select committee or members of it, in conjunction with the Joint Standing Committee on Natural Resources, continue to monitor and report on issues surrounding the use of RFG including monitoring progress in implementing the recommendation made in this report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Madam Speaker, Ladies and Gentlemen of the House. I have been in contact, in the last month, since my grandson has been born. You all know the problems that we have been experiencing. I have been in contact with Dr. Broughtbar from California. He has kind of been consulting with my family on some of the problems that my grandson has had. In talking to him, he is very well known in his

studies for MTBE. He has shared with me that he has received many phone calls on a daily basis from patients who are sick and from patients who have been exposed to MTBE and who are seeking medical help. This problem is not unique to the citizens of California, to the patients of Alaska or Maine, of New Jersey, North Carolina and Pennsylvania and even Michigan. There are other states that have been presented with these same problems as a result of exposure to MTBE in gasoline. The State of Alaska has banned the use of MTBE in gasoline as a result of these problems.

I want to remind all of you. History is a good predictor and teacher of the future. Let's look back to all of the patients who have suffered lung disease and lung cancer from cigarette smoking. How many of them were told by the cigarette companies that cigarette smoking is safe? I guess the rest is history and I don't have to go any further on that.

Most recently, Chevron, California's largest refiner announced that the company is asking the State Air Resource Board to allow it to make gasoline without MTBE. Saying in a statement that MTBE and similar chemicals do little to reduce smog and is a threat to the water supply. Seven wells in Santa Monica have been shut down because of MTBE contamination and water experts fear that MTBE will cloud all wells in the years to come. Chevron was quoted to say, "When customers are concerned, Chevron is concerned." I believe that the writing is on the wall. Scientific data and medical studies are clear, concise and the public as well as the manufactures, such as Chevron, are realizing that exposing the public to MTBE in gasoline is dangerous and uncalled for. I hope you join me to Recede and Concur on this matter. Thank you.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. I agree with the method on the comments on the great honorable gentleman from Freeport, but I don't agree with his assessment. He spoke about tradeoffs. We can't have everything in one basket. We can't have the perfect solution. He is correct in saying that. I would like to do a little analysis of the tradeoffs here. A little cost benefit analysis if you will.

What are the benefits of MTBE? We make the bureaucrats in Washington happy. Everyone back in my district, they don't say that too much. They don't say go make the bureaucrats happy, but that is a benefit. Another benefit is it does reduce ground level ozone from regular gasoline. Let's take a look at how often that is a problem. To some people it is a problem more often, but the number of days that we were out of attainment last year was only one day. We only had one high smog day last year and that was a day above 90 degrees when lots of people from away were coming in. I bet those people from away didn't have MTBE in their gas tanks.

Let's look at some of the costs. The costs that this chemical will accrue in our bodies. It will poison the water supplies. A letter we passed out last week from my good friends at the Sierra Club said that MTBE was a worst environmental threat than ozone. If you are having trouble with ground level ozone, you can breath some oxygen or you can go somewhere else where the air is a little cleaner, but if you are having trouble with MTBE, these chemicals build up and accumulate in your body. You can't go somewhere else to breath and get rid of the harmful effects. These chemicals build up in our lakes and rivers and our water supplies, poisoning the children. How can we take a chance with their future? When you are out pumping gas, the fumes get to you and make you dizzy. Didn't we just pass a law last year banning the use of inhalants for children, such as

whipped cream cans and white out and other chemicals. MTBE at the gas tank is just as bad or even worse.

Besides the environmental and human costs, let's look at the economic costs of MTBE. You get low mileage when you drive. That means it takes more gallons of gas to go the same distance. You are going to be burning more gasoline to go the same distance and at the same time, there is more cost per gallon of the gas. Besides how the price system works and the wasting of resources, obviously when something is more expensive. Let's look at who foots the bill for this. It is you and I. It is all of the Maine consumers and the goods they buy. Every good that you and I buy at the store, the cost of transportation has to go up because of this. Let's look at Maine's working families who struggle to commute to and from work every day. They have to spend money on that gas. The extra cost of commuting to and from work because of this MTBE additive will evaporate any tax savings that we will give them this year from this body. It will evaporate if it applies to the many gains they make from an increase in the minimum wage. I urge you all to join me in Receding and Concurring. Look at the tradeoffs. It is not worth it. MTBE is too costly and we can't take the chance with our future and our health. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. As an environmentalist, I am absolutely thrilled by what I am hearing. I am delighted to hear your concern about the use of toxic chemicals in our state because we have several more bills that are going to deal with that. I sense that we will have a great deal of support. It would be in an ideal world, wonderful if those companies should have to prove to us that they are, in fact, not endangering us, that would perhaps take far more time than we have in the next few days.

The Natural Resources committee, in the last session, we dealt with recycled ash. We protected many communities from the use of that toxic chemical? We dealt with dioxin. We are dealing with mercury and now we are dealing with MTBE. First, let me say that I one of two people on the committee that voted against the 35 parts per billion allowable of MTBE in our drinking water, choosing instead the far safer limit of 15 parts per billion. Unfortunately, it would have cost \$645,000 to test for that particular limit. The fiscal note obviated the chance for that bills passage at 15 parts per billion. I stand here certainly supporting everything that my colleagues have said about MTBE and these things were talked about in the committee. It is true that Alaska does not have MTBE. They finally found that it was the old fashioned CarTest, the rather expensive car inspection, which really does the job. In our hearings on the INN bill, cost was an important factor in any inspection program. What we really need in Maine are low-emission vehicles and low sulfur fuels. I agree that the oxygenated fuels with the MTBE additive are not the answer. The committee agrees with you, but we have two pragmatists here.

If we do not accept this bill, you are right, we are going to be sanctioned. Let me just read to you something that happened a couple of weeks ago in Congress. I know the chairman of the Transportation Committee was absolutely delighted as were probably every member of the Transportation Committee because all across the state there were many, many highway projects that were put in jeopardy because Congress had failed to act on funds. They finally, two weeks ago, reauthorized \$214 billion for national transportation projects and our state in the next six years is going to receive \$864 million for repairs to roads and bridges. That amount is \$283 million more than we received over the last six year period. What it is going to do is to allow the completion of projects which are top priority all over the state. I

am kicking myself this morning that I don't have in hand the thick list of highway projects all across the state that Commissioner Melrose handed to me a week ago. Your district is on that list. Now, if we pass the bond in June and our budget does, in fact, include that million dollars in the surplus and this bill is passed, these projects will go on in July. We will begin. Then, at the start of the next session, we will have a report about how we can get to compliance without using oxygenated fuels that contain MTBE. It may be an expensive option. We may not even be able to convince the state that that is the way to go, but, folks, I am with you on MTBE, but let's be practical. In July when our constituents start calling us about a road that is going to have to be closed or a bridge that will have to be closed, we are going to be in trouble. Let's be practical. Let's follow the course that the Natural Resources Committee decided upon. Let's get to the route of the problem, but let's get to a practical solution right away. I urge you to defeat this motion and vote to Adhere. Thank you.

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

Representative MACDOUGALL: Madam Speaker, Ladies and Gentlemen of the House. Just very quickly, I have in my hand here a copy of a Senate Joint Resolution that was introduced into the Legislature in California. Just a couple of phrases from that Resolution. "Whereas MTBE has leaked into groundwater supplies and is estimated to have contaminated 4 percent of California's water supply and 8 percent of the nation's water supply." They go on to ask the federal government if they can opt out of MTBE.

On the notion of being practical and I appreciate the Representative from Wayne with her concern and her sincere efforts and the committee's efforts through this session. When I think of being practical, I wonder if the people in the town of Santa Monica are happy that everyone was practical. Also, in this Resolution they refer to Santa Monica because they shut down contaminated wells that supplied the city with drinking water and the city eventually lost 71 percent of its local water supply. Ladies and gentlemen, please be practical. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative BRYANT: Madam Speaker, Ladies and Gentlemen of the House. I am having a little difficulty with the last two issues. On the last issue you said if someone dumps 7 million pounds of toxic pollutants into our river they ought to pay about \$2,000. We thought that that would be way out of line to have them increase that fee. Now we are here saying that we are going to sacrifice hundreds of millions of dollars to MTBE. I would urge you to reject the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. May I ask a member of the committee exactly what is the penalty?

The SPEAKER: 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 Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, Men and Women of the House. Sanctions means that you do not receive those highway funds.

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

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

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. It is typical of the federal government to withhold portions or percentages of federal funding for non-compliance. Would you please outline to me what percentage and what the exact amount of the sanction would be?

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

Representative ROWE: Madam Speaker, Men and Women of the House. In response to the question, as I stand here, I cannot say. I can say the state receives some \$91 million a year. That entire amount would be in jeopardy. I don't know what they would withhold. We heard the other day there are other sanctions. There could be a federal program that could be put in here, which would be an auto tailpipe inspection program. There could be a reduction in the amount of industrial development. That is approved by the federal government in this state. You got a letter the other day from Commissioner Melrose on the bill dealing with the Vehicle Inspection Maintenance Programs and I hope you still have that. That was LD 2223 where Commissioner Melrose expressed his deep concern about that bill, which I know he would feel the same concern about this bill because it would basically amount to the very same result in that we would be out of compliance with the Federal Clean Air Act. I think the Representative from Wayne, Representative McKee, has done a wonderful job in explaining the concern that, I hope, many of you should have. You can go around feeling real good when you are going out talking to your constituents that we sort of had a Boston Tea Party and we told the EPA where to go, but the thing is, we lost federal highway dollars. That bridge that we were going to get repaired, we can't get repaired. That road that we wanted patched, we can't get patched. If that is what you want to do by playing chicken with the federal government, this is where you do it.

The federal government is us. We are the federal government. We have people we send to Washington to represent us. Many of those people were framers of the Federal Clean Air Act. The EPA has promulgated rules to implement that act. What we are doing is trying to comply with that in as minimal a manner as we can, both with the Vehicle Inspection Maintenance Program and with this program. I know that there are health effects with MTBE. We have heard testimony. There are also health effects with MTBE. MTBE replaces benzene. It causes the gasoline to burn cleaner to reduce the volatile organic compounds and the other knocks and the other pollutants that result from you tailpipe. This is known. Those of you who feel real good today that we are going to be revolutionaries and protest this, I understand that. I tell you, I don't have a lot of patience for that because what we are doing here is if we are out of compliance, something will happen. When you go out there and tell your constituents, again, that road didn't get repaired or that bridge didn't get replaced and you have to take your car and get your tailpipe inspected in Aroostook County and Washington County and Oxford County because we stood up to the EPA, I don't think you are going to like it. I would encourage you to vote against the pending motion to Recede and Concur. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I, for one, would be proud not to seed my legislative duties to a bureaucrat in Washington, DC. Second of

all, if the money comes in July, it seems the budget we passed last night gave \$12 million toward transportation. I don't think we will see a crisis right away for our constituents as we wait for them to make their decision in Washington as to how they are going to punish Maine. Maine is the tailpipe for the rest of the country. I am not going to be ashamed to tell my constituents that I said no to a bureaucrat in Washington, DC. With the able help of the Democrats last night, I will be able to tell them that there is \$12 million in the budget for transportation that should carry us well through July. We shouldn't have to shut down too much as we go along. After all, we have increased spending in the State of Maine by a half a billion dollars in the last two years. A half a billion dollars is nothing compared with \$91 million from the federal government. If you are talking about the safety of the people of the State of Maine, are you ready to trade off. We can spend a half a million bucks in two years. What is \$91 million from the federal government for the safety and the health of the people of the State of Maine?

If it wasn't so easy to be poisoned by this, I might not be so vocal about my opposition. When you oxygenate something and you make it so it can be breathed in and passed through your lungs to every part of your body as you stand there and put 10 gallons of gas in your tank. It is a whole lot different than some of the nebulous things that we talked about in here. This is real. As you know and as I know in my committees, the federal government threatens and they withhold percentages or they withhold amounts or you ask for waivers and you tell them you have a study. If we don't have the best reason in the world for asking for a study, then I don't know what the health of the people of the State of Maine means. We do have the best reason in the world to ask for a study. We have the best reason in world to stop selling MTBE tomorrow. I would urge you to Recede and Concur. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Madam Speaker, Ladies and Gentlemen of the House. I just would like to say that the government is us. The government is my constituents. I think if I gave my constituents the choice between health or roads, I think they are going to take good health any day. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. Since we are talking about practicalities, let me assure you that if we vote not to be in this program, MTBE will not go away. For those of us who support the businesses of this state, we must remind ourselves that while it might not have been a good idea to opt in for reformulated gas with MTBE, we now have it. We must be fair to the oxygenated fuel industry of the State of Maine. They have to have time to get out of the State of Maine and to bring in for us a fuel that we will accept. Will we accept regular gasoline for the entire state? Will that put us in compliance? No. Will we choose to ask the fuel industry to bring us in low-sulfur fuels at great expense tomorrow? No. It will not be possible. When someone said we are the end of the tailpipe, we are also at the end of the line here. It is true that oxygenated fuels have crept up the pike from southern New England. Now we have to push it out and then bring in those good fuels, those low-sulfur fuels. That is going to take time. We can't ask the fuel industry to do that overnight. What I am telling you is, MTBE is not going to go away tomorrow. We have got to figure out a way. We need every single one of you who had stood to be a part of this effort, to come together with the Governor and with our Representatives in Washington. Let's have a press conference and let's say that is where we are headed. It is going to be expensive. We are going to have car

inspections. We are going to have low-sulfur fuels and low-emission vehicles too in the future. Let's commit ourselves to that. Let's not fool ourselves into thinking that by simply opting out of this program that we are somehow going to solve the MTBE problem. Help us to solve it this summer. Keep your boat free of MTBE fuel. It is leaking into our lakes. Try to find regular fuel for those boats. Try to go to a pops that has regular gasoline. We will change also by the weight of that lobby. Consumers can change things too. We talk a lot about education here when we don't want to spend money. Let's spend the summer educating people so that when we come in on the Natural Resources Committee next session with these clean air ideas that people will be ready to accept them. Thank you.

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

Representative SHIAH: Madam Speaker, Ladies and Gentlemen of the House. I just wanted to mention another possible sanction that was kind of touched on, but there is a 2 to 1 offset sanction that say you have a factory or an industrial facility that wants you to come in or expand. The way this sanction would work is say that they need to 2,000 pounds of air emissions in some particular pollutant. For them to get that change in their permit or new permit to discharge 2,000 pounds, you have to reduce 4,000 pounds somewhere else. What basically this does is, 2 to 1, by doubling whatever the new discharge would be you would have to get a doubling of that reduction somewhere else. That could also be very difficult to do. We discussed that in committee. That would be very difficult to accomplish almost anywhere in the state. Just so you have the facts before you vote. Thank you.

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

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. I just wanted to make a couple of observations if I could. One, I find it ironic that the federal government is recommending something that is good for cleaning up the air, but it is bad for you in water if you drink it. Two, the DEP's own report says the air quality in Maine is getting better all the time. The reason it is getting better all the time is the manufacturers are making engines that burn cleaner. The possibility does exist that this problem may take care of itself given the market that is out there, particularly when it comes to automobiles. Thank you.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

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

The SPEAKER: The Representative may pose her question.

Representative PEAVEY: Madam Speaker, Men and Women of the House. The amendment that this body passed before requires the DEP to evaluate and recommend alternative fuels to meet the Clean Air Act. My question is, what is out there that the department might be evaluating? Are there other fuels and other possibilities?

The SPEAKER: The Representative from Woolwich, Representative Peavey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Madam Speaker, Men and Women of the House. It is true. To the good Representative from Woolwich, that is really what the study is trying to do is find out what else is out there. There are low-sulfur fuels, which is a possibility. There are low emission vehicles, otherwise known as LEV. There are zero emission vehicles. There are a lot of different things out there, but what we want to do is have the department go back, study all these possible alternatives and to

come back to us with recommendations that will meet the requirements of the Federal Clean Air, but not have us needing to be relying upon RFG, necessarily, to achieve that. I can't totally answer your question. That is why we want this study. We need a better understanding of what the alternatives are, what the costs are and what can we do here in Maine, other than using RFG, to clean up our air? Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman. 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 PLOWMAN: Madam Speaker, Men and Women of the House. The State Planning Office currently has a draft of the Maine Climate Action Change Plan before it. It discusses all of the issues that were just raised by the Representative from Freeport, such as low emission vehicles, no emission vehicles, tax policies to direct persons where to live, how to live, what they can drive, what they can't drive, the penalties and taxes for driving such vehicles and the ultimate policy of putting people into high population areas so that we can all rely on mass transit. It is 67 pages long. I urge you to read it. It may save you a lot of money on this study. This is not a new issue. MTBE is not a new issue. Representative Lovett from Scarborough has asked us for three years now for us to put our attention to MTBE. She has asked us for years now. Representative Lovett of Scarborough does not believe in public policy by press conference. She believes in searching for the scientific facts that go with MTBE. This has been studied. The studies are not comforting. The State Planning Office has invested tens of thousands of dollars along with the University of Maine to study how we will comply with the provisions of the Keoto Treaty. Once we comply with the provisions of the treaty, we will have stopped all the problems that are being spoken of today with air emissions and ozone. Unfortunately, the United States is not going to be a signatory to the Keoto Treaty. However, I do believe that there will be a line added for the State of Maine.

The study is unnecessary, but it is there. Please feel free to use it as you study how to change Maine's climate. In the meantime, we are still talking about taking our citizens and using them as guinea pigs while you wait for another study. The study is only going to take the summer. How much physical damage can be done to a man pumping gas for a living for the whole summer? How many miscarriages may be caused in the counties where MTBE is the only source of gas? How many children will suffer asthma attacks this summer as their parents pump gas from the only gas that is allowed to them in the counties that are covered by this? This is not a new issue. It is just a reason for a new study. I don't care, study it, but in the meantime, take away the immediate danger to the people of the State of Maine and our water resources. There should be no problem getting through July, August, and September. When are you coming back? October, with a report. The problem is not the businesses of the State of Maine. This trade off, 2 for 1, I suggest some new tax policies that we put in in the last two or three years and the employers that left Maine, we probably have a few credits coming to us because we have driven mill after mill after mill, either into underproduction or no production. Add that into the equation. We may have environmental credits just waiting for us to use. There will be more and more as we continue with this legislative session and the very special legislative session that will follow this. I continue to ask you to Recede and Concur.

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

Representative BERRY: Madam Speaker, Men and Women of the House. I don't mean to prolong this debate, but I have missed the part of the discussion where MTBE and reformulated gas became part of our state implementation plan. MTBE has been in our gasoline since 1978. They introduced it and took out lead at that time. I think that was a major improvement. I am not speaking up because I like MTBE, I don't necessarily like the RFG. I think the study proposed by the committee is a responsible way to continue to urge the producers of gasoline to continue to reduce the toxics included in gasoline.

If you remember a few short years ago, the debate on CarTest, there was quite an outcry from the public. There are four counties that are in non-attainment or four counties that are affected by the RFG and they have to sell it. It is a major importance to those counties to be within compliance of the EPA. The department and the committee, we have worked with the EPA to extend the clock to give us time to come up with some solutions to address the problems. The RFG has bought us some time to do that. Again, I don't like the MTBE, but gasoline is a toxic substance. When I pump it, I stand up wind. The also includes a vapor recovery system. As the gentleman said earlier, the manufacturers are producing cleaner burning vehicles and they will have onboard vapor recovery systems. It is a great improvement. I just ask you through this debate, not to forget the turmoil that we went through with the CarTest issue. There are a lot of Representatives at that time from both sides of the aisle that supported what they believed to be a responsible way to go. It may have been. It was badly mishandled, but I think in the long run if we have to expose ourselves to more toxic chemicals, maybe it was the best way to go. Certainly, if we opt out of the reformulated gas, we may be there soon again. I urge you to vote against the pending motion.

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

Representative BERRY: Madam Speaker, Men and Women of the House. I did intend to rise and I do intend to talk on this issue. I intend to talk from several viewpoints on this issue because I think it is a very complex issue for each one of us to have to vote on. First of all, what do we mean by oxygenated fuel? Let's clarify what that means. It means that we take two carbon atoms, this is very difficult. Most chemists like to have the models in their hands. We take two carbons, one in a methyl group and the other end a tertiary butyl group. We create an ether by putting oxygen in between those two carbons. Why do we put it there? We put it there to enhance the burning effect to reduce carbon monoxide and to increase carbon dioxide. That is what it was for. When we talk about the development of this fuel, let us understand why we did it.

Now, the other side of the coin with this material. This is Title 40. Title 40 is the EPA regulations dealing with toxic substances. Guess what is listed on Page 8 of that title? Our good friend, there it sits. In 1990 the EPA listed this chemical as a toxic material, yet, our federal government supported the use of that substance. You talk about contradictory thinking. There is a major piece of contradictory thinking in existence. I would be totally remiss not to bring this back. I am not an environmentalist, but I am a scientist. I do understand the interactions that occur in this system. I do understand what happens with this compound. I do understand what formic acid does. Want to see something neat? Inject formic acid into gelatin and see the gelatin explode. That is why methanol is bad for you. It is one of the in products of metabolism in the human body. The book is *Silent Spring* by Rachel Carson. She woke us up. She woke us up to a compound called DDT and to several other things that truly were nasties. Why? Because they were used out of control. I believe here we have another

chemical that is being used out of control, even though our own federal agencies list it as a toxic substance.

Maybe we should demand that all the owners of cars in southern Maine have cars that are not more than three years old. That would work. That would help to decrease the amounts. Why? It has been mentioned by two previous Representatives. The new technologically that exists in today's engines is so much better than it even was just a few years ago. The sensing systems for oxygen. It is done all the time by that engine. It doesn't matter what altitude you are at. It doesn't matter where you are driving. Maybe we should use this chemical only at night because if you allow it into the atmosphere, it does react with substances, the NOXs, so called. It does in that mode produce what we call photo chemical smog or ozone.

The introduction of this material into our system is very, very complex. In the summertime and thank goodness we are into summertime. We have about 11 percent of that material in our fuel. It would be amazing how many people think that our entire fuel mix is that chemical. They neglect the fact that they are called gasoline. In the wintertime it is bad. We have to get a better burn. The darn temperatures, especially here in the north. We increase the burn by increasing the rate to about 15 percent of the chemical mix of our gasoline. If you are going to sniff, do it in the summer. It is only 4 percent difference.

The problem we have here is when are the substitutes going to arrive on the scene and allow us to be able to convert to a better system. I just want to throw my thinking at you for a moment here. Can you truly eliminate, without penalty, this compound? Those are critical words, without penalty? Do we have to maintain this until the replacement makes its appearance? It is for you to decide. We have two choices. One of them is not sometimes. One of them is not maybe. It is that relationship of understanding the molecular structure of this material and knowing that it produces compounds without question that are hazardous to our health. There is no question. Don't let anyone ever tell you there is a question that tertiary-butyl formate is good for you. Formaldehyde is good for you. We worked with formaldehyde. I have had my hands in formaldehyde to my elbows. I have had my hands in benzene. I have sucked up enough benzene. I know what I am not dying of, okay, tobacco smoke. The other list of materials, as a chemist and working in this business, you have been exposed to before they invented the word carcinogen, mutigen and all the other gens. It is very long. We have so much difference. Our choice here is not an easy choice. My choice sitting here is not an easy choice because that balance and who am I to believe? Will the federal government take that money and truly pull it away? All of it, a piece of it or are they faking or are they bluffing? Should we really say, we want this toxic substance out of our environment because it is a toxic substance that is being used every day by every single one of us here. Thank you very much.

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

ROLL CALL NO. 560

YEA - Barth, Belanger DJ, Belanger IG, Bodwell, Bragdon, Bruno, Buck, Bunker, Cameron, Campbell, Chartrand, Chick, Clukey, Dexter, Donnelly, Gerry, Gieringer, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Murphy, Nass, Ott, Paul, Pendleton, Pinkham WD, Plowman, Rines, Savage, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, Tripp, Vedral, Waterhouse, Wheeler EM, Wheeler GJ.

NAY - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bumps, Carleton, Chizmar, Cianchette, Clark, Colwell, Cowger, Cross, Davidson,

Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Madore, Mailhot, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, True, Tuttle, Underwood, Vigue, Volenik, Watson, Winglass, Winn, Winsor, Wright, Madam Speaker.

ABSENT - Bigl, Dutremble, Jones SL, Joyner, Usher.

Yes, 51; No, 95; Absent, 5; Excused, 0.

51 having voted in the affirmative and 95 voted in the negative, with 5 being absent, the motion to **RECEDE AND CONCUR FAILED**.

On motion of Representative ROWE of Portland, the House voted to **ADHERE**.

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

ORDERS

On motion of Representative MACK of Standish, the following Joint Resolution: (H.P. 1674) (Cosponsored by Senator ABROMSON of Cumberland and Representatives: DONNELLY of Presque Isle, GREEN of Monmouth, JOY of Crystal, POVICH of Ellsworth, SAXL of Portland, VEDRAL of Buxton, WINGLASS of Auburn, Senator: BENNETT of Oxford)

JOINT RESOLUTION CELEBRATING THE 50th ANNIVERSARY OF THE STATE OF ISRAEL

WHEREAS, on May 14, 1948, the people of Israel proclaimed the establishment of the sovereign and independent State of Israel; and

WHEREAS, the establishment of the modern State of Israel is linked to a continuous Jewish presence in the Land of Israel for over 3,000 years; and

WHEREAS, there has been an uninterrupted Jewish presence in the city of Jerusalem for over 3,000 years and a Jewish majority since the 1840's, and the city of Jerusalem has been the capital of Israel since 1950, and serves as the seat of Israel's Presidency, Parliament and Supreme Court; and

WHEREAS, throughout its history, Israel has been the most reliable and most trusted ally to the United States in the Middle East; and

WHEREAS, since its founding 50 years ago, Israel has built a modern western nation with the only democracy, free press and independent judiciary in the Middle East; and

WHEREAS, Israel has been attacked 3 times during its existence by neighbors committed to Israel's destruction and Israel faces ongoing security challenges including threats posed by well armed rogue regimes, such as Iran, Iraq and Syria; and

WHEREAS, the people of Israel, having endured the heavy social, economic and human costs of 5 major wars and countless terrorist attacks, remain strongly committed to the pursuit of a real peace; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, congratulate the people of Israel on the 50th Anniversary of the founding of the modern State of Israel, and reaffirm the historic, mutually beneficial and special relationship of friendship and cooperation that exists between the United States and Israel; and be it further

RESOLVED: That we recognize the historic significance of the 50th Anniversary of the reestablishment of the sovereign and independent modern State of Israel, we commend and congratulate the people and political leadership of Israel for their remarkable achievements in building a new state and a pluralistic democratic society in the Middle East in the face of terrorism, hostility and belligerence by many of her neighbors; and be it further

RESOLVED: That we recognize Jerusalem as the eternal, undivided capital of Israel and we extend our best wishes to the people of Israel for a peaceful, prosperous, successful and eternal future; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Ambassador of Israel to the United States, the United States Secretary of State and to each member of the Maine Congressional Delegation.

READ and ADOPTED.

Sent up for concurrence.

COMMUNICATIONS

The Following Communication: (S.C. 679)

**THE SENATE OF MAINE
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 30, 1998

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised that the Senate has Adhered to its previous action whereby Bill, "An Act Requiring Notification of Option to Request Judicial Review" (H.P. 1618) (L.D. 2245) Failed Enactment.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Resolve, Regarding Payments to Legislators During a Special Session of the 118th Legislature (EMERGENCY)

(H.P. 1673) (L.D. 2294)

Presented by Speaker MITCHELL of Vassalboro.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Representative DONNELLY of Presque Isle **OBJECTED** to giving the Resolve its **FIRST READING** without **REFERENCE** to any Committee pursuant to Joint Rule 308.

The Chair ordered a division on giving the Resolve its **FIRST READING** without **REFERENCE** to any Committee pursuant to Joint Rule 308.

Representative DONNELLY of Presque Isle **REQUESTED** a roll call on giving the Resolve its **FIRST READING** without **REFERENCE** to any Committee pursuant to Joint Rule 308.

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 giving the Resolve its First Reading

without Reference to any Committee pursuant to Joint Rule 308. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 561

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

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

ABSENT - Bigl, Dutremble, Fisher, Jones SL, Joyner, Lemke, Snowe-Mello, Winn.

Yes, 76; No, 67; Absent, 8; Excused, 0.

76 having voted in the affirmative and 67 voted in the negative, with 8 being absent, the Resolve was given its **FIRST READING** without **REFERENCE** to any Committee pursuant to Joint Rule 308.

Representative DONNELLY of Presque Isle **OBJECTED** to giving the Resolve its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading** pursuant to House Rule 516.

The same Representative **REQUESTED** a roll call on giving the Resolve its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading** pursuant to House Rule 516.

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 shall Second Reading occur now pursuant to House Rule 516. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 562

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

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey,

Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bigl, Dutremble, Gagnon, Jones SL, Joyner, Lemke, Snowe-Mello, Winn.

Yes, 76; No, 67; Absent, 8; Excused, 0.

76 having voted in the affirmative and 67 voted in the negative, with 8 being absent, the Resolve was given its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading** pursuant to House Rule 516.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. I guess I have a series of questions that I would like someone to answer on this bill. Can someone please tell me what the date of the public hearing was? How long ago that public hearing was advertised? Which committee voted on it? Madam Speaker, I request that the clerk read the Committee Report.

Representative DONNELLY of Presque Isle **REQUESTED** that the Clerk **READ** the Committee Report.

The Chair advised that there was no Committee Report.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. I guess nobody would know when the public hearing was, because there was none, which process was a thing that was talked about a few weeks ago when there was one of three signs on a gas tank. We heard great outrage about this bill not having a public hearing that would take the sign off the pump of a gas tank that already had the price on it. There was great outrage. There were numerous speakers on what an awful thing we were doing by not allowing the people to have a voice in how things were done. Here we are today, we are going to allow a bill to go through with no public hearing, no discussion, no advertisement that the bill is going to go out. It is basically violating all the rules that we have to abide by all the time just so we can flex a little muscle around here. This bill is interesting. It is an interesting documentation on how, when you have more votes than someone else, you can violate the process whenever you want. The rules that are so near and dear to people, day by day, because they inject fairness into this place, go out the window when the majority decides it is going to. This is only one of many bills that symbolize this gross abuse. I hope you will join me in not supporting this type of action. If the action on the ice storm victims had only been so quick, I would have been proud. We want to feather our own nest. You can move a lot quicker when it is to help people of the State of Maine. It is shameful. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Men and Women of the House. I, being a member of the State and Local Government Committee, was waiting for a time when we would be meeting on this bill. I have not, as of yet, been contacted for the public hearing date or the meeting date when we would get together and discuss this issue. I would urge you to vote with me, since I guess this is going to be my only opportunity to vote on this matter, Ought Not to Pass. Thank you.

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

Representative VEDRAL: Madam Speaker, Honorable Men and Women of the House. We all took an oath of office when we started our service in this chamber. We swore that we would uphold the Constitution of the United States of America and the

Constitution of this great State of Maine. I would like to read to you one sentence from the Constitution of the State of Maine regarding emergency bills. "An emergency bill shall include only such measures as are immediately necessary for the preservation of the public peace, health or safety." I ask you, keeping in mind that oath of honor that you took when you started your service in this chamber, does this bill before us meet that constitutional condition to preserve the peace and the safety and the health of the public? I would contend that it does not meet those constitutional conditions and I ask you to uphold your oath of office and vote against the pending motion.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I have been sitting here listening for a while and I haven't heard anybody quote a rule that we have supposedly violated. We have been voting on in accordance with our rules. We have done everything by the rules and if you don't like the rules, then you should offer an amendment to change them. This is getting a bit ridiculous. Who are we trying to impress? This issue here is if we get called back into Special Session, do you want to get paid? I don't. That is the way I will be voting. It is a very simple straightforward issue. Madam Speaker, when the vote is taken, I request the yeas and nays.

Representative THOMPSON of Naples **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

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 Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. In the days when the Legislature met once every two years, Special Sessions were provided for matters of emergency to be taken up. Since the days that we have begun meeting every year, Special Sessions have been allowed for to take up emergency measures or measures that need to be passed in order to take care of specific concerns of the people of the State of Maine. Since the 118th Legislature has begun, Special Sessions have become a way of avoiding consensus budget building. It is a matter of using the rules to get what you want, which is all within the rules. The people who set up Special Sessions put limitations on Special Sessions. Why they should be held and they also in order to lower the bar or raise the bar, I should say, will it cost money to the State of Maine to run a Special Session so that persons would give pause as to whether this should be a Special Session or not? Well, it is *deja vu* all over again. Here we are. We going to adjourn sine die and in 90 days the simple majority budget will take affect and we will have spent well over \$300 million dollars in a year where we typically spend \$35 to \$50 million on emergency measures brought to us by the executive and his department in order to meet emergency matters. We have spent 10 times that much money. We will adjourn sine die and the Executive, in collusion, will call us back into a very special session, as I like to call them, because they aren't Special Sessions. We are dealing with the business of today in the 118th Regular Session. We will deal with the business of today in the 118th Regular Session in the Second Special Session of the 118th Legislature. It is symbolic. It is very symbolic. If there is a price to be paid, then the price is going to be paid with the Legislative Council's budget. That is where the money is going to come from. This bill needs two-thirds to be Enacted, because it spends money or it doesn't spend money. It is just like a budget is supposed to work.

We have used it twice and it is successful and I know there are many of you who have never been here when there was a

budget that gained 101 or more votes. I have. It was brought together by the infamous speaker from Eagle Lake who managed to bring together a coalition for years and years and years without ever adjourning sine die and coming back into Special Session. It was pulled together with a unanimous vote from Appropriations by the Speaker from Fairfield working with an Independent Governor. We never adjourned sine die without a two-thirds majority vote. This is the first year and the second year that this has had to be done. If you are a freshman, you weren't here. It can be done. It has been done. The numbers were no further apart when the Speaker from Eagle Lake stood at the rostrum and yet, consensus was built. There is only one difference, because we still have an Independent Executive and we are still a minority. We still have to pass the budget. I submit that the only thing lacking is leadership to bring us to a two-thirds budget.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson. For what reason does the Representative rise?

Representative THOMPSON: Madam Speaker. It is against the House Rules to disparage any member of the House.

The SPEAKER: The Representative from Hampden will duly note the comments. The Representative may continue.

Representative PLOWMAN: Madam Speaker, I am sorry if you feel that I disparaged a member of the House. We do not have a two-thirds vote. Therefore, we will adjourn sine die and we will come back in to a Special Session with no penalties and no payment, as the banks like to say. This should be a payment for early withdrawal. You people have not finished the business of the 118th Legislature. Yet, we have passed an order to carry it over to a Special Session. You people have not finished the business before us and yet you provide for a Special Session. You people have not complied with the way that business is done, but you have won on the gamesmanship. That is absolutely correct. You have won on the gamesmanship. You have lost on the two years that committees have worked together and successfully put out report after report after report. You have lost out on the faith of the people of the State of Maine, the 1.2 million plus who you passed a budget for last night and that you were able to provide for every special interest group with a simple majority. Gamesmanship wins and it will win again and we will go out of this body doing in two years in a row what this body has not done. I can only wish for the 119th Legislature that it recovers the ability to work together. I urge you to vote against passage. Thank you.

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

Representative TAYLOR: Madam Speaker, Men and Women of the House. I would like to respond more directly to the good Representative from Naples, Representative Thompson. The question is not whether or not we want to get paid. The question is, do we need to adjourn and then call a Special Session? I submit that we should stay in Regular Session, even if we do adjourn and are called back. My check will go to the state and I am sure many others will. Let's not confuse the issue. We are not looking for more money, we are looking for an opportunity to finish the job that we came to do. Thank you.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. I was tempted to not speak and actually just considered the civics lesson we have had, the history lesson we have had and the scoldings that we have heard. I think some of the things that were spoken by previous speakers need a response. This is an unprecedented action. If you bear a little

history of some of us who were here when the state shutdown, much of what is imprinted on us in terms of our experience in this body has to do with those nights without a budget, those nights without 101 votes, those nights where gamesmanship was being played between the Chief Executive and the entire Legislature over issues that were not even related to a budget. Those of you who didn't live through that, as some of us who are in this body who will be leaving, need to remember what that was like as we watched our friends pass out in the chamber as we watched rescue squads come and get members of our staff who had been working round the clock. Those of us who witnessed that don't want to see us put at that impasse again, never ever. Because of that, within the guidelines of the rules, other protocols have been used in this session. I would remind you that both the biennial budget and the supplemental budget are, in large part, a reflection of unanimous committee reports. So when members of the minority suggest that they have been somehow disenfranchised, I suggest that that is not true.

Secondly, when it is suggested that negotiations have failed, I would remind you that negotiations need to begin before 72 hours that a vote needs to be taken. Timing was a factor in the way the last few days have shaped up in terms of moving us towards a two-thirds budget.

Thirdly, our presiding officer, any presiding officer, does not deliver a budget. If any of you believe that, you are sadly mistaken about how this institution is set up to work. When I first came here in the 115th, we had nothing but a unanimous budget document from Appropriations. Some of you don't know that we never amended the budget from the floor. Some of you know we never had Minority Reports on the budget. Some of you don't know that committees of jurisdictions were never involved in the process of putting a budget together. That tells me this, this institution and the way we do our business is constantly evolving. It has to be vibrant. Part of those changes that have occurred in the four terms that I have been here is because there was such dissatisfaction with those three things that I just described. The disaster of trying to get 101 budget when we couldn't get support from the Chief Executive and the minority party. The disaster of having only unanimous budgets that no one in this body could even read, much less understand and defend. The disaster of having committees not involved in preparing a budget. You see, all of those things have changed because we have watched how these issues evolved. We have responded to leadership and we have said that we need a different way of doing business.

If I had my way, I know I speak for all of leadership in this body, a two-thirds budget would have been our preference. Absent that, the issue before us is whether or not you are going to vote to accept \$100 a day pay if we have to come back and reconvene as a Special Session. That is the issue before us. Because a civics lesson, a history lesson and a fair amount of scolding took place before I stood, I diverted from that issue in order to remind you of how we got where we are. Those of us who have been through some of those experiences and contributed to the evolution of this institution as a more vibrant one, as a more participatory one, as one where committees at every level of the process participate in not only the budget, but policy. We know enough to take up an emergency measure and use the rules in order to make sure issues get cared for. We have done that routinely this session. We didn't hear the outrage then. You must be aware that the rules are there to provide fairness and predictability. They are also there for us to create a framework and parameter within which we work. They are designed to accommodate unusual circumstances. This is one.

In your disappointment that the process has not worked the way you would have liked, be vigilant in making sure that you don't contribute to deterioration of the level of debate that this

body will engage in when it has differences of opinion. Differences of opinion don't hurt us. None of us are afraid of those. A deterioration of the debate to a personal level is one you must all absolutely, with your whole heart, do everything you can to avoid. I fear we were tinkering on that brink today. I urge you not to ever let that happen. Allow this to be the vibrant evolving institution that it is. Understand what this Resolve is designed to do, you have seen it before. It is not a surprise. You saw it before. Passage will be absolutely the right thing for this body to do. I thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly. 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 DONNELLY: Madam Speaker, Men and Women of the House. I thank the good Majority Leader for offering to speak for me, but I choose to do so for myself. We had some revisionist history just a few minutes ago and it is interesting to witness it. Ten years ago, there was a crisis in the state. Part of it was created by overspending in the '80s, not reserving enough, poor fiscal management. We can blame the Governor that was there then. There were two of them. We can blame the Legislature that was here then. There were at least four or five of them. We can blame the minority party who was here or the majority party. In '91 there were only 54 members of the minority in the House. There were agreements that people entered into and words that were broken that deteriorated the believability of people's words. The deterioration that the good Majority Leader talks about has been occurring for a year and a half in this body. It was not to put up a shield to avoid that again. It was to overtly and grossly flex the muscles of the majority and say, there. It is to the point now in this deterioration where if we have a conversation about negotiations, I am not sure anybody is really being open or honest because only an hour or two after we talked, the majority budget process began on the floor. It was very disappointing for me. I did want to work in good earnest because I do believe that a good process and the appropriate way of dealing with the large state spending bill we deal with here every two years is trying to be most representative of the people we all represent.

To call it sunny or returned to this bright star of a majority budget and let's move on to sunshine and happiness and hugs and all the other stuff that go along with warm and fuzzy feelings isn't going to happen. This process, the slope, that people have stepped over the edge to slide down is one of confrontation and hard words and hard actions. It is picking a fight where no fight was asked for. To say this is to make us all happy and move forward and this is the way we ought to do it because 10 years ago, a Legislature, who very few members are here left and those members, as far as I know, didn't think that was great having a state shutdown. They did think some of the changes that happened in that Legislature were valuable and some of them stunk. This is a change in how things go out from here that will haunt this chamber and the members of the future of this chamber for years to come and the endorsement of it is nothing to be proud of, smile about or look as a bright feature for the future. Thank you.

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

ROLL CALL NO. 563

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon,

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

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

ABSENT - Bigl, Dutremble, Jones SL, Joyner, Wheeler GJ.

Yes, 78; No, 68; Absent, 5; Excused, 0.

78 having voted in the affirmative and 68 voted in the negative, with 5 being absent, the Resolve was **PASSED TO BE ENGROSSED** and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Chief Warrant Officer Four Stephen R. Buzzell, whose professionalism and timeliness saved the life of an injured civilian in Guatemala, Central America;

(HLS 1271)

Presented by Representative McALEVEY of Waterboro. Cosponsored by Senator HALL of Piscataquis, Representative KASPRZAK of Newport.

On **OBJECTION** of Representative McALEVEY of Waterboro, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative McALEVEY: Madam Speaker, Men and Women of the House. Chief Warrant Officer Stephen Buzzell first joined the US Army in 1966. He is currently assigned to 112th Medevac Unit of the Maine Army National Guard based in Bangor. Steve Buzzell's military service includes four campaigns in Vietnam flying medevac helicopters to rescue and save our combat wounded soldiers. He also received a purple heart for that effort. If I had it within my ability to give him a purple heart for today, he has been sitting patiently in the gallery for three hours and he certainly deserves it. Steve also served in Desert Storm in Germany. He is now currently advanced to the rank of Chief Instructor for Black Hawk pilots. We honor him today because of his actions during Operation Dirigo in Guatemala. For those of you who don't remember, that is when the Maine Army National Guard went to Guatemala and spent the year building bridges, hospitals and schools. At the time, a local woman had been beaten by a band of bandits. She was almost beaten to death. Chief Warrant Officer Buzzell volunteered to fly this individual to a hospital. The flight conditions were marginal. It was at night. There was a thunderstorm. He had to fly through a series of passes. He flew the complete flight on a volunteer

basis wearing night goggles because that was the only way that they could get there.

Chief Warrant Officer Buzzell typifies what is best about our men and women in the military. He is unassuming. He is quiet. He is a professional and he is brave. His actions make him a bona fied hero. I am honored to recognize him today and to have you do that too.

PASSED and sent up for concurrence.

Abby Povich, a senior at Ellsworth High School, who is the recipient of a 1998 Principal's Award by the Maine Principals' Association in recognition of her academic performance and her extracurricular activities. Abby has been active in drama, music and French. We extend our congratulations and best wishes to her on this occasion;

(SLS 479)

On **OBJECTION** of Representative POVICH of Ellsworth, was **REMOVED** from the Special Sentiment Calendar.

READ

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

Representative POVICH: Madam Speaker, Men and Women of the House. Abby Povich was born 18 years ago last week. At that time her uncle was traveling on a bicycle in Australia. Eighteen years later Abby is a proud recipient of a 1998 Principal's Award by the Maine Principals' Association in recognition of her academic performance and her extracurricular activities. She is active in drama, music and French, Abby Povich is also the recipient of the first annual 1998 Proud Uncle of the Year Award. Thank you very much.

PASSED in concurrence.

In Memory of:

Joseph B. Ezhaya, a 55-year old Waterville businessman known for his enthusiasm and commitment to uniting the communities of the Kennebec Valley. He was a member of the Kennebec Valley Chamber of Commerce, chair of the economic development committee for the Mid-Maine Chamber of Commerce, chair of the People of the Kennebec, co-chair of the Super Park Committee and the chair of the Haines Charity Trust Fund Advisory Committee. He was known as a great all-around guy, wonderful family man and a person who always reached for the stars. He was married for 19 years to the former Carol Jurdak with whom he had 2 children, Paul and Amy. He will be sadly missed by all those who knew him;

(HLS 1272)

Presented by Representative JABAR of Waterville. Cosponsored by Representative GAGNON of Waterville, Representative VIGUE of Winslow, Senator CAREY of Kennebec, Senator DAGGETT of Kennebec, Speaker MITCHELL of Vassalboro, Representative TESSIER of Fairfield.

On **OBJECTION** of Representative JABAR of Waterville, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative JABAR: Madam Speaker, Ladies and Gentlemen of the House. I rise this afternoon as a tribute to a life-long friend. Joe's sudden and tragic death caught his family, his friends and his community ill prepared to deal with the emotional trauma associated with the death. I was fortunate to share with Joe the experience of growing up in Waterville, attending St. Joseph parochial school where we learned

discipline and commitment from the nuns. We attended Waterville High School where we learned to love our community. Joe left Waterville and attended Boston College University, served a term in the Army, serving in Vietnam under the Jag Corp. and returned to Maine to attend the University of Maine School of Law. Following his training, Joe returned to his hometown of Waterville where he was committed to public service. He was also committed to the betterment of community and served in numerous capacities even beyond those listed in the program today. He was on the YMCA board where he assisted youth. He was involved in the opera house board. He was in numerous booster organizations. He was involved in scholarship programs for youth.

He was also always encouraging young students to aspire to higher goals, especially to attend his alma mater Boston College University. He even got my son to apply and attend Boston College. He even ran for the State Senate in 1973. At that time, he even talked me into running for my first political office, the District Attorney. Unfortunately, he lost and I won. I will always be grateful to Joe. Joe never gave up. He always had a great deal of optimism. He really was the ultimate optimist. Anybody who knew him saw that. It was contagious and infectious. I think he acquired a lot of this as his days as a football player where he always said that the lesson football taught me was when you get knocked down, you get back up. This was Joe.

Joe made some very important decisions in his life that turned out to be very successful. One was, he married Carol Jurdak. Joe was older in his 30s when he got married. He had two children at the time of his death. Paul, who is freshman in high school and my god daughter Amy who is a student at the junior high school in Waterville. Another important decision that he made that turned out to be successful is he changed careers. He changed from being a lawyer and became an investment broker. He became very successful at that and was running the office of AG Edwards in Waterville for a great many years.

The thing about Joe was that Joe's life caught up with his optimism. It is really unfortunate at the point in time where he was fulfilling the fruits of his labor with a successful family, successful involvement in his community any young children that he loved, he suffered this tragic death.

In closing, I only want to say this about Joe and looking at his death. I am saddened by his death, but I am inspired by his life. Thank you.

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

Representative GAGNON: Madam Speaker, Men and Women of the House. I join Representative Jabar in this sentiment. Joe was a true community leader. I think primarily he was a community cheerleader. He was the eternal optimist. He encouraged people to be active and involved. Even if there was an issue that he didn't particularly agree with, he was there encouraging all along, because he believed that activism was what was at the heart of the community. Joe was certainly at the heart of our community. He is going to be sorely missed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Madam Speaker, Men and Women of the House. I am proud that I had Joe as a personal friend. We spent a great deal of time working together on economic development initiatives in the central Maine area. In fact, each Thursday morning we would have breakfast together along with some other people interested in economic development. That tended to be the high point of my week. I enjoyed being with Joe. Central Maine misses him a great deal and so do I. Thank you.

ADOPTED and sent up for concurrence.

Sally T. Smith, of Kennebunk, a sharing, caring, honest, ethical and compassionate young woman. Ms. Smith was a sophomore at Kennebunk High School and was active in the band. She was a member of the Student Council and the Peer Helpers. She was also a member of Christ Church where she was active in the church youth group. Ms. Smith left a permanent mark on the Kennebunk community and she will be greatly missed by family, friends and the school;

(SLS 476)

On **OBJECTION** of Representative MURPHY of Kennebunk, was **REMOVED** from the Special Sentiment Calendar.

READ

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

Representative MURPHY: Madam Speaker, Men and Women of the House. As we just heard, this section of the calendar is reserved for Maine men and women who after a long lifetime have a long list of contributions and accomplishments. Just a year ago, it seems or actually just a few months ago, our community was in celebration. We had a young high school student, who after a long year long struggle with cancer, appeared that it was in remission. We all celebrated her life. She went to Boston for a bone marrow operation so she could have that marrow in case the cancer ever revisited her. She died during that operation. She is a tremendous story in courage. There is a group of sixth grade students that are sitting up in front from the school. They were much younger than she was, but as soon as they heard her name called or read during the sentiment, every one of their heads turned because she was a role model for everyone in Kennebunk. An estimated 1,500 local people attended her wake, of all ages, of all classes. The hockey team dedicated their season to her and I think Winslow found out that they were in the fight of their life because that hockey team that day was playing for Sally. Though only a high school student, only a youngster, she is a genuine Maine heroin to all of us. It was symbolic during the week that we mourned her death and celebrated her life, teachers, students and community members wore white turtles to celebrate her fondness. She will be very sadly missed.

ADOPTED in concurrence.

Recognizing:

Portland Adult Education, the oldest adult education program in Maine, with records dating back to 1849. They are one of 133 Adult Education programs supported by state and local funding. They offer English classes to over 400 students from 53 countries and have enrolled more than 1,000 adults in job skills courses this year. Portland Adult Education had an enrollment of 6,000 area adults this past academic year, with ages ranging from 17 to 82. We acknowledge the valuable work that they are doing and extend our congratulations and best wishes to them for continued success;

(HLS 1359)

Presented by Representative BRENNAN of Portland. Cosponsored by Senator RAND of Cumberland, Senator ABROMSON of Cumberland, Representative FARNSWORTH of Portland, Representative GIERINGER of Portland, Representative MITCHELL of Portland, Representative QUINT of Portland, Representative ROWE of Portland, Representative SAXL of Portland, Representative TOWNSEND of Portland.

On **OBJECTION** of Representative BRENNAN of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. I want to thank you for earlier today recognizing students and teachers from the Portland Adult Basic Education Program. We spend a lot of time in this chamber and in this body talking about the importance of education. Most of our discussion is on higher education and K-12 education. Really the unsung heroes of education are those who provide adult basic education. I just want to take the opportunity today, while we recognize the good work of people in Portland, to also extend my congratulations and recognition to adult education programs across the state because they truly provide educational opportunities for those people that otherwise would not have any opportunity. Thank you.

PASSED and sent up for concurrence.

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

SENATE PAPERS

The following Joint Resolution: (S.P. 872)

JOINT RESOLUTION RECOGNIZING MARILYN CANAVAN ON THE OCCASION OF HER RETIREMENT

WHEREAS, Marilyn Canavan, of Waterville, will retire on March 31, 1998, after more than 15 years of service to the people of Maine; and

WHEREAS, Marilyn Canavan has given the State the benefit of her wisdom, grace and unfailing courtesy throughout her years of service as Director of the Commission on Governmental Ethics and Election Practices, as a Library Associate in the Law and Legislative Reference Library and as a Journal Indexer for the Maine Senate; and

WHEREAS, Marilyn Canavan has also served as a guest speaker at various educational institutions, including Girls' State, Common Cause and the League of Women Voters; is a member of several professional organizations, including the Council on Governmental Ethics Laws, the North East Conference on Lobbying and the Public Campaign Advisory Board; has participated in numerous workshops; and has served on various boards and committees; and

WHEREAS, Marilyn Canavan served in each capacity with sincere dedication and commitment, always creating an atmosphere of accessibility to coworkers and the public and always striving to strengthen the confidence of the people of the State of Maine in the political process; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature now assembled in the Second Regular Session, recognize Marilyn Canavan and offer to her our sincerest gratitude for her service and extend to her best wishes on her retirement; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to Marilyn Canavan as a tangible token of our esteem.

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

READ and **ADOPTED** in concurrence.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill

"An Act to Change the State's Fiscal Year from July 1st to October 1st"

(S.P. 627) (L.D. 1829)

Signed:
Senators:

MICHAUD of Penobscot
BENNETT of Oxford

Representatives:

KERR of Old Orchard Beach
POULIN of Oakland
BERRY of Livermore
KNEELAND of Easton
MARVIN of Cape Elizabeth
WINSOR of Norway
OTT of York

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-492)** on same Bill.

Signed:
Senator:

CLEVELAND of Androscoggin

Representatives:

TOWNSEND of Portland
LEMAIRE of Lewiston

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT (S-492)**.

READ.

On motion of Representative KERR of Old Orchard Beach the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent up for concurrence.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-632)** on Bill "An Act to Authorize the Operation of Video Gaming Terminals by Certain Nonprofit Organizations"

(S.P. 624) (L.D. 1827)

Signed:
Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

CHIZMAR of Lisbon
BIGL of Bucksport
GAGNE of Buckfield
TUTTLE of Sanford
GAMACHE of Lewiston
TRUE of Fryeburg
BELANGER of Wallagrass
TESSIER of Fairfield
FISHER of Brewer

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

Signed:

Representative:
LABRECQUE of Gorham

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

READ.

Representative TUTTLE of Sanford moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-607)** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Timing of Elections Following the Submission of a Petition for People's Veto

(S.P. 857) (L.D. 2270)

Signed:
Senators:

NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives:

DUTREMBLE of Biddeford
BAGLEY of Machias
SANBORN of Alton
GIERINGER of Portland
BUMPS of China
FISK of Falmouth

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

Signed:
Senator:

LIBBY of York

Representatives:

AHEARNE of Madawaska
KASPRZAK of Newport
GERRY of Auburn

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 (S-607)**.

READ.

On motion of Representative SAXL of Portland, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 1513) (L.D. 2135) Bill "An Act to Restore Retirement Benefits for Law Enforcement and Correctional Personnel" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1118)**

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

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

ENACTORS

Emergency Measure

An Act Concerning Technical Changes to the Tax Laws

(S.P. 793) (L.D. 2120)

(C. "A" S-629)

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. I had not had an opportunity to read this

bill. I have a question just on if, in this bill, it addresses the changes in federal law in Roth IRAs so that Maine will not be in a disadvantage with our neighboring states?

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

Representative TRIPP: Madam Speaker, Men and Women of the House. It does address that and it ties it in with the federal.

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. 142 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.

Acts

An Act to Authorize School Administrative Units to Enter into Multi-year Agreements for Telecommunications Services

(S.P. 568) (L.D. 1725)

(C. "A" S-628)

An Act Providing for Additional Meetings in the Event of a Tie Vote at Town Meetings

(H.P. 1492) (L.D. 2091)

(H. "A" H-1072 to C. "A" H-988)

An Act to Implement the Recommendations of the Maine Commission on Outstanding Citizens

(H.P. 1620) (L.D. 2250)

(S. "A" S-635 to C. "A" H-1064)

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.

An Act to Open a Discount State Liquor Store in Calais and Conduct a Study Concerning the Opening of a Store in Fort Kent

(H.P. 277) (L.D. 341)

(S. "B" S-636 to C. "B" H-934)

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

On motion of Representative STEDMAN of Hartland, 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. 564

YEA - Ahearn, Bagley, Baker, Belanger DJ, Belanger IG, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Cameron, Campbell, Chartrand, Chizmar, Clark, Colwell, Cowger, Cross, Davidson, Dexter, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gooley, Green, Hatch, Jabar, Jones KW, Jones SA, Kane, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Madore, Mailhot, Mayo, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Plowman, 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, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Berry DP, Bodwell, Bragdon, Buck, Bumps, Carleton, Chick, Cianchette, Desmond, Fisk, Foster, Gerry, Gieringer, Honey, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, Meres, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, Vedral, Waterhouse, Winglass, Winsor.

ABSENT - Bigl, Clukey, Dutremble, Goodwin, Jones SL, Joyner, Kerr, Underwood, Usher, Wheeler EM.

Yes, 93; No, 48; Absent, 10; Excused, 0.

93 having voted in the affirmative and 48 voted in the negative, with 10 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

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

Expression of Legislative Sentiment recognizing the anniversary of the Greater Portland-Archangel Sister City Project (HLS 1328)

TABLED - March 30, 1997 (Till Later Today) by Representative FARNSWORTH of Portland.

PENDING - **PASSAGE**.

On motion of Representative FARNSWORTH of Portland, **TABLED** pending **PASSAGE** and specially assigned for Wednesday, April 1, 1998.

Representative CAMPBELL of Holden **OBJECTED** to sending all matters **FORTHWITH**.

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

ENACTORS

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and Changes to Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999

(H.P. 1397) (L.D. 1950)

(H. "E" H-1109 and H. "G" H-1111 to C. "A" H-1098)

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

Representative OTT: Madam Speaker, Men and Women of the House. I am rising to speak to the budget that we are about to pass. We are on a fast track here. There is no question about that. I do not think that this budget reflects a time honored tradition that we have with respect to the passing of the way we are going to spend the people's money. I recognize the comments that were made this morning on a previous measure. I think it subverts the process that we have traditionally honored

in this body. I don't think there is any opportunity for consensus building. I don't think there has been any opportunity to achieve a balance between the competing interests that all of us represent with our various constituencies. I think in our obligation to the people of this state as a whole. In my opinion, this budget provides just food to feed an insatiable appetite that has got this state on a track of closing in on a \$4 billion budget. We spent \$200 million more in this budget in the first year of the biennium. We are spending another \$300 million now. It is making it a total of \$500 million. If you count to \$250 million that we increased the budget for the previous biennium, we are now closing in on an \$750 million, almost three-quarters of a billion, in new spending. As I have just suggested, by the time the 119th comes in, we will probably be voting on whether or not to consider funding a \$4 billion package.

To me, that is too much. I don't think it is responsible for the people of this state. I don't think the process that we have been engaged in in the last 48 hours has been reflective of that democratic process for which I think we have an obligation to provide for all of our citizens. I would urge that you defeat the passage of this measure. Thank you.

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

Representative BARTH: Madam Speaker, Ladies and Gentlemen of the House. I have not had an opportunity to read the whole budget, but just one section that concerns me and concerns what I consider to be the break down of the committee process and committee input into the budget. I am referring to page 109, Section D4, 20-A MRSA 15653 Subsection 3, number 3, Legislature's contribution. In our committee deliberations we unanimously moved a bill or a part of a bill that was introduced by the good Representative from Portland, Representative Brennan to eliminate the 5 percent cap on the amount of funding that the commissioner could recommend to the Legislature or to the Governor for inclusion in the budget. We felt that that recommendation or that limit should not be there because it may be a necessary to raise it above that. The commissioner was unable to do that. We moved unanimously to eliminate that. If you look at that paragraph 3 on page, that has been changed so that the commissioner can only recommend flat funding. People will say, in the supplemental budget, the commissioner can increase it 5 or 6 percent or whatever. To many people it wouldn't seem like much of a thing to talk about.

What it is is another gimmick. It is written this way, so it eliminates a possible \$90 million structural gap in the budget for the next biennium. I thought we were trying to get rid of gimmicks. It seems like there are some who are already planning, possibly, to look forward to the next recession, which is coming down the pike, which will, again, put us right back to 1991 when we looked at a billion dollar shortfall because all of the anticipated growth in the budget created that kind of a structural gap. I think that shows me, for one, what is wrong with this budget and the budget process that we have gone through. I would urge that you would defeat the pending motion. Thank you.

Representative LABRECQUE of Gorham moved that the House **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended**.

Representative KONTOS of Windham **REQUESTED** a roll call on the motion to **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended**.

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

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

ROLL CALL NO. 565

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

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

ABSENT - Bodwell, Dutremble, Jones SA, Joyner, Tobin.

Yes, 69; No, 77; Absent, 5; Excused, 0.

69 having voted in the affirmative and 77 voted in the negative, with 5 being absent, the motion to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED as Amended FAILED**.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. One of the major differences between the Majority and Minority Reports of this budget is tax relief. I believe that the minority budget offers real tax relief. I have said it before and I will say it again. Any tax break that does not reduce the rates is not a tax break at all, but a government shell game. That is exactly what one component of the majority budget plan entails. On the surface, I think it has immense political appeal, but careful observers agree the exemption is poor tax policy. It fails to reduce the rate of taxation leaving the Legislature free to decide each year whether to fund the program or not. Need I remind you of the cuts to tree growth and GPA. This plan goes to many who need it the least. This plan fails to reduce the tax burden on towns and poor people. It raises burdens for renters, landlords and businesses. The majority has offered up \$76 million in tax relief while the minority plan proposes \$84 million in tax relief. Unfortunately the mechanisms the majority has chosen for tax relief includes the homestead exemption. To be clear, the homestead exemption will provide some residents with some amount of tax relief on their property tax bill. The problem, however, is that the homestead exemption still requires you to send your money to Augusta where every two years legislators decide how much they want to send back to you. I don't know how many of you have talked to your assessor lately, but they are not excited at all about the money coming in and going out and back and forth and them having to decide who has paid their taxes and hasn't paid their taxes and how we are going to decide on the mill rates and how we are going to decide who is entitled to what refund. What about those people who are in Florida part of the year. This is just fraught with problems.

If this sounds like a shell game to you, it is. You see, the key to tax relief is reduction in the rates, not another government program to recycle your money back to you. The majority philosophy on tax relief is pretty simple. We think you should keep your money to begin with while the majority budget would

rather the money keeps coming to Augusta so they can decide what to do with it for you. That is why the minority tax plan includes a reduction in income tax rates. It puts more money in your pocket on day one and you never have to send it to Augusta, much less worry about whether you will be getting it back or not. If you have any doubt about the future of the homestead exemption, think back to the tree growth program, school funding or even municipal revenue sharing. All of which have been raided whenever it is convenient. It is not the way I think we should use the taxpayers of the State of Maine's money and I doubt if you are being honest if you think it is the responsible thing to do either. I urge you to vote against the pending motion.

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

Representative TRIPP: Madam Speaker, Men and Women of the House. I need to clarify something that the Representative from Cape Elizabeth said. Our majority homestead exemption does not include a rebate. It is direct tax relief. The taxpayer never has to take it out of his pocket. The towns are reimbursed for that loss in taxes directly.

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

Representative WINSOR: Madam Speaker, Men and Women of the House. The plan that we are about to vote on, as you heard from the Representative from Cape Elizabeth and the Representative from York, in our opinion, does not meet the needs of the people of the State of Maine. When we started these negotiations or started working on this budget, my caucus took the position that we wanted to present a budget that avoided borrowing, shrank government payroll, promoted education, invested in public infrastructure, reduced taxes and eliminated gimmicks. To the credit of the majority party, I think that you met many of these goals. However, the reality is, I do not believe that you met them enough. For example, as the Representative from York, I think, said, the 117th enacted a budget that increased spending approximately \$200 million over the previous biennium. In the first year of this biennium we enacted a budget that raised spending approximately \$300 million. This supplemental emergency budget raises spending by approximately \$250 million. It doesn't take much of an imagination of we continue on that road to think about what is going to happen during the 119th.

Certainly, I think it startles you to think that we may be looking at a \$4 billion plus budget. This is just a little teeny state with 1.2 million people in it. These are General Fund expenditures. Remember that we spend a good deal of money in other areas, dedicated revenues, federal revenues and so on. One of the areas where I think that this growth in government is most easily seen is in the expansion of new positions. It is an area that my caucus, I think, tried to present some responsible alternatives. To have you pause for a second and think about this, the Chief Executive proposed and with the acquisition of the majority party, approximately 200 new positions in this budget. Many of these positions are necessary and I think good ones. My caucus felt seriously that we should offset growth in one area with reductions in another. We tried to proposed areas in which that could be done. We were unsuccessful. We had hoped to offset approximately 100 positions with the closing of some liquor stores in areas that many of us feel that the state should not be in business in. That wasn't seriously considered.

We considered things such as eliminating all jobs that had been unfilled for approximately six months and then enacted a responsible procedure for the establishing of temporary positions when necessary. That would have eliminated about 87 positions that we have on the books today. This new budget, I don't have

the total number of jobs that we have added over this biennium, but I think it is significant. I think it just points out very clearly, to me anyway, why our government continues to grow and grow in a way which I think is not very controllable. For those reasons, I am not going to support this budget and I would urge you to join me. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. To address a comment from a previous speaker, I agree with him. This is not a rebate. It is a municipal reimbursement. It certainly looks like a tree growth bill to me. If it walks like a duck, talks like a duck and acts like duck, it is a duck. We all remember what happened when money ran low, we didn't fund that program. This is the same problem we are going to run into. One of the reasons a program like this is as popular to people who like bigger governments and is popular to politicians is because you can come up here when the revenues take a dip because of the economy and not fund a program, which this is, then it is to make a tax rate reduction. Then, when something happens, we have to do the thing called raising taxes.

Ladies and gentlemen, I would put to you that this program, this is what this is, it is not a tax cut, it is a way to hide behind those hard decisions instead of making a rate reduction, which really puts money back into the pockets of the people and not create a new program and face the reality that you might have to raise taxes. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Last night we adopted House Amendment "G," with a filing number (H-1111) to the budget. In the fine print on page 8, we appropriated almost \$1 million to enable the State of Maine to send \$48 million back to the people of the State of Maine on their property taxes. Here I have a handout courtesy of one of the Representatives. I would like you to know how it affects my district. In my district for the million dollars that we will be expending to make this program work, which means hiring three new people and the friction costs, as we call them of processing all of these applications will mean to the average taxpayer in the Town of Dixmont, \$65. I want you to know, they say thank you. In Hampden it will mean a whopping \$124 and I want you to know they say thank you too. In Newburgh it will mean a whopping \$106. I dare say that they don't feel like they got their million dollars worth. This is what your tax shift plan will do. It spends the first million telling people that they don't have to spend \$65 in Dixmont. When I talk about a bang for a buck, this is not it. I urge you to vote against the pending motion. Thank you.

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

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. As most of you know, this is going to be my last hurrah here. I would have liked to have offered a friendly amendment to the budget, but I guess I am not going to be able to. It is a bill, in the form of a LD, that I have been chasing around through committee reports and through various amendments trying to nail it down. The original legislative document was, "An Act to Authorize a General Fund Bond Issue in the Amount of \$10 Million to Finance the Acquisition of Land for Conservation, Outdoor Recreation and Wildlife Habitat Protection and Farmland Preservation and to Access \$5 Million in Matching Contributions from Public and Private Resources." It is kind of amusing the way I have tried to chase that thing around hoping it would appear before us so that I can amend it. Finally,

late last night I went downstairs because we had adopted an amendment to the budget that appropriated \$3 million and gave it to Land's For Maine's Future. I don't know how many of you have followed the hearings or followed the recommendations of what we came to term LAPAC, Land Acquisition Priorities Advisory Committee. They held meetings all over the state and put together a final report and final recommendation for land acquisition. I attended at least one of those meetings and they were very informative and in northern Maine it wasn't very popular. Seeing as we are faced with setting aside 4.5 million acres of land for the national forest.

What my amendment would have done, and that is why I object to this portion of the budget, was to ensure to fully implement the recommendations of the Land Acquisition Priorities Advisory Committee. On Page 6 of the report it highlights the fact that the amount of public land ownership in southern and coastal Maine, where the majority Maine people live, is disproportionately low compared to the rest of the state. It is also the most vulnerable to development pressures that can preclude future conservation land acquisitions.

Also, only 13 percent of Maine' public land acreage is located in the southern third of the state where most of the state's population resides. Also, you have to add to that that there is an increased posting of private lands in southern and central Maine limiting recreation opportunities for Maine's outdoor enthusiasts in these areas. Opportunities to acquire affordable shore front lands suitable for public access are diminishing. What I would have liked to have done was just simply ensure that 80 percent of that money acquired would go to purchasing lands for public recreation in southern and coastal Maine whereby ensuring that the people, and you southern Mainers should love this, would have access to your coastal areas and when I come down to visit my mom in Cape Elizabeth, I can go to all sorts of public land. Unfortunately, I can't even offer that friendly amendment.

I just want to tell you and I know everyone is tired, you just think everyone is jumping up and stalling and maybe we are, but I have to say my peace. I want to assure you that sitting in my caucus, I didn't hear any talk about shutting down government, not once. Instead what I heard was we are still trying to negotiate. What I heard was, we are hopeful. We are working on something. I think we are going to have a two-thirds budget. I can't tell you how I would have loved to have gone home with a feeling of peace knowing that we had worked out a budget that we could all be proud of and all vote on and it would have been a two-thirds budget. It is beginning to feel a little bit like Russia where you can run for office, but there is only one party.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. The other thing I forgot to mention when I got up to speak, somebody else had mentioned, but I will put my word in. This budget spends too much money. The Homestead Exemption Act, like I said before, is not a tax rate reduction. When we do come back here and we fall short of revenues, it is a very easy thing not to fund the program as opposed to cutting spending. Nobody wants to raise taxes. The citizens in this state are overburdened now with taxes, but what it will prevent us from doing, I am afraid, when the 119th comes back, if we have a shortfall in revenue, rather than doing the thing we should be doing all along for the last four years, as far as I am concerned since I have been up here, is cutting our spending. We are spending way too much. The spending keeps growing and with this homestead exemption it is going to be way, way too easy for us to come here and not fund it as opposed to doing the thing we should be doing all along and cutting spending. Thank you.

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative **BARTH**: Madam Speaker, Ladies and Gentlemen of the House. You will forgive me. I won't guarantee you that this will be my last time I speak before this body. I can thank term limits for that because term limits at least will, if I am foolish enough to want to run again, term limits has decided for me. I am glad of that.

On page 113 of the budget, in Section D14, another gimmick. The Education Committee unanimously made our recommendation to Appropriations, which they dismissed. We recommended a 6 percent increase in GPA, plus an additional \$6 million for a hardship cushion. They gave us the 6 percent, but rolled into that was the additional \$3 million for the hardship cushion. What concerns me, the tragedy in that section, D14, the reduction by \$16, 660,478 of the base for GPA. That means the following year when, let's say another 6 percent is proposed, it will not be as much money as it should be if that \$16 million were left in the base. Then you would be taking 6 percent of the base, plus the \$16 million and that would give a larger increase. That just shows me that all these people who said education is the number one priority, when it comes time to fund it, they just won't do it. I urge that you defeat the pending motion.

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

Representative **MURPHY**: Madam Speaker, Men and Women of the House. As a teacher, I guess I like analogies. Even though I am going to talk about a ship, the bottom line is not the Titanic. Some of us are still optimistic that we will complete our mission here. There has been a tremendous amount of heavy lifting in the committees. I liken that to a crew aboard a ship. We have done the heavy lifting. We have established our priorities as committee members. We have moved that to the budget. Just at about the point that we are ready to enter the court, together 46 percent of us are sent down to third class storage and we are not going to take the ship into port. I really feel that all that is left on working a two-thirds budget is the tying of the ribbon. I really was optimistic yesterday, last evening, Friday, last week, last month and January that this session was going to be much different than the first session. We heard in the first session some fleeting reference to someone's going to act possibly at some point of being an obstructionist. My question now is, that is behind us. Where is the obstruction? Where is the conspiracy? Where are the statements in public or private that a two-thirds was going to be denied? Some of us really want to come up out of the hole, out of third class, through the gates and be aboard this ship as it comes into port and to give it that two-thirds.

I think from the first week when we did a supplemental budget, I clearly laid out what I hoped were going to be the goals of this Maine Legislature. We addressed getting rid of the gimmicks, paying the bills and the destruction that has been doing because of the underfunding of education on the local levels. The lack of opportunity of young people being able to go to college. A passion that the Speaker and I have always shared and shared to this date. We found out later that there is more than \$650 million building crisis within this state. I visited the Education Committee, the Appropriations Committee and people worked to make sure that that funding was in there. We see it with the GPA. We see it, not enough money, but we see \$20 million toward that new renovation account. I hope a

commitment to those that return that part of that reform or that report talks about a major bond proposal next year, not this year.

As I go through that and I see the money for Alzheimers, I see the low income drugs, the drugs for the elderly, I see a budget that there are many things within that that I like. We would gladly work together to create a two-thirds budget. I see something that I don't like and I think party pride can be very dangerous. It is traditional and I think if we went back 20 or 30 years ago, we would see that in the opening days of the session both parties spar, they try to posture, they try to lay out what is going to be their position. We laid out a reduction from 6 percent to 5 percent sales tax. We lost. It wasn't admitted. You laid out a party posture on the homestead. I think Senator Mills, even though I don't usually agree with him, did a real service to this Maine Legislature of laying out the flaws in what is wrong with this homestead act. Many people stepped back, very thoughtfully. I was going to support the homestead act. He laid out the flaws and since then we have seen additional flaws develop. Party pride can be very destructive. We are talking about \$47 million connected with that homestead that no one in this body, no matter the rhetoric they may pronounce can guarantee that one individual property taxpayer in this state is going to get relief. You cannot guarantee that. We are throwing \$47 million based upon saying we have done something for property tax relief.

If you are looking for an out, I will give you the out. In the 1980s I was a cosponsor with a then Republican Representative from Yarmouth, Representative Pat Jackson, for the first homestead bill that was ever put into this Legislature. It was killed on a party line vote. If you are looking for an opportunity to walk away from the homestead, put into your mind it is a Republican proposal and then walk away from it and then we can do something meaningful. We have heard very clearly the burden that you are going to create on the local assessors. Almost \$1 million of overcollection money is going to go for administrative costs. As we have looked at the spending priorities that we have tried to do and what the Appropriations Committee has done to good proposals and to make them fit and they have reduced them, aren't there better places that that million dollars can go, rather than putting them jumping through the hoops on the local level and then through because it is a mandate, then we are going to reimburse them.

We lost on the sales tax. We didn't have an opportunity to bring the snack tax to you. I know there are people on the other side of the aisle that want to vote for that snack tax. It will have a positive impact, but it is also a symbol. It is one of the gimmicks that we haven't addressed. I think it is one of those symbols that we could take a very positive act on. We have looked at a super charged circuit breaker. Filling out the form qualifies you. You get the property tax relief, not money going to a municipal board or a city council, it is going to do a flim flam game with the valuations and those people are never going to see the money even though there will be maybe a stamp on the bill saying their bill was reduced by a certain percentage. You are never going to get to vote on a super charged circuit breaker. That was always the bill identified with your party. One of the criticisms was that it didn't help middle class, lower middle class. We have gone and redesigned that proposal so it will reach farther with property tax relief. Lower middle income people are having the same problems paying their property tax bill. I really think the rank and file, within this Legislature, has done the heavy lifting. I really wish that leadership, all leadership, could have profited by our examples and also done the heavy lifting to achieve a two-thirds budget.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I know it has been the preface to his remarks that the good Representative from Kennebunkport mentioned the Titanic. Well, ladies and gentlemen, this isn't the Titanic voyage or anything close to it. I remember that the first words I spoke on the House were in March 1991 addressing a budget, one of many at that time, that cruise was very much like the Titanic for those of you who can remember it. I think we voted something like six budgets counting supplemental during that period. We took on a lot of water and we had to do a lot of secure the bulk heads including raising taxes, which was very unpalatable and certainly was not enjoyable to this particular Representative or the others involved. Here we are in 1998 and it is something so real about the situation. We are no longer debating where we have to inflict pain and where we have to make cuts, but where we will do tax relief. I think one of the things we have to keep in mind is the debate is all around the periphery of one central fact looming just as big as the Titanic, but in a different way. That is that we are voting tax relief for the first time in a significant way in the State of Maine in many years. As the good Representative from Yarmouth quoted earlier, we should consider this quote a delightful situation. This is not a cause for commiseration, whether or not we got this or that form of tax relief, but ultimately it is a source of celebration that we are beginning tax relief for the State of Maine. I am one of those who believe that this is the beginning and in future Legislatures we will continue to cut taxes, but this is the beginning. We are beginning to put money into the pockets of the people of the State of Maine instead of the reverse.

I think I would be derelict if I did not address the issue of process. I think I voted on something like 14 budgets since I have been in here. I have voted for practically all of them, but as you know, I voted against one. My concern there was with process. Ladies and gentlemen, the situation is not the same at all today. We are only a few days away from statutory adjournment. The committees have voted out all of their bills. We only have a few more bills to work on. To me, the process is working. This ship is moving and this ship is moving in the right direction.

I guess the final thing I would like to say is this does not have to be a majority budget. I think all of us, Republicans and Democrats, can vote with a good conscience and go out to the public in supporting this budget as a beginning for tax relief for the State of Maine. I urge all of you because this is really not a partisan issue when you get to tax relief to vote for it. The people of the State of Maine will be happy and I think you will be happy and happy days may not be here again, but they soon will be. Thank you very much.

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

Representative LINDAHL: Madam Speaker, Men and Women of the House. I believe the good Representative from Westbrook is correct. I kind of liked his analogy about the Titanic. I think this budget is a Titanic and there is an iceberg out there somewhere. It is called a recession. There is going to be a down turn in the economy and what are we going to do then about funding these budgets. This homestead property tax exemption is going to be another line item on future budgets that competes with general purpose aid for education. If you itemize deductions, a portion of this that you get back is going to go to the federal government, as I see it. One million dollars of the money that should be going back to the taxpayers of the State of Maine will be going to fund new positions to administer this program. I would really like to see the snack tax gone and further reduction in income tax rates as true tax reduction for the residents of the state. I would like to see the Cops in Court

Program funded. If you would like to see the snack tax gone, the Cops in Court funded, why don't you vote against this budget and get working on a real two-thirds meaningful tax relief budget. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Men and Women of the House. Could anyone please itemize for me the bonding issues that are in the majority budget?

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

Representative KERR: Madam Speaker, Men and Women of the House. In this budget, we are appropriating \$3 million for Lands for Maine's Future and \$2 million for Maine Public Broadcasting.

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

Representative KERR: Madam Speaker, Men and Women of the House. I would first like to thank everybody that participated in putting together this budget. When I say everyone, I mean both members of the aisles. I also want to thank the Majority and Minority Leaders and also the Speaker of the House. From what I have heard here, there is plenty of time to negotiate. That time has come and gone. I think, if nothing else, we have learned from this experience. I think that we should address what is in this budget. There is a lot of good in this budget. I think it truly reflects the members of this House.

I would like to begin by starting with the tax package. I think, collectively, we can all be proud that there is tax relief. The parameters that the administration put out to us was very clear to all of us. There is \$76.2 million in tax relief. Develop a plan. The Taxation Committee worked very hard. They came out with a budget. The homestead was part of that plan, along with the income tax exemption increase. It wasn't a plan that I was over enthusiastic about, but that vote was taken in this chamber and in the other chamber. It was an overwhelming vote. That plan was then amended on the floor of this House last night to be put into the budget. That is what happened.

We talked about education. Every single one of us puts in our campaign literature about education. We addressed education in this budget. As we all know, we collectively agreed to fund general purpose aid to education an additional 3 percent. At that 3 percent, which in turn is a 6 percent back to the municipalities, was a good thing. What we also had to do was not to exacerbate the structural gap. That is why the language was upped so that the additional 3 percent increase, we wanted to prepare municipalities that that may only be one time money based on past experiences. Because there was a surplus, we could do more now in today. We didn't want to give municipalities false hope. So often when we talk about the structural gap, because of a language that has always been in the budget, that said up to 5 percent would be for GPA, that is how they determined the structural gap. It was an artificial determination. We discussed this issue in the Appropriations Committee room and we said we haven't funded up to 5 percent. What it does is it exacerbates the structural gap for no reason. Let's take it out. Nothing will prevent the commissioner or any member of this Legislature, given existing resources, to fund more than 5 percent.

In this document we also addressed scholarship programs. As we all know, it is very difficult for families out there to get their

children onto higher education. This budget helps assist in doing that. School construction, I know the Representative from Kennebunk was adamant that we must begin to address school construction and renovations. It is not as much as I know he and I wanted, but it is a beginning. It is \$20 million. I think we collectively agree to that.

We talked about paying our bills. During those tough times in 1990 and 1991 we did some things that we really didn't want to do, but we did them because we could not make the tough choices. They were all tough. Back in 1991 we pushed off the June payment to general purpose aid to education to July. Many times we booked that as a receivable. Because of the surplus, many of us on both sides of the aisle felt that we should address this issue. We have in this budget to the tune of about \$39 million. Also in 1991, state employee wages, during that shutdown, there were two days that state employees were not paid. We addressed that issue in this budget. Also during those tough times, those of us who were there, we learned something. We cannot continue to operate out of a checking account. We must begin to put money aside. We started that process four years ago when there was less than \$5 million in the Rainy Day Fund. There was less than \$5 million in the Rainy Day Fund just four years ago. Today, there is in excess of \$65 million in the Rainy Day Fund. In case of those downturns, which we know are inevitable, we are going to be prepared for those, at least better prepared than what we have been in the past. I think that we all have learned from that.

We did make some substantial capital investments with these so-called one time money. I know that I have heard numbers thrown around here today. Most of them are pretty accurate. We began this session with about \$283 million. As we began, we developed the tax plan. I am going to use for round numbers about \$77 million. The difference then became about \$205 million and what we were going to do with it. One time revenues have taken up about \$175 million worth. The remaining is what we refer to as the supplemental budget. Some of those capital investments that we have made are items that every single one of us knows needed to be made. I mentioned one dealing with education, school renovations at \$20 million, the Maine Youth Center, the Criminal Justice Academy and highway improvements. Those are just some of those items that we all felt were important.

There is a piece of the puzzle that has been left out that I think that we must begin to address and we have. That is dealing with the most vulnerable people in this state. In this budget we authorize a 5 percent increase for the temporary assistance for the most needy families in this state. I think that is a good thing to go home and feel good about. We implemented the recommendations of the inner agency task force for the homeless to create housing opportunities. One that I think was unanimous in the Appropriations Committee and the Human Services Committee. Dealing with our elderly, they have worked very hard all their lives and paid taxes and now can barely afford their medication. We began in a small way, and I say a small way because I feel it is, but I think it is just the beginning of something good to happen. In this budget we appropriated \$2 million to expand the Elderly Low Cost Drug Program. Hopefully, for our elderly, they will begin now to take their medication instead of making those tough choices, to pay their rent or eat their food. We all know those tough choices have been made out there. They are your and my constituents.

We also provide a supplemental appropriation for adult day care for Alzheimer and respite care. It also is for the consumers. The direct home based care program where we look at 35 disabled individuals. We did that because if these individuals are institutionalized, it is going to cost us more. For the purpose

of these "new programs" was to keep people from becoming institutionalized we know from past experience it is much more expensive to institutionalize people. We began this process.

We also in this document addressed the probation and parole. New positions aren't all bad. From the debate, it sounds like any new position is a bad position. With the problems that we have out there, we had no choice but to begin putting back probation officers and hiring assistant district attorneys. Those are good things. I am glad that we did collectively address these issues. There are some LDs that are in this document dealing with retired teachers. We talked about creating jobs in this state. We are addressing the R & D, research and development, so that we can create jobs in this state. Often too much time is taken in creating those jobs, but not having the manpower to fill those jobs. In this budget, we began to address the filling of those jobs by funding Jobs for Maine's Graduates, Career Advantage and the Apprenticeship Program.

For this legislator from the Town of Old Orchard Beach, I think this is a good document. It truly reflects most of the needs, but not all of the needs of Maine people. Instead of walking out of here criticizing our document, we should all be supporting our document because it reflects us as individuals, not of party. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. My good friend from Old Orchard used repeatedly the word process. It is a mean political tradition in this state that includes consensus. It was a hallmark of Joe Brennan and I served here when he was here, of George Mitchell, Bill Cohen and Olympia Snowe. I think deep in his heart when he leaves the State House I think the Representative from Old Orchard knows deep down that a two-thirds budget was achievable. Being a commuter, you have plenty of opportunities to mull things over on the way home. Last night our Minority Leader had said that sometimes things come all the way around. When you unleash the genie out of the box, you are never quite sure who it is going to bite next. Consensus means you go to the middle. You go to the center of two political parties and that is where the main people are. Our good leader last night had said that when you go to a majority budget, as yours is, that you have an element within your party that sometimes is shutout of that center of compromise, the left or the more liberal wing. If we establish now that in the future that all budgets will be majority budgets and there is a Republican majority in the Legislature, then one would subscribe to the philosophy that a majority budget will probably come more from the right than the center. I have some very good conservative friends over here that are smiling now. When you unleash the genie and you add your special programs and you have your increased staff counts, future majority budgets could put that at risk because last year and this year your proposal rejected consensus and went with the majority budget. It may come around and bite you in the future.

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

Representative OTT: Madam Speaker, Men and Women of the House. Representative Lemke speaks of the process and how we should be embracing this process this afternoon. We should be joyously celebrating the opportunity to experience a first in most of the tenure of the Representatives in this body. That is voting on a package that includes tax relief. Representative Kerr speaks of the gimmicks that we have corrected or the programs that have been addressed, the retired teachers, the jobs, the elderly and so on. He also speaks of the fact that we are cheating through tax relief for our citizens. This

is an honorable process that is taking place. I think the majority budget does the same. It addresses the needs, the essential needs and the necessary programs that I think is a basic function of government and should be addressed in a responsible manner in such a fashion as not burdening the future generations and the future legislators that will sit in these seats. It is a process, however, that it is flawed. With the presentation of the majority budget and the manner it has been done in these last couple of days has set the precedent for short term advantages at the sacrifice of long-term objectives. If we were really committed, if we were really willing to work together to plan together for the future, we would have allowed each party to have a stake in the negotiations for sound, long-term and lasting solutions. The majority budget, the way it is tracked in this body does not do so. It does not allow for this to happen. I think we set a dangerous precedent by passing this budget today. Thank you.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. I have been listening for a long time to the talk about process. The Representative from Kennebec highlighted the fact that good process means coming to the middle. It means finding consensus. I would like to say that our committee, the Health and Human Services Committee did that on numerous occasions. We had one of the highest percentages of unanimous reports. We compromised. We worked together and I will say that the Minority Party was very well represented by the members on that committee. I am wondering if we are talking about honoring the process and honoring consensus and honoring the middle, why it is that the Minority Report ignored all of our unanimous reports. The Majority Report funded social security for immigrants, low-cost drugs for the elderly, homeless shelters, subsidies and those were all unanimous requests from my committee and they were all unanimously ignored by the minority.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

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

The SPEAKER: The Representative may pose her question.

Representative SAVAGE: Madam Speaker, Men and Women of the House. I didn't see anything in the Majority Budget for what I call the Cops in Court. Is this correct that it is not in the budget? If it is not, I assume it is on the table and how much is there left after the majority budget is passed on the table to cover all of those items.

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

Representative KERR: Madam Speaker, Men and Women of the House. In the majority budget about \$1.5 million or there about left for the table. As you know on the other body's calendar there is probably 85 or so bills to be sent to the Appropriations Table. Some of those items generate revenue and some of them cost revenue. I know of one item that is down there that generates almost \$1 million. I guess the final conclusion, the LD that you are making reference to is on the Appropriations Table. I think that that issue, as I said earlier, the other 85 dealing on the General Fund side need to be addressed. Also, there is four bills dealing with the Highway Fund. For your particular bill, if we only did that bill, I am sure there would be ample resources available.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Men and Women of the House. Could someone explain to me the process whereby the University of Maine Fort Kent Forestry and Environmental Facility got in the budget?

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

Representative KERR: Madam Speaker, Men and Women of the House. The University of Fort Kent, the page camp as you probably already know, prior to being finished, the day before it was finished, it was burnt down. That was an intricate part of that university for environmental purposes. The facility was not insured. In talking with the president of the university, Charlie Lyons, we are taking money out of the Risk Management Pool and also out of the budget to erect this facility in a different location. The Department of Public Parks met with the University of Fort Kent, the administration, and felt that it was important that they build this facility, not 500 feet as of current law outside that corridor, but 2,000 feet. It is also about a mile from a dislocated road. That process began and was voted on on the Appropriations Committee to deal with this issue. Some of us felt that we should address it. The majority of us felt it and that is why it is in the budget. It means a lot to the University of Fort Kent because it is only one of two schools that serves to address some of the environmental issues in the state.

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

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

The SPEAKER: The Representative may pose his question.

Representative BARTH: Madam Speaker, Men and Women of the House. I have gone through the budget and I come up with close to 200 new positions. I could be wrong. Could anyone tell me exactly how many new positions are in this budget that is proposed?

The SPEAKER: The Representative from Bethel, Representative Barth 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. A summary that I have indicates that there are in the Majority Report of the budget 191.5 new positions. However, it is important to realize that some of those positions are new to the General Fund only. These are not new hires to the State of Maine. They are people who were previously paid through dedicated funds in the Department of Environmental Protection. Other positions that come to mind are the probation and parole, the assistant district attorneys, there is a deputy commissioner to the Department of Marine Resources. A position of which we felt was a very important position. I was heavily lobbied on it from a home very important to our fisheries resource. Those are the ones that spring to mind off the top of my head. As you know, we also have an outlandish situation at the Maine Youth Center. Some of the positions deal with corrections as well. Thank you.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. We have heard a lot about process and I don't want to spend any more time this afternoon talking about process. What I do want to do is talk to you about the people that I was sent here to represent. I am going to describe briefly

three of them to you. These are three people that I have come to know since I came here to Augusta. The first is a gentleman who had a good paying job for a local contracting firm here in Augusta. He left his job because he wanted to be sure that there was someone at home to take care of his very, very young children. One of whom needed to get to head start and back every single day. Head start wouldn't provide the transportation so this gentleman made the decision to leave his job, his spouse has employment and he was going to care for his children and take his child back and forth to school.

The second is an elderly couple. This elderly couple moved here to Maine from Massachusetts. These folks were trying to escape the burden of taxation in the State of Massachusetts, one of the highest taxed states in New England. They called me up about two months ago and then they followed it up with a letter. In that letter they wrote that they were going to leave Maine because they couldn't suffer under the burden of taxation any longer. They were going to go back to Massachusetts and they threatened me by saying that they weren't even going to come back in the summer to visit.

Finally, I have a 27 year old female constituent who needs a serious medical operation or surgery. Her health insurance won't cover the operation. She is forced to decide now between food for her children and the medical surgery which she needs so desperately.

You know, these are examples of folks back home who don't understand, know about or I submit to you even care about the complexities of this budget process. They do read the newspaper and they do watch the evening news and they know that they are faced with a \$300 million revenue surplus. They expect to receive relief of the burdens of heavy state taxation. Before me, here on my desk, I have a 176 page document that details new spending. Some of which I agree with and support wholeheartedly. What my three friends who I described earlier and the other 8,000 folks I was sent here to represent expect is real tax relief.

This budget doesn't ensure that tax relief. I have expressed my objections over the last several weeks to many of you in this chamber. I have expressed them loud and clear to my friends at Maine Municipal who have worked so hard on this proposal. I would submit to you that with \$300 million we can do better. There is still time. Please vote against the Enactment. Let's take the opportunity to help the constituents that I have described to you and who I know replicate themselves all across this state in your own districts. Let's take the time to create something that is meaningful and will provide the relief and provide for the spending which is in the Majority and Minority Reports. Thank you.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I have listened to a lot of debate and a lot of very sound wisdom that has come over this debate this afternoon, but nowhere have I heard addressed the fact that there is no mandate and there is no right for this Legislature to spend the \$305 million. It was not a surplus, but an over collection of taxes. We hear rhetoric about giving tax relief. It is interesting that we have to over collect \$305 million in order to give back \$76 million of tax "relief." Will this proposal that is before the body right now change our position from being the eighth highest taxed state in the nation. Is it going to do anything to take us away from our seventh position of the nation as far as being rated for property tax. I don't think it is going to. Ladies and gentlemen, I have heard lots of people express good feelings about the projects and the programs that they are spending money for. Ladies and gentlemen, we are spending

money that belongs to the people of the State of Maine. What makes it right for us to tell them how they are going to spend their money? I would be willing to wager that if they had the decision to spend that money themselves or to send it down here so a group of 151 people in this body and 35 in the other could decide how it is going to be spent. I am sure that they would want that decision for themselves. Just think of the \$305 million that is not there to be put into businesses. It is not there to be put into repairing a car so that a person can make sure that they can get to work. All of those things that really are about living. Ladies and gentlemen, I take no pride in this document. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. I, too, have sat here and listened for quite a long period of time. I haven't heard a thing here today that I haven't heard during the last budget, the budget before that and the budget before that. I heard the same things. When you put a majority budget together, there are some people that are for it and there are some people against it for whatever reason. That happens whether it happens in the open process that we went through today or the process that has been done in the late nights at the other end of hall downstairs. You can either go with an open process like we have here where the committees of jurisdiction have an input and we have the majority of that in all of these documents and we are here complaining. The people in Maine are going to be rewarded by the budget that we put out here today. Instead, we hear the same old stuff. We spent \$200 million in this and \$300 million and \$500 million in the last biennium. Ladies and gentlemen, look at the documents on your table. The difference between the Majority and Minority Report is peanuts, but somebody has the nerve to stand up here and say we are spending and spending. We don't have the right to do this. The difference between these two reports is negligible. What are we sitting here posturing about? We are frustrated because I have a tax plan and you have tax plan and we don't agree. Let's move on and let's vote for this budget and let's just accept it. We are going to do good things. We are going to send taxes back to the people and one of the plans has to be adopted. Thank you.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. The analogies that started earlier on the Titanic were interesting to me, not only because it was apropos, but also because it was a darn good movie. My wife forced me to go see it this weekend. I never thought I would be able to sit still for three hours and watch a movie. The appropriate part to saying why it was interesting and how it does reflect the direction that this Legislature is going in is not because the building is roughly the same size as that boat, not because there is some flourishing romance between unlikely lovers, that I know of, but more because, to the point, when I arrived here with Representative Kerr of Old Orchard Beach and several other people in 1991. We were coming after a boom economy. We were coming after the '80s where money came in buckets after buckets and we found a lot of very worthy things to fund. It is hard to knock that any of the great spending projects that were in this budget or previous budgets or previous ones don't really have a need. There is a need there. In some cases I would say more of a need than others.

The appropriate part of the analogy is here we are doing what they did probably before they launched the Titanic. If you remember in the boat in that movie and if you haven't seen it, I am going to ruin it for you, as they were designing the boat they

came up with these big lifeboats that were brand new and they were light weight and they could house 70 Irishmen off the coast of Belfast. They only put half as many as they needed because they were afraid it would crowd the decks and people wouldn't be as comfortable. Their needs of needing to walk in the daylight and receive the fresh sun in their face and the smell of salt air in their nose would be inhibited. It would take away from the good feeling that they would have of walking on the deck of the most majestic and largest luxurious ship that ever sailed. One little problem with the feel good part of it was when they did eventually hit that iceberg, it was the poorest people in the ship that were the hardest hit. All those in first class or a lot of them were boarded to the music of the band playing, triumphant sounding music while the people in storage were locked under until everyone else had an opportunity to go away.

That is appropriate, not that we are locking poor people in the basement here, but when the ship of state runs aground because we hit that iceberg that may be a downturn in the economy, we will have done what they did in the '80s of continually spending every dollar that comes in or nearly every dollar. What happens then is the pliability or flexibility of the state to make course corrections, like the Titanic, our rudder will be too small. We will see that iceberg and we are heading toward it and not be able to change course quick enough to avoid a devastating blow.

When I got here in 1991 we had a billion dollar shortfall. That is enormous when you had a budget that was just under \$3 billion. We are talking already, for the next Legislature, taking the GPA portion out, which I will let you know a little Appropriations secret when we talk about the structural gap in the next Legislature, most of it is usually general purpose aid for education and that is pliable. If we think it ought to be at 5 percent or 6 percent or 1 percent, that is something the Legislature has great discretion on. The number we are talking about here that the 119th Legislature will have to deal with is already over \$250 million before the final accounting is done on the Appropriations Table. When you take that easy \$100 million out of that picture, you are talking about some serious hurt that needs to occur. I will admit right here that that is only if the economy slows down. If our economy continues to generate, you may have a surplus next time. If it doesn't, it may be a lot bigger than \$250 million.

The lifesaver that we are leaving ourselves for the next Legislature, out of the \$500 to \$750 million, give or take on how you count them, out of that big pool of money, which was nearly one-third of our overall state budget previous, the lifesaver or the lifeboat that will be left here for you to deal with will be somewhere in the vicinity of \$65 million. Fifty million of that was done in the previous Legislature. You can wrap your arms around it and claim victory for \$65 million being in there, but only \$15 million more is being contributed to that fund. My fear and my hope wrapped in one is that my hope is that my fear won't be realized and you won't have to deal with this in the next Legislature or whomever is sitting in our seats. My fear is that if there is a blip in the economy, if there is a change, not only will the tax relief in here not come to fruition, part of it may, but you will be looking at where you should increase taxes, because you spent the cover dry. I hope the binoculars are ready and you see the iceberg far in a distance, but it seems to me that the rudder on this ship is too small to turn. I hope you will vote against this budget and avoid the iceberg.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. As I go through the budget again, looking at the position factor of what was just explained to us, I note that

while there is an increase of 191 positions, there is a decrease of 44.5 positions from the Bangor Mental Health Institution, while there is an increase in the positions at the Augusta Mental Health Institution. As a member of the Bangor area delegation who objected greatly to the administration's plan to shutting down the mental health facility, I see that public policy has been set for the closing of the Bangor Mental Health Institute. Forty-four or forty-five positions tells me that in this budget we have determined which mental hospital will provide the mental health services for the people of the State of Maine and which won't. This is not something that I, as a member of the Bangor area delegation, would have supported. I am very concerned to see that it is done here. This 45 position count includes doctors, nurses and staff. I wasn't aware that this is how we do policy making decisions on these kinds of issues. I am very disappointed that the people of the Bangor area will find out when the budget passes that this is indeed how things are going to shake out. I did, for the purpose, which is why we do these debates, is to put it on the record and not merely complain. If we just wanted to stand and complain, the stenographers would not take these comments and put them on the record. For the record, I object to this policy decision regarding Bangor Mental Health Institute. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. Very briefly, just as a point of information for the Representative from Hampden, the minority budget cuts an additional 20 positions from the Bangor Mental Health Institute and I hope that you know that nobody is more committed in this chamber than I to seeing the future of that institution protected, in order to provide valuable services to the mentally ill of the State of Maine, just so you know that.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman. 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 PLOWMAN: Madam Speaker, Men and Women of the House. Just for the record, I made my comments known on the Minority Report as well in the forum that I was given. Thank you.

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

ROLL CALL NO. 566

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

NAY - Barth, Belanger IG, Berry DP, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins,

Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Bodwell, Dutremble, Honey, Joyner, Tobin.

Yes, 82; No, 64; Absent, 5; Excused, 0.

82 having voted in the affirmative and 64 voted in the negative, with 5 being absent, the Bill was **PASSED TO BE ENACTED** and signed by the Speaker.

Representative KONTOS of Windham moved that the House **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENACTED**.

The Chair ordered a division on the motion to **RECONSIDER PASSAGE TO BE ENACTED**.

A vote of the House was taken. 60 voted in favor of the same and 79 against, the motion to **RECONSIDER PASSAGE TO BE ENACTED FAILED**.

Subsequently, the Bill was sent to the Senate.

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

SENATE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (S-632)** - Minority (1) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Authorize the Operation of Video Gaming Terminals by Certain Nonprofit Organizations" (S.P. 624) (L.D. 1827)

Which was **TABLED** by Representative TUTTLE of Sanford pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

Representative CLUKEY: Madam Speaker, Men and Women of the House. I hope you will vote not to accept the Ought to Pass report. We had a similar bill yesterday. We debated it a long time and I don't intend to do that again, but just simply to say that every bad thing that was said about that bill yesterday, applies to this one also. Maybe it is even a little bit worse because the State Police estimate that this will put around 600 slot machines into non-profits for the first year and then within three years it will go up to around 2,000. I would just like to say that yesterday I mentioned the fact that the biggest problem with these bills, this one and the other one, lies with the fact that the distributors are the ones that collect the money. This wasn't my own observation, this was an observation that the State Police had made to me in 1996 when we had these bills. They have made that observation to me again that this is the worst part of both of these bills. Yesterday when I talked about that, the good Representative from Old Orchard Beach felt that I cast a aspersion on his friends and neighbors and I apologize for that. It was not my intention. I didn't realize that he had a lot of friends and neighbors that owned and distributed slot machines. I know in my adult life I have never known anybody that owned and distributed slot machines. What I should have said and what I will say today is that there is nothing in the bill that says that your friends and neighbors are going to be distributing these slot machines. It can be somebody from New York, Providence, Rhode Island, Boston, Massachusetts, Miami, Florida and it doesn't have to be a single person, it would be many people up here distributing these slot machines and you can see these machines in this bill are going to be all over the state. They are going to be five in each non-profit organization and I can see that this just could be a nightmare. I hope that you will vote Ought Not to Pass and not accept the Majority Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAleveey.

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I, too, would ask you to join Representative Clukey to oppose this bill. The history of slot machines outside of the State of Maine is a colored history involving some parties of nefarious history. If we don't have organized crime in Maine now, we will once these are established and sold and distributed. It is a cash cow. It is a wonderful laundry factory. Thank you.

Representative STEDMAN of Hartland **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 Lisbon, Representative Chizmar.

Representative CHIZMAR: Madam Speaker, Men and Women of the House. As you can see, my name is on the Majority Ought to Pass Report and three and a half weeks ago when I signed onto that report, my non-profits wanted me to support the legislation. Since then something has happened in my town and a number of them have changed their minds and they have asked me to vote no and that is how I am going to vote.

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

Representative MAYO: Madam Speaker, Men and Women of the House. I find myself in a slightly awkward position to have to disagree this afternoon with my seatmate, the good Representative from Waterboro. I have been a member of a non-profit group in my community for 29 1/2 years. I stopped attending that particular facility a number of years ago because of the gray machines that were in that facility. I, and a number of other people, finally were able to prevail and they were removed. I am, again, attending that facility. That is not the only facility in my community or in my area that has gray machines. There are parts of this bill and the companion bill that we saw previously that I do not like. I feel that the best part of this is the licensing, the registration and the watching and the looking after the gray machines which we currently have in the State of Maine. I will be supporting the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Madam Speaker, Men and Women of the House. I am speaking in favor of LD 1827. I served on the subcommittee that spent many, many hours researching this subject. I want you to know that a full participant in this subcommittee was a representative of the State Police. This representative attended every single meeting that we had. The video gaming machines that previous speakers have expressed concern about being placed in non-profits are already there. They are gray machines, as they are called. They are there legally, however, many are used illegally for gambling. The State Police are very concerned about this, but they have difficulty shutting down these legal machines due to the lack of staffing and their ability to monitor their use. One of the things that they like about this bill is the fact that it provides them with an ability to monitor the operators of video gaming machines because all of them will be connected on line and monitored electronically. Therefore, it gives them a feeling of knowing what is happening in all of the non-profits here in the states that are using the machines. Any non-licensed machine, at that point in time, would then be considered illegal. The placement of licensed gaming machines in non-profits will not only provide additional money to the General Fund that we are currently not

getting because that is being done illegally, but since the bulk of the profits accruing to non-profits through the use of video gaming machines will be returned to the communities via charitable donations. This clearly is a win-win situation. It provides money to the General Fund. It provides money to the community through charitable donations. I would ask you to support this bill.

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

Representative CLUKEY: Madam Speaker, Ladies and Gentlemen of the House. I would just like to clarify the fact that the Maine State Police in no way support this bill. They may have had somebody on the committee, but only to make this as good as possible, to protect themselves and to protect the citizens of the State of Maine. As far as the gray machines are concerned, if the Legislature was willing to put some teeth into the law, we could deal with that problem, but we never have been willing to do this. All we have to do is pass a law to make it easier to enforce that and the State Police could take care of it very easily. Thank you.

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

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I urge you to vote against this motion as I did with a similar bill yesterday and for many of the same reasons. Some of the reasons were given to accept this piece of legislation is that it will help some of the non-profits that would have these machines installed or already have them installed on their premises. It is my belief that if what is going to make the difference between these organizations surviving or not is the installation or operation of more electronic gambling machines, then they should look at other ways of creating revenue. If the sole reason for distance will be to support a gambling operation on the premises, I would ask them to look at other ways of funding their activities. Another reason we are giving is there are gray machines now existing basically, in other words, illegal operations. The way that we can resolve the difficulty of these criminal operations is by making them legal, essentially, or regulating them by passing this bill. That just seems like some pretty difficult logic for me to accept that if there is an illegal activity, we should make it legal and therefore the problem will go away. I don't think it will go away. It will become more pernicious or more widespread and some previous speakers have indicated, if these gray machines are a problem, then we should put some teeth into the regulations that regulate them, not turn the whole operation into a wider more legal operation. I would ask you to vote against this bill.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I would hope that you would support the Majority Ought to Pass. Our committee has worked long and hard with agents of all the agencies on this bill and I think we have a very good bill here. Essentially, the bill has been written to fix the recommendation of the Governor's Advisory Committee. The bill authorizes certain non-profit organizations to have video gaming terminals exclusively for their members and guests and to pay in cash for credits won by players. The bill is necessary to resolve, in my opinion, an unattainable situation which has developed over the past 10 years in which some clubs have started to pay cash for credit as a way to boost revenues, much of which goes to charitable and community causes in their areas.

It was cited at the committee that 22 Elks Lodges in Maine report that in recent years they have averaged better than 750,000 annually in contributions. The question, Madam Speaker, men and women of the House, is whether we act to

enable this important form of charity to continue, but funded through a clearly legal method or ban video gaming terminals in non-profit organizations and put an end to the significant level of community and charitable support not provided.

I have passed out a handout sheet explaining where the revenues go. From our figures, the state share of revenues for the legislation is estimated to be \$450,000 in the first partial three months of the year of operation, followed by \$2,712,000 and \$3,160,000 in years two and three. After paying all administrative and enforcement expenses and municipal revenue sharing funds, the General Fund will net \$298,000 and \$575,000 in the first full two years. Also, municipalities will share 15 percent of the state machine revenues through the present revenue sharing formula. Charitable organizations will have \$6 million to give out over the first 27 months.

Now as far as eligibility, non-profit organizations eligible to operate these video gaming machines are limited to those organized under the federal tax code. Under Section 501, Section 3, Charitable Organization, under Section 501(4) Civic Leagues like the Kiwanis Club and under Section 501, Fraternal Beneficiary Societies like the Elks Lodge, under Section 501-10, Domestic Fraternal Societies and Associates, such as the Eagles and finally under Section 501-19, Organizations of Past or Present Members of the Armed Forces, such as the VFW and the American Legion. A license to operate video gaming machines is not issued unless the municipality gives its approval. A public hearing may be held prior to granting of that approval. Manufacturers, wholesalers, distributors and licensees are not eligible if they or their business partners have been convicted of certain offenses and have certain charges pending against them, drug addicts, illegal aliens or fugitives from justice. If anyone licensed under this law is convicted of certain offenses, after receiving a license, they will lose their license and never be allowed to get that license again.

For those of you interested in the licensing and control, the Chief of the State Police will license video gaming machines after examining prototypes at the cost of the manufacturers. Odds of winning and the dangers of compulsive gambling must be displayed on the games. It is very important. All video gaming machines must be linked to a central computer system, be tamper proof and designed to guard against attempts of fraud and having accounting software, which produces a permanent record of all activity involving each machine. The maximum amount which can be wagered is \$2 per game and a maximum payoff is \$1,000. The pay back value of each game, calculated annually, must be at least 90 percent. Illegal machines, unlicensed or operated in violation of law are subject to seizure and forfeiture. This provision will enable the Maine State Police to successfully seize more than 4,500 illegal devices now that are on the street.

The placement and operation of these video games. The maximum number of games will be no more than five per licensee. Access to games limited to members and guests over 21 and only during hours when on premises liquor sales are allowed. The prizes are paid out only on a machine generated credit slip, which must be redeemed by the licensee. The licensee must report winnings over the federally required reporting amount. Distributors may not own more than 300 video gaming machines or 15 percent of a total license, whichever is less.

The criminal penalties. As I mentioned before, it will be a Class C crime for any person tampering with or manipulating with these machines. It will be a Class D crime allowing any underage or visibly intoxicated person to play these games allowing at a time other than the authorized time. Other violations of laws or rules for which no other penalty is provided

are a Class D crime. As I mentioned before, the regulation, the State Police worked with the Legislature and worked with our committee to develop a tough system for regulating and enforcing these game machines and the people involved as manufacturers and distributors and the license locations. State Police Major Jeff Harmon stated that this regulatory system gives the State Police the laws and the access to information needed to protect the public and all participants. As I said before, ladies and gentlemen of the House, regulation works and prohibition does not. In my opinion, by passing this bill, the state raises millions of dollars for the General Fund and provides legal enforcement necessary to protect the citizens of the state. I would encourage your support.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I would ask you to support the Majority Ought to Pass on this bill and a little later I will offer an amendment which will solidify some of the problems that at least two or three of the previous speakers have identified. As has been stated and I don't want to take the time to repeat everything, but this came out of a task force. We certainly had representation of the State Police and as has been indicated, he was asked to be there to ask questions and answer questions by the committee. Major Harmon did an excellent job. When we produced the bill, we neglected to read it thoroughly because we did leave out a section which has prohibited the State Police in acting in the manner in which they should. I feel certain and I do want to ask the former State Police people that are here because I don't think it is proper, but I think that each and every one of them will say that these particular machines are illegal. How in the world can we, as lawmakers, turn down an opportunity for illegal machines to become just what they are, illegal, or have the opportunity to become legal.

As the good speaker from Sanford has said, six years ago the State Police had identified over 3,000 of these machines in our state. I dislike to try to assert a number that we have at this time. Now there are many people, I am sure, that won't vote for this. Pardon me for saying this, but for political reasons because many of the non-profit, so-call organizations, which we have within our towns, which our constituents are operating them illegally. It has been stated that everything, the whole framework has been set up how they can become licensed properly. By giving back five, I don't know exactly when we will reach the 6,000 that is already out there, but it seemed to me that we would be reducing this and giving the State Police, by the amendment that I will give when the proper time comes, the right to go in and take the machines. They stopped doing this when they did it at least one time and that particular machine and the evidence and so forth was not accepted by the court because of the terminology within our statutes at that time. I am given to understand that with this section under 361, under this particular bill, this will put the meat in there and the power there for the State Police to take care of these machines. I certainly hope that you vote in favor of this and let's get this on the road. Thank you.

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

ROLL CALL NO. 567

YEA - Bagley, Belanger DJ, Berry RL, Bigl, Bolduc, Bouffard, Brooks, Bruno, Bryant, Bunker, Cameron, Clark, Colwell, Cowger, Cross, Davidson, Dexter, Driscoll, Dunlap, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Hatch, Jabar, Jones KW, Joyce, Kane, Kerr, Kontos, Lemaire, Lemke, Lemont, Mailhot, Mayo, Mitchell JE, Muse, O'Neal,

O'Neil, Paul, Perry, Pinkham RG, Poulin, Povich, Richard, Rines, Samson, Sanborn, Saxl MV, Shannon, Sirois, Stanley, Stevens, Tessier, Thompson, True, Tuttle, Underwood, Usher, Vigue, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Baker, Barth, Belanger IG, Berry DP, Bragdon, Brennan, Buck, Bull, Bumps, Campbell, Carleton, Chartrand, Chick, Chizmar, Clukey, Desmond, Donnelly, Etnier, Fisk, Foster, Gamache, Goodwin, Gooley, Green, Jones SL, Jones SA, Joy, Kasprzak, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McKee, Meres, Morgan, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pieh, Pinkham WD, Plowman, Powers, Quint, Rowe, Savage, Saxl JW, Shiah, Skoglund, Snowe-Mello, Stedman, Taylor, Townsend, Treadwell, Tripp, Vedral, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn.

ABSENT - Bodwell, Cianchette, Dutremble, Honey, Joyner, McElroy, Spear, Tobin.

Yes, 67; No, 76; Absent, 8; Excused, 0.

67 having voted in the affirmative and 76 voted in the negative, with 8 being absent, the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-1100)** - Minority (3) **Ought to Pass as Amended by Committee Amendment "B" (H-1101)** - Committee on LABOR on Bill "An Act to Implement the Majority Report Recommendations of the Commission to Study the Unemployment Compensation System" (H.P. 1604) (L.D. 2230)

TABLED - March 30, 1998 (Till Later Today) by Representative SAXL of Portland.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Majority **Ought to Pass as Amended Report.**

Representative JOYCE of Biddeford **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 Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, Men and Women of the House. The Unemployment Trust Fund has been heading toward insolvency since 1993. Since then, the advisory council that is set up to oversee that fund has been promising long-term changes, to come up with long-term permanent solutions for this fund. They never have. That is no surprise. The only recommendations that this body has ever received from this advisory council and any other commission that has been set up to study it has been tax increases and benefit decreases. In my opinion, I think this is our fault. We have never forced these commissions or the Department of Labor to do a comprehensive study of this fund, which looks at all aspects of the \$111 million that they collect. A sample of these items that need to be looked at are in the 1996 State of Maine Audit Report. If you read in this audit report, you will see that there is an uncollectible receivable

balance of \$6.5 million that the Department of Labor does not or has not collected from employer taxes. You also see that the Unemployment Fund has balance of \$6.7 million of overpaid benefits to unemployed people, which they have not gone after or addressed it so that that type of overpayment does not happen again. The list goes on to improperly calculated penalties on employer taxes, delinquent taxes.

The way I see it, we have two options before us. One, we can extend the surcharges and the current benefit structure that is in place right now to keep the fund solvent for another year or two. In addition to having the Department of Labor address the issues which I just mentioned, we can also have them hold public hearings around the state to get input from citizens and employers and businesses, not legislators and lobbyists, which hang around here. After they study during the summer and come up with a comprehensive long-term solution, we can have them report back in January to the 119th Legislature and we can implement all the solutions at once and get it over with.

The other option, number two, is we can adopt the Majority Report, which we have before us. The Majority Report does absolutely nothing to address the solvency issue. It does do this though, it raises the taxable wage base from \$7,000 to \$12,000. It also implements a new tax structure. On your desk I passed out a sample of that new tax structure and what it means to our businesses. You will notice that of the 24,262 businesses in this state, 24 percent of them, 5,000 roughly, businesses will get a cut in their unemployment taxes. This sounds pretty good until you look at the other side of the equation. Seventy-six percent of our employers across the state, 18,519 business across the state, will experience a tax increase of up to 51 percent. All this, while we are remaining revenue neutral to the state. Being revenue neutral to the state does absolutely nothing to address the issue of solvency. How can we justify going home and explaining to our employers and putting them through this type of shakeup when we are not any closer to the issue of solvency than we were yesterday? I think it would be far more responsible for us to grant the Department of Labor their request, which they requested at the public hearing in front of the Labor Committee to try and reach a consensus with all the stakeholders, citizens, the unemployed people and businesses and have them reach a consensus over the summer and then have them report back in January for long-term solutions, which we can implement.

I ask you to oppose the Majority Report and go with the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I thought a great deal before I stood up to speak on this issue. I actually thought of giving a history list on how the Unemployment Insurance Program started back in 1936, but then I thought, no, I will just talk on the issues before us. I worked on this committee all summer long, off and on. We had four meetings. The meetings were not short. We started in the morning and usually finished late in the day. It kept coming back to us and coming back to us that the Unemployment Insurance Trust Fund was in danger of running out of money. They expect, using the current formulas we are using and assuming that the insured unemployment rate will be no greater than 3.5 percent, that sometime around the year 2003 to 2004, we will be borrowing money from the United States Government to pay for our unemployment benefits. If we do that, what will happen is the employers will not be able to be granted a credit toward their future unemployment tax. The employers will pay 100 percent of the tax to the government. They will pay 100 percent of their tax, since their tax structure is within the State of

Maine, and they will have to raise money to repay the United States Government.

Let's just look at it from the surface. If we start borrowing money, it is going to cost the employers two to three times what they are paying right now. That we don't want to happen. The fix that we have had for the last few years is nothing but a temporary fix. It was designed to generate \$111 million this past year. We really did the employers a disservice this past year because the fund balance actually would have caused the structure, which is a multi-level structure, A through P, to actually be in column P with the lowest rate of being 1.9 percent. Now, I say we did them a disfavor because if you looked at our tax structure and those individuals within that tax structure and based on the information that has been handed out to us, 51 percent of all employers would have been in that lowest rate of 1.9 percent, but no, we needed extra money so we moved them, without using the current benefit structure or formula, to column P, which has the lowest rate of 2.4 percent. Not only did we move them to column P, we added four-tenths of 1 percent to it. This generated \$111 million.

During a period of time when we have had a relatively good unemployment rate, actually with an insured unemployment rate slightly less than 3.5 and in most cases over 3 percent, we were spending \$100 million of this fund. That gives us an increase of about \$11 million. What the committee did in the Majority Report, we said we want to move away from the old system that is A through P and has a structure that goes from 2.4 to 7.5 percent. As you will notice, and that is a rate schedule that is fairly wide in structure, what has happened is rate structure in 5 percent increments and 20 contribution ranks and my good colleague from Biddeford, has handed out a yellow copy with LD 2230 with the 20 rankings on it out. It shows the ranking system from the lowest to the highest.

Under the old system, 51 percent of the people were in the lowest grade. Under this new system approximately the first 10 contribution rates will be in the lower tax bracket. The tax bracket we have forced to be a lower amount than currently because to start this program initially to use an array, we did not want to generate anymore money than what the fix has generated. We used the amount of money from the fix to generate an array. The good thing about an array is if you are in trouble monetarily and you know what you need to have for money to structure the benefit payment program, you can adjust that array to generate the funds that are necessary and the array system works to encourage employers to maintain their employment so that their array will get lower and lower. In this array that was handed out, it shows that the bottom part will probably decrease and the top part would probably increase. In the top part you have to remember that those are the employers that have been using the system, which the lower end of the scale has been paying for. This is a much, much fairer system than having a fix that just adds a fixed amount to the line. The tables that the department was able to show us looked very skewed to the left. With a high percentage of everybody in the lowest rate and very few people scattered out among the other rates across the boards. This will distribute those people, some of the distributions that I have seen using actual wage data and in some cases has shown the upper end in 19 and 20 scale people as actually either losing a little or gaining a little, but the overall increase is not that great. The area that seems to be hit the worst, the worst case scenario seems to be contribution ranked 15, 16 and 17. That we may be able to make when we get to see what it actually looks like. We haven't looked at a whole lot of firms in that area, but it looks like that group is hit the hardest.

What we did is we forced the array to generate no more than what we are getting. What we are getting now is based on a \$7,000 wage base. What we are suggesting is we move into a \$12,000 wage base. We are freezing it out so that it can't change for a while. The reason we are freezing it is one of the calculations that is used is the last three years taxable wages. If we looked at the last three years taxable wages going into 1999, we would have three years of \$7,000 tax base and as we move into the year 2000, we would have two at \$7,000 and one at \$12,000 and so forth. It is going to be sometime around the year 2003 before we can allow the system to calculate its own structure using a calculation to determine what we need to have coming into the fund. This is on the employers side.

On the claimants side, we suggested in the Majority Report that instead of the calculations for the individuals weekly benefit amount be calculated at 52 percent of their total earnings, we have dropped that down to 15.5 percent of their total earnings. This means that there will be a drop on the claimants side and a contribution to helping us solve somewhere around \$2 million. We also suggest that we use 1/22nd of the two highest periods of employment by using the two highest quarters and dividing and getting the average for the highest quarter then makes a contribution toward the solvency of the claimants side of somewhere around \$4 million. There is a wash one with the other, the claimants side is helping towards the solvency one the one aspect and the employers side is being charged with the solvency on the other. Hopefully, what we have done is we have created a situation where we will not be going in and looking at fixes.

I have worked with the Unemployment Division from 1963 to 1987. I was working directly with the Unemployment Division. I worked with the main program. I worked with the New England Regional Program as an Unemployment Program Specialist down in Boston. I also worked as an Unemployment Program Specialist with our National Office out of Washington, DC. I have had a lot of experience in this field. Believe me when everybody says there is only seven states using this array right now, the United States Government is suggesting to every state as they are looking at the solvency of their programs, that this is the method to be used. Currently, I said we had a program that has multiple columns, A through P. A through P is quite a wide structure, but you have to look at when we instituted this. Very few years ago we instituted it and the lowest we ever got in that tax structure was the column O. We never went back past that column. We have been in trouble financially ever since we instituted that tax structure. It is proven and it is showing that it doesn't work. I suppose we could just keep adding letters onto the alphabet and moving up, but that won't do it.

So, as I look at it, the array system, the changing of the base is necessary and the reason for the changing of the base is we are running an insurance program. In insurance programs any actuary will tell you that you have to collect the money for that insurance program based on what you want to develop. If you want a \$10,000 life insurance plan, you have to pay actuarially what you can get into the system for. Well, we have a \$7,000 plan that we are collecting money on and we are paying benefits to individuals that make \$15,000 a year or more. We are suggesting at this time that we increase that base so that we are better funding the bottom. Ladies and gentlemen, I would encourage you to vote for the Majority Report. Thank you very much.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. There is a particular part here that I would like to read before I make my different points. Based on

information from the Maine Department of Labor firms that have fewer than 100 employees pay two-thirds of the unemployment taxes in Maine, yet there were no small employers seat on the study commission. They were not given a voice, not even though they are the most effected.

Ladies and gentlemen, as I listen to some of these proposals, I am starting to feel like a salmon going up stream in the State of Maine with all the dams that we have. It is almost impossible. Every time I turn around we are looking at new additional costs. This specifically, will be 4,000 to 5,000 higher than our closest neighbors, namely New Hampshire and Vermont. If you start going through these different costs, how long can we continue to keep our businesses competitive? The other thing we do, ladies and gentlemen, the bottom line governs the results. I am a perfect example of that. If you look at the businesses that I have in the Winslow area, we don't have them anymore. The reason being is the bottom line was gone. If we keep adding these different costs, not only are we going to drive out the big businesses, we have probably two very large businesses that are probably at risk presently before your next session of the Legislature. Ladies and gentlemen, you may be looking at two more major mills that are gone. You look across the border, our neighbor in New Brunswick, is coming up with a major, major paper maker. It is a new machine that is going to be highly competitive. What that is going to do, ladies and gentlemen, is it is going to drive additional businesses out of state. They are going to go somewhere where they are not forced out. They are allowed to stay and conduct their businesses the best they can.

Going from 7,000 to 12,000 beginning January 1, 1999, the increase from 1941 to the present was from 1,000 to 7,000. We are going in January 1999 with a jump of 5,000. I spoke with one Representative in this body and she told me her part-time bus drivers will be affected to the tune of \$220 per year. You are not talking people who are making \$40,000. You are talking about part-time bus drivers. This will impact the money that we are providing for education. It will impact people who are working to provide money for their kids to go to college. If you are making 12,000 or more, you will have a cost of \$154 plus of additional costs to the business. You multiply 154 and you are highering 100 people, you don't need a computer to see just where these people are going to be and what happens when the cost goes up to run a business, you reduce the number of employees. If you reduce the number of employees, ladies and gentlemen, then you are going to have to increase the fund. We are running like we are going up against that traditional river I was mentioning. It is impossible to get over there. Ladies and gentlemen, I will be opposing the Majority Ought to Pass Report. I urge you, ladies and gentlemen, on behalf of the businesses in the State of Maine, if you want to keep them here, you have better seriously consider following my light. Thank you.

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

Representative HATCH: Madam Speaker, Ladies and Gentlemen of the House. This particular report, the Majority Report, was long in coming. It has been since 1993. We kept sending labor and management out and they kept coming back with a Band-Aid. There have been over five reports on the Unemployment System since 1958. We have a major crisis in this state. It doesn't involve an ice storm. It doesn't involve workers' comp. It is the Unemployment System. When I walk away from this body at the end of this session, I will know that I did everything I could to bring to your attention just how serious this is. I was a bookkeeper for 21 years and I gave that up when I came down here because a bookkeeper has to work full-time year-round and I was tired of doing people's books after they had messed them up in good shape. I want you to know something

that I can add. I have always been able to add. I can tell you that if we don't do something soon, the system, itself, is going to crash and burn.

We sent out a committee on this particular issue over the summer because we were really concerned that these little Band-Aids were not going to fix it. No one was barred from sitting in on these hearings and having input, not the small businesses, the chamber was present, not labor, not any legislator who wanted to attend, not anyone in the public. No one was barred. The businesses in this state have known about this situation for several years. Now you and I can ignore it today. The other body can ignore it and even downstairs they can ignore it. It is not going to go away.

The Majority Report was a bipartisan effort on behalf of the committee to put something together that we could all live with. Believe me, it breaks my heart to say that at some point there may be tax increases. Well folks, there are tax increases already and those Band-Aids that you and I passed. Businesses are paying .5 percent more than they should be paying. When you think about it, we have already done something to the system and it has been broke for a long time. The good Representative from Scarborough, although he no longer has a vested interest, has an interest in this particular piece of legislation because he would like to see them on firm footing and so would I and so would every business in the state. In the lower half of the state the unemployment rate is somewhere between 3 and 4 percent. It is pretty grand. I just got a signal it is 2 percent. In my area it is a little over 8 percent. Do you know what happens if the unemployment rate in the southern part of the state goes up suddenly? In six months we are completely out of funds. We have to start borrowing. The worse case scenario is in 2005, we will be \$200 million in debt. I just want you to know that I warned you.

Will rates go up? Good question. According to the Majority Report, not right off. The system, we want it to adjust itself. As a matter of fact, you could go and tell everyone you gave them a tax cut because after the first of the year, that 5 percent would be off. Who is going to take the brunt of this? Business at some point and the working people. Instead of one quarter to draw your average off from, they accepted two quarters. If we don't pass this report, we will be back to one quarter. We will be back to a Band-Aid until the first of the year and a lot of things will happen.

It was interesting on the little orange sheet that they passed out, they gave you some of the facts, but not all. Let me just fill you in. They told you about the two closest states having an \$8,000 base. Connecticut has \$12,000. Massachusetts has \$10,800. Rhode Island has \$17,600. There was even a suggestion by one of our committee members to lower the rate a lot to charge unemployment on every tax dollar that was earned in the state. Think about it, at a tax rate of .1000 of 1 percent. This is an honest attempt. We worked hard and long. Yes, many small businesses who employ a hundred or fewer people do pay high rates, even now, but of those small businesses a lot of them are construction people. Guess what? They work nine months out of the year and they draw heavily off the system. Who should pay? Should it be an attorney who lives in Skowhegan whose office staff has been there for 10 years or should it be those people who actually use the funds? With this array system it brings some justification to the system, because whether you use it or not, you pay for it. Think about all of these things. Think about the orange sheet that was handed out and I read it and for the most part, it is pretty truthful, except they didn't give you all the information. Be very careful and when you call home and you say if my rate goes from \$7,000 to \$12,000, how much more am I going to pay? Just remember under this report

you wouldn't pay any more for the time being. It is locked in at \$111 million and it will stay that way until you and I change it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative Treadwell: Madam Speaker, Men and Women of the House. We were working on this bill right up until after the deadline of reporting out, actually, and we still didn't have a completed package to send up here. We had to go into the week after, as a matter of fact. I guess somebody told me one time that if you want something bad, that is usually the way you are going to get it. I think that is the case with the majority package that is here in front of us. We were told that the fund is going to go broke if we don't do something immediately. Well we heard testimony here that the fund will go at its current rate, we are taking in \$11 million a year more than outgoing right now. It will last until the year 2004. We all agree that something has to be done with the fund. There is no question. We all agree with that, but do we have to do it immediately in a rush manner without thinking it through and in the meantime with the Majority Report, we are not doing anything to enhance the financial status of the system. It is going to be status quo. The only thing we are going to do is have a large group of irate employers out there wondering what in the world is going on. I would also submit to you if we accept the Majority Report that there will be no reform done because all we have done is implemented the mechanism that will allow the department any time they need additional funds, all they have to do is crank up the multiplier and they are going to generate more funds.

The array system may eventually be a part of this but I think we need to allow the Department of Labor to study the system and come back in January with a recommendation and let us know what is the best way to do it. They are going to hold those hearings and collect the information through the summer and I think that that is the best way to go.

You have a sheet of paper on your desk that has 20 different associations that are telling us that they want us to go with the Minority Report on this bill. They are concerned. I got a call from one employer that said they are paying \$1.1 million in unemployment comp insurance right now. I don't know how they figure that because they must have some pretty sharp financial officers in the corporation, but they said their unemployment comp is going to go up by \$428,000 under this majority plan. Granted, that is without any increase or enhancement in the total revenue coming in statewide. These people are worried. Believe me, they are worried that as soon as we go into the next Legislature they are going to get hit with another big increase, a real increase this time. I would urge you to vote against the Ought to Pass report and go on to accept the Minority Report.

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

Representative FULLER: Madam Speaker, Men and Women of the House. I am speaking in opposition to the pending motion. I certainly support unemployment for those people who become unemployed through no fault of their own. Surely one must help them through hard times. However, what I hear about again and again is the problem of employees who lose their jobs because of incompetence and failure to carry out responsibilities. With a documented process of written expected performance standards, written periodic evaluations and still the employee does not perform in an acceptable manner. Therefore, they are eventually let go. They are no longer employed and the employee applies for unemployment. For example, I am very familiar with a situation of a health care professional with all the proper credentials who simply did not meet the criteria for job performance. She was let go and applied for and received

unemployment even though there were job openings in the immediate area for this discipline. The employer appealed. Showed up at the appeal hearing with all the documentation of the steps taken to work with this employee and the appeal was denied. This former employee received unemployment payments all summer and finally went to work in the fall.

Ladies and gentlemen, this is not a unique situation. I have heard from businesses throughout my district that this is the norm. Everybody I have talked to and asked if this is a problem, immediately agree that it is. One person said no employer ever won an appeal. It is no wonder that the fund is running out of money. Was this issue ever studied in the commission studies that were completed? Sure, many people receiving unemployment truly deserve it. However, how many others are abusing the system? Small employers cannot bear the extra tax burden that this Majority Report would impose. Some are already struggling to survive living a day to day existence. We need to look at how to make the system more accountable. I urge that you vote to defeat the present motion and accept the Minority Report in hopes that in another year we can come up with a better solution to the expected crisis in the fund by looking at all the issues impacting on the Unemployment Compensation Fund. Thank you.

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

Representative BRUNO: Madam Speaker, Men and Women of the House. Looking around the House I can see this isn't too exciting a topic for most of you because it doesn't really affect you personally. I will tell you in my business with over 100 employees, I paid out over \$65,000 last year in state unemployment taxes. That is \$65,000. Now you want to hit me with another \$40,000. In the last two years I will pay out over \$200,000 in unemployment taxes and you know how many people I laid off and how many people collected employment? Zero. Now, I am a small business. This hits me very hard. This is another two employees. Is this the best we can do? I don't think so. I don't think this is a very good solution at all. I have a lot of respect from the Representative from Scarborough. He has been doing this for 25 years, but when you look around and you try to figure out why so many people are on unemployment around here, take a look at what we are trying to do right here. We are trying to pass on a 36 or 40 percent tax increase. This is a tax increase. It is all we are doing. An hour ago we were arguing about tax relief and now we are arguing about a tax increase. It makes a lot of sense to me. I urge you to vote against the Majority Ought to Pass Report and support the Minority Report.

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 Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. I stand and support LD 2230 and the Majority Ought to Pass Report. The reason we have this bill before us is that we are facing an insolvent situation in the next couple of years. We have greatly amended the bill so that it really doesn't solve the insolvency problem. We are still going to have it and it is going to happen sooner than that if things start to go downhill. What this bill does is it sets up a framework so that we can work off it and at least collect the amount of funds that we are currently taking in for the fund. As the Representative from Skowhegan said, by the year 2005, if nothing changes, we

are going to be \$200 million in the hole. Remember, it is not a tax increase for the fund, it is a neutral amount that is going to be coming in. It is the same amount that is going into the fund now. The Minority Report wants another study. We have had at least five studies in the last 30 or 40 years and none of those studies have done anything to rectify the problems. The good Representative from Biddeford talks about the \$6.5 million problem we have with employers not paying their fair share to the fund or overcollections. That is a drop in the bucket according to the director of unemployment division in this state. Certainly we can look at that problem, but that is not going to solve the long-range problems with this fund. Yes, some are going to pay more and some are going to pay less. Maybe those that pay more should be paying more to the fund because they have a higher experience rating. I don't know. The Majority Report from the committee is that we should do something now and I hope that you follow Representative Pendleton's light. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. It was inferred by the good Representative from Winslow that we did not have the representation on the panel of the small employer group. I would like to differ with him on that. The representative from the NFIB sat in on every single meeting and nobody held back. They were invited to speak up and say what they wanted to at every meeting. In fact, the Maine Chamber was at every meeting. The Maine Merchants Association was normally at every meeting and the Maine Restaurant Association normally had somebody there representing them at every meeting. The smaller employers were represented at our meetings and were normally with us all day and they heard the presentations being made by the presenters that we had from the Boston Regional Office from Unemployment Insurance and from the department presenting their materials. They were fully aware. The fact is they were made aware of everything that we did. I have a three ring binder at home that is just bulging. The fact is I can't get another page into it. That was information that was passed out to us during the meetings that we had. So, we didn't operate in the dark with these people. They were there and they were present and they had an opportunity to participate and they did participate.

It was felt by the Majority of the people at the time when we came out with our final report that some of the things that are in this Majority Report were the findings from the majority of the committee. We didn't take all of the things from the majority of the committee because there were some things that were felt to be objectionable at this time. One of them was we felt that we address the seasonal issue, that a lot of people have trouble with, should not be addressed. We left that out. There was an issue brought up by one group that they wanted to make it more liberal for people to collect benefits if they left their job because of the loss of child care or some other reasons. We didn't bring that into this particular item. We left that out. This all came about because of two or three bills on the homeless and low-income people. We were looking at this from an entire stand point. Those people were present. I don't know who the good Representative from Winslow was talking with about part-time school bus drivers, but a great part of those are employees of towns or municipalities and they pay no tax. If somebody becomes unemployed from those entities, it is direct reimbursing. By reimbursement I mean if they are found to be eligible for unemployment benefits and have paid unemployment benefits, the town or the municipality is sent a bill for their unemployment benefits. It is the same way for hospitals. Hospitals don't pay any tax and your towns don't pay any tax. They are all direct

reimbursement. It is only the private employer that is obligated to pay the tax. I feel that this majority bill is the appropriate way to handle this. I guess we have already had a request for a roll call. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. In response to my good friend from Scarborough, the quotation was exactly from the NFIB, which is the voice of small business for the State of Maine. He said they were not given a formal voice at the table, not a formal voice, not he was not given a voice or allowed to ask questions. Another issue is the buses. The buses, in many cases in the State of Maine, are subcontracts and are treated not as if they were run by the school board, but they do pay unemployment compensation and are, therefore, affected. The present situation, ladies and gentlemen, would tell us that we do not have the dollars. We have presently \$142 million in the fund, which continuing with the same tax setup we could continue and maintain this level. The proposal on the board right now would bring this reserve to \$230 million. I don't know if it is necessary to have a reserve of \$230 million for a state this size. If you bring it up that high, that means that dollars will be drawn from the different businesses to provide these dollars. I see my friend nodding his head. It is right in there. The current rate takes care of the businesses and I think we should continue with the current rate and look at it and go on to pass the Minority Report. I urge you to oppose the pending motion. Thank you.

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

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

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

Representative JOY: Madam Speaker, Men and Women of the House. Number one, does the Department of Labor have a position on either one of these proposals and number two, does either one of these proposals do anything to take care of or to supplement the Insurance Trust Fund?

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

Representative JOYCE: Madam Speaker, Men and Women of the House. In answer to the questions, both reports are revenue neutral. Neither reports raises more money than the fund raised last year. The answer to the question is the Department of Labor's position on this is to give them a few more months, over the summer, to continue studying the other aspects of the fund which I brought up, the overpaid benefits, the uncollectable receivables, internal control like issues and other policy issues. They would like a little bit more time to finish the study. Thank you.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. I have to respond to the Representative from Winslow. I believe he has made two errors. One error earlier was that this fund would be more expensive. The fact is, the benefit level of the State of Maine is at or below the US average and we have at least three states in New England that pay higher benefits. The other error is that this will not increase the fund as he stated to \$230 million over a period of time. It will only maintain the fund we have now at the current unemployment rate, which is relatively low.

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

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. I have a small business. You could probably call it a super small business. There are three people. This particular bill, I am paying close to \$900 now into this fund and this particular bill here is going to cause me to spend another \$400 or \$450. For my business, it is a good chunk of money. The greatest expense that I have for my business outside of supplying a salary to myself and my son and my wife, is government, really. I have been penalized for sending the wrong amount of money to the right place and I have been penalized for sending the right amount of money to the wrong place. I have on my desk right now a penalty of \$25 from the Department of Labor of the State of Maine and I have no idea of what it is for. I have to call them up and find out. I can tell you that I have one thing left to do and that is to disband the corporation and go on about our business in some other way. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Madam Speaker, Ladies and Gentlemen of the House. If any of you looked at this yellow sheet you will see that it gives out the tax rate and the number of employees and the percentages that you could calculate had you called your employers on how much increase or decrease that they would see. In this Majority Report, as the good Representative from Jay has already said, during the work session we were able to piece out and throw away a lot of the material that was in the bill and end up with what they call an array system. Currently, we use a base or the state uses a base of \$7,000 of income. They just wanted to increase that base to \$12,000. Then they would change the percentages of the tax rates to meet their need of \$111 million or \$115 whatever the figure is. I submit to you that that will be the extent of what will happen until it is brought before the Legislature again. All the department will do under this report is continue to raise the tax rate to meet the need for money. That is all they will do. Meanwhile, the \$13.5 million in uncollectible receivables and overpayments will continue to just keep going on unnoticed. I happen to think that \$13.2 million would help something in that department.

What the Minority Report does and how it differs from the Majority Report is that not only is this a study, it is that we have directed the department to do specific things and to report back on specific items. We have directed them to go to locations throughout the state so that everybody has a shot at this here. Everybody can see what the implications are. I called blueberry companies just so you can see another aspect in agriculture to find out the information from them and to calculate under the new array system what their increases would be or decreases as could happen. The two companies, each, increased over \$200 per employee per year. This is blueberry companies. I am really confident that had you taken the time to call employers to get a reaction from them, you would have probably gotten an earful and we have heard some say tonight. I ask you to defeat the pending motion and to go on and accept the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Vigue. 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 VIGUE: Madam Speaker, Ladies and Gentlemen of the House. In response to the Representative from Jay that said I erred, this is OPLA's note for March 1998, you probably have received this. It is on your desk. If you look

on page 4 and I quote, "Attain a fund balance of \$233,900,000 by the year 2003. There will be enough money to cover 12 months of benefit payments at ACUC levels." Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Samson. 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 SAMSON: Madam Speaker, Men and Women of the House. You have to look at the labor sheet, not the OPLA. That is the old bill that has been amended so that it does not increase the rates into the fund.

The second thing, another error, is that if this is instituted, we will be locked into one rate and I think it is B on the chart. The Labor Department, Unemployment Division, cannot take us out of that channel unless the Legislature says so, so we are going to be locked in and the Department of Labor cannot change the schedule. Thank you.

The SPEAKER PRO TEM: 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. 568

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Chartrand, Clark, Colwell, Desmond, Driscoll, Dunlap, Gagnon, Gamache, Hatch, Jabar, Jones KW, Lemaire, McAlevey, McKee, Mitchell JE, Muse, O'Neal, Paul, Pendleton, Powers, Quint, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Townsend, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cowger, Cross, Davidson, Dexter, Donnelly, Etnier, Farnsworth, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gerry, Gieringer, Goodwin, Gooley, Green, Jones SL, Jones SA, Joy, Joyce, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemont, Lemke, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, Meres, Morgan, Murphy, Nass, Nickerson, O'Brien, O'Neil, Ott, Peavey, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Richard, Sanborn, Savage, Shannon, Snowe-Mello, Stedman, Taylor, Thompson, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Dutremble, Honey, Joyner, Kontos, McElroy, Spear, Tobin.

Yes, 47; No, 97; Absent, 7; Excused, 0.

47 having voted in the affirmative and 97 voted in the negative, with 7 being absent, the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Representative PENDLETON of Scarborough moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on his 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 PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, Men and Women of the House. For those of you who despise study committees in here, I can understand you voting to indefinitely Postpone this, but, in my opinion, that would be the height of your responsibility

because also in the Minority Report what you will see is we are extending the current surcharges and benefit levels to keep the fund solvent. If you do away with those extensions, we are talking another \$30 or so million. Thank you.

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

ROLL CALL NO. 569

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bryant, Chizmar, Clark, Colwell, Desmond, Driscoll, Dunlap, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Kontos, Lemaire, Lemke, McAlevey, Muse, Pendleton, Pieh, Richard, Rines, Samson, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Usher, Vedral, Volenik, Watson, Wright.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clukey, Cowger, Cross, Davidson, Dexter, Donnelly, Etnier, Farnsworth, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gerry, Gieringer, Goodwin, Gooley, Jones SL, Jones SA, Joy, Joyce, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McKee, Meres, Mitchell JE, Morgan, Murphy, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Powers, Quint, Rowe, Sanborn, Savage, Saxl JW, Snowe-Mello, Stedman, Stevens, Taylor, Tessier, Thompson, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Dutremble, Honey, Joyner, McElroy, Spear, Tobin, Madam Speaker.

Yes, 41; No, 103; Absent, 7; Excused, 0.

41 having voted in the affirmative and 103 voted in the negative, with 7 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED.**

Subsequently, the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "B" (H-1101) 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 "B" (H-1101)** and sent up for concurrence.

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

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

The House recessed until 7:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

ENACTORS
Acts

An Act to Implement Recommendations of the Fire Marshal Study Group

(H.P. 1639) (L.D. 2272)
(C. "A" H-1030)

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.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (H.P. 1625)

Representative MITCHELL from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Improve the Delivery of Mental Health Services to Children" (EMERGENCY)

(H.P. 1675) (L.D. 2295)

Reporting **Ought to Pass pursuant to Joint Order (H.P. 1625)**.

Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

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** and sent up for concurrence.

ENACTORS
Resolve

Resolve, To Establish the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings

(H.P. 1520) (L.D. 2142)
(H. "A" H-1075 to C. "A" H-1001)

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

On motion of Representative RICHARD of Madison, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-1001) as Amended by House Amendment "A" (H-1075)** thereto was **ADOPTED**.

The same Representative presented **House Amendment "B" (H-1132)** to **Committee Amendment "A" (H-1001)** 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. For those of you who are interested, this is merely a technical change.

House Amendment "B" (H-1132) to **Committee Amendment "A" (H-1001)** was **ADOPTED**.

Committee Amendment "A" (H-1001) as Amended by House Amendment "A" (H-1075) and House Amendment "B" (H-1132) thereto was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as **Amended by Committee Amendment "A" (H-1001) as Amended by House Amendment "A" (H-1075) and House Amendment "B" (H-1132)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

REPORTS OF COMMITTEE
Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game"

(H.P. 1307) (L.D. 1855)

has had the same under consideration, and asks leave to report:

That they are **UNABLE TO AGREE**.

Signed:

Representatives:

TUTTLE of Sanford
GAGNON of Waterville
SPEAR of Nobleboro

Senators:

DAGGETT of Kennebec
MILLS of Somerset
CAREY of Kennebec

READ.

On motion of Representative TUTTLE of Sanford, the Report was **ACCEPTED**. Sent up for concurrence.

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Improve Voter Participation"

(H.P. 1455) (L.D. 2046)

has had the same under consideration, and asks leave to report:

That they are **UNABLE TO AGREE**.

Signed:

Representatives:

TUTTLE of Sanford
TESSIER of Fairfield
TRUE of Fryeburg

Senators:

CAREY of Kennebec
CLEVELAND of Androscoggin
FERGUSON of Oxford

READ.

On motion of Representative TUTTLE of Sanford, the Report was **ACCEPTED**. Sent up for concurrence.

ENACTORS

Emergency Measure

Resolve, Regarding Payments to Legislators During a Special Session of the 118th Legislature

(H.P. 1673) (L.D. 2294)

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

Representative PLOWMAN of Hampden **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.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. If this bill does not pass and we do receive the extra \$100, I pledge to give my \$100 a day to the Children's Miracle Network Telethon fund-raiser.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. If this doesn't pass, I pledge to take any monies paid and donate them to the Kennebunk Land Trust.

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

Representative WINGLASS: Madam Speaker, Men and Women of the House. If the bill doesn't pass, then I will donate my \$100 to the Head Start Program in Androscoggin County.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative PEAVEY: Madam Speaker, Men and Women of the House. If this doesn't pass, I would plan to donate my money to the Lincoln County Food Bank and the Sagadahoc County Food Bank.

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

Representative WATERHOUSE: If this bill doesn't pass, I plan on dedicating my money to the Bridgton Lion's Club Journey for Sight.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Men and Women of the House. If this bill does not pass, I would pledge my money to the Masonic Lodge in Union who lost their lodge by arson this summer.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. If this bill doesn't pass, you will still be taking the taxpayers money and giving it away.

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

Representative BARTH: Madam Speaker, Men and Women of the House. This seems as one famous person said, Deja vu all over again. When I first arrived here in the 115th, the 114th had voted and passed a pay raise for legislators. It was during the time, as you well know, of the downturn in the economy and the billion dollar shortfall or however you want to describe it. The minority party tried to pass a bill to not accept that pay raise. At that time, we were asked by the majority, if you feel that way, give it back. I said then that I wouldn't give it back to the state because they would spend it the way I wouldn't want to see it spent. I gave mine to charity. I can't tell you if this bill doesn't pass who I will give it to, but I will tell you everyday that I am here, I will show you the check for \$100 and who it is made out to and who I am going to give it to. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. If this bill fails of passage, I will pledge my \$100 a day to the Hampton DARE Program and it will be my contribution as little as I can to direct part of the Maine State Budget to something that I care about.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. That was really an enjoyable way to come back after dinner. That reminded us of the seriousness of this

issue. We are deciding whether or not we will accept pay for a Special Session which is very likely to be called. You have to decide whether you are willing to say yes, you will accept \$100 of taxpayers money, regardless of how you choose to spend it or whether you don't. Despite the fun that it is to hear the different ideas for how anyone in this body might spend additional money, I urge that you support this bill in order to send a signal that I believe is true for all of us. We don't expect to be reimbursed for any extra days here starting tomorrow. For all of those reasons, I support Final Passage and I hope you do the same.

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

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

The SPEAKER: The Representative may pose his question.

Representative PERKINS: Madam Speaker, Men and Women of the House. Could somebody please tell me why we are talking about having a Special Session? I don't follow that.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. I apologize for not being able to answer the good Representative's question, but if I might, I would like to pose another question through the Chair. My question is I think we all understand why this bill is before us and that there may be an impending Special Session, but my question is, would this bill, if passed, affect any subsequent Special Session that might occur, in say, July or August or September or sometime prior to the election?

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

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.

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

ROLL CALL NO. 570

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bunker, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, 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, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Poulin, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Cross, Dexter, Donnelly, Foster, Gieringer, Gooley, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Madore, Marvin, McAlevey, Meres, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Stedman, Taylor, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Dutremble, Fisk, Honey, Jones KW, Joyner, Mack, McElroy, O'Brien, Perry, Povich, Spear, Tobin, Underwood, Winn.

Yes, 80; No, 57; Absent, 14; Excused, 0.

80 having voted in the affirmative and 57 voted in the negative, with 14 being absent, and accordingly the Resolve **FAILED** of **FINAL PASSAGE** and was sent up for concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Emergency Measure

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

(H.P. 1647) (L.D. 2277)
(H. "A" H-963; S. "B" S-613)

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. 125 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Revise the Salaries of Certain County Officers

(H.P. 1669) (L.D. 2292)

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

Pursuant to House Rule 401.12 and Joint Rule 104, the Chair excused herself from voting.

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 27 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Provide for Confidentiality of Health Care Information

(H.P. 1225) (L.D. 1737)
(H. "A" H-1069, H. "B" H-1073 and H. "C" H-1096 to C. "A" H-1066)

An Act to Implement the Recommendations of the Joint Standing Committee on Inland Fisheries and Wildlife Pursuant to Their Review under the Government Evaluation Act

(H.P. 1670) (L.D. 2293)

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.

ENACTORS

Emergency Measure

An Act to Delay the Implementation of Performance Budgeting for State Government

(H.P. 1438) (L.D. 2002)
(C. "A" H-1089)

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. 46 voted in favor of the same and 87 against, and accordingly the Bill **FAILED** of **PASSAGE TO BE ENACTED** and was sent up for concurrence.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-1077)** - Committee on JUDICIARY on Bill "An Act to Revise the Prelitigation Malpractice Screening Panel Procedures, Criteria and Composition"

(H.P. 773) (L.D. 1050)

TABLED - March 30, 1998 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of WATSON of Farmingdale to **ACCEPT** Minority **OUGHT TO PASS AS AMENDED** Report.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Men and Women of the House. I am the prime sponsor of LD 1050, although the Committee Amendment replaces the original bill, I support this amendment. I decided to submit a bill to revise the makeup of the medical malpractice screening panels as one possible solution to the unfairness that exists in the current system. I have constituents who went through the screening panel process, the exorbitant cost and the unfairness convinced me that something needed to be done. If the results of the surgery had not devastated this family, the lengthy procedure, cost and unfair treatment of a screening process completed the devastation. The whole process has left this family disillusioned with the system, in debt and at a time in life where it is difficult to start over. Just to pay for the costs involved, they have had to mortgage their home. I support this amendment because it will return this process to where it originally started, a true screening of a case, not the mini-trial that is currently conducted.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This has been working for a number of years. The prelitigation screening panels have been very, very effective. I think what we are doing here is we are listening to what is being proposed by trial lawyers. I don't think that we should allow this to come back. I have letters here from letters in the Waterville area, most of them come from Waterville because we don't have doctors in the Winslow area, I think we have one, so most of my letters come from the Waterville area. One of them wrote and said these bills are being presented by a local lawyer who, in my opinion, has a very self-serving motive behind the introduction of these bills. Ladies and gentlemen, these are very, very costly and damaging part of our medical system. We would be adding costs to it. I urge you, ladies and gentlemen, to oppose the pending motion.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. LD 1050 is, in fact, about the medical malpractice screening panel. Speaking for the majority of the Judiciary Committee, I feel that these panels are doing their job and these changes that are proposed by this bill are unnecessary. I am going to give you a quick, hopefully, history of this. These panels have been in existence in Maine for a little over 11 years, starting in January of 1987 through now and still successfully functioning. It resulted from a crisis in the mid to early '80s. The crisis that threatened access to Maine health care providers. I suppose that many of us in this room probably remember that, especially in the rural areas. The crisis was averted through a compromise

in 1986. The compromise included the creation of the medical malpractice prelitigation screening panels. This proposal in front of you now would gut those panels and discourage out of court settlements of these cases. These panels were created, as I said, and actually went into affect of January 1987 to stabilize medical liability rates. It was their belief at the time, apparently, if we stabilize the rates, we would not have health care providers leaving the practice of medicine. I will speak more to that later.

These panels were instrumental in pulling Maine out of this crisis in the mid '80s. Medical malpractice cases spiraled out of control and liability insurance rates escalated. Many people in Maine were denied access to key services such as obstetrics because physicians who provided these services were legitimately afraid of lawsuits. In 1986 a group was formed at the edge of the legislative process involving physicians, trial lawyers, hospitals, the bar association and the business community. They were able to work out a compromise in this area of tort reform that created these prelitigation screening panels. Again, they have been in existence for 11 years. They encourage the settlement of cases with merit and the early withdrawals of cases without merit.

Let me talk, briefly, about who these panels are or what they are. The panels are a form of alternative dispute resolution. We are doing a lot of ADR now. We are doing it in many places, labor issues, school issues and special education issues. ADR has become the buzz word. We have had this form of ADR in Maine for 11 years now and it has been working well. Again, the purpose of the thing is to ensure access to medical health and medical care and settle the cases that have merit and to encourage the early withdrawal of cases without merit. The panels are made up of three members. They have a health care practitioner, an attorney and third panel chair is a person with some judicial experience. Let me translate that into what it really means. We have one doctor and two lawyers on every one of these panels. You are going to hear later, I think, that the panels, perceived by some people, are unfair. Hopefully, I will continue to remind you that we have one doctor and two lawyers on every one of these panels. The question, I hope you will ask at the end of this, is who is being treated unfairly?

These screening panels, I think, benefit victims and the state in these medical malpractice suits. Parties learn the merits of their cases before going to court. This encourages early settlement, which means that victims are paid sooner and all parties are spared the time and expense of lengthy jury trials. Also, again, with everything else we do around here, there is no free lunch. As costs go up on these things, health care costs go up.

We tried to deal with this in the 117th, having served on the Judiciary Committee then. The issue came up. There were some people who were suggesting that the screening panels were not functioning properly. We got into a fairly lengthy discussion of the issue. It became obvious at the time that there was dispute over what the data showed. It seems the Bureau of Insurance had, in fact, collected a lot of data on these panels. There was no resolution and there was no clear indication of what they showed. In the 117th Legislature a Resolve was passed that a study would be commissioned. The Bureau of Insurance was to do the commissioning and, in fact, hired an outside firm at the cost of \$26,000 to do this study. We are going to talk more about the study and the results of it later, hopefully.

Let me tell you the effort in the 117th to form this study was not an off the cuff kind of effort. My recollection is that we spent part of six work sessions on just fashioning the questions that we would want this study to answer. It was not an off the cuff study. All of the parties that are currently involved in this were involved

in the questions that were going to be asked in this study. As I said, the results are in. We got the study and we will talk about those later.

Back to this particular amendment of the bill, there were three bills this year. We had hearings on all three. I am a little disturbed about this part of it because the process, while not blatantly bad, wasn't the best we normally do. Three bills, one bill survives in a very much amended form and you have it in front of you today without public hearing. I would suggest without, at least, the full scrutiny of the public. We believe that this bill creates a one-sided process, disadvantaging health care practitioners and discouraging settlement. The amendment gives defendants no meaningful opportunities to prepare their case. It may eliminate discovery and may eliminate oral presentation of evidence, depriving the panels of a complete record. It greatly diminishes the pool of eligible physician panel members and finally, substantially alters the standard of proof in favor of the proof in favor of the plaintiffs.

I would urge that you vote against the Minority Ought to Pass as Amended Report and vote to pass the Majority Ought Not to Pass. Madam Speaker, when we take the vote, I would move that we request the yeas and nays, that is not what I wanted to say, however, Indefinitely Postpone. Thank you.

Representative NASS of Acton moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

Representative SNOWE-MELLO: Madam Speaker, Ladies and Gentlemen of the House. As you know, I do not serve on the Judiciary Committee, but I am friendly with a few doctors. Doctor Carey, who is a constituent of mine and Doctor Moyer and Doctor Hickey of the Portland area all contacted me and were seriously concerned with tinkering with the screening panel procedures as they exist today.

I would like to take a short opportunity just to read to you some notes that Doctor Hickey had jotted down for me. I am doing a favor and sort of being his voice here. "LD 1050, 'An Act to Revise the Prelitigation Malpractice Screening Panel Procedures, Criteria and Composition' is being touted as presenting minor changes, which would improve the system now in place, not so. In reality, this bill would not revise the litigation screening panels, but rather render them totally ineffective. A noted attorney has suggested that a more accurate title for this bill should be, 'An Act to Abolish the Prelitigation Screening Panels and Require that all Medical Malpractice Claims, Regardless of their Validity and be Dumped into the Court System for a Jury Trial.'" Last year's Legislature commissioned a study at \$20,000 plus taxpayer expense to examine the effectiveness of the prelitigation screening panels. This study presented to the Judiciary Committee concluded that the panels were effective. They have proven effective and fair to all parties concerned. Again, we must be uncompromising on this issue. Please, when you make your vote, vote no. Thank you.

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

Representative POWERS: Madam Speaker, Men and Women of the House. As a member of the Judiciary Committee, I want to tell you a little bit about what my process was in coming on to the Minority Report. None of us had any question that something needed to be done in the mid 1980s to try to get the medical malpractice insurance costs under control and to try and

help, in particular, our rural health care crisis. The medical malpractice screening panels were an important part of the solution. What really caught my attention as the Judiciary Committee heard testimony during the public hearing and subsequently studied the issue of screening panels were concerns about accessibility, fairness and timeliness. I actually began to sense that in an effort to readdress some significant problems of the '80s, what was created to have been a mechanism to screen out frivolous cases is actually of such a fine mesh, kind of like, no see them grade type of mesh, it results in being a financial hardship and a barrier in many worthy cases.

One case, for instance, involves a patient who went to a physician because of a mole on her back, which was bleeding and irritated. The PA correctly diagnosed all of the symptoms of a malignant melanoma and reported that diagnosis to the physician. The physician replied that the mole didn't look that bad, but nonetheless advised the assistant to perform a biopsy. The pathology report indicated that the mole was various malignant or pre-malignant characteristics, but the patient was assured that it was a benign growth and that she simply should continue to monitor the state of the mole. Two years later the plaintiff's mother observed the mole and convinced the plaintiff to consult a different physician. That physician immediately diagnosed the mole as malignant melanoma and remove it. The patient brought the case against the physician who had failed to diagnose this malignancy. In order to prepare for the screening panel, the plaintiff had to retain a family practice expert witness who was a physician in Philadelphia as well as an oncologist who was a physician in Pittsburgh. Simultaneously the defendants retained an oncologist in Cincinnati. Three attorneys traveled to each of these three cities to conduct depositions to be used at the screening panel. By the time this plaintiff had got before the screening panel, two and a half years had gone by. She had incurred \$20,000 out of pocket expenses to get the case prepared for the panel.

After a day long hearing, the screening panel ruled 2 to 1 in favor of the patient, but the defendant made no settlement offer as a result of that decision. Work on the case continued. With additional experts hired in preparation for an actual trial, depositions taken and various other costs incurred. The plaintiff finally received a special assignment for the trial. The special assignment was necessary because there were so many expert witnesses coming from all over the country for it. A few months later and a trial began and a jury was chosen, no sooner than the selection of the jury and without hearing any evidence whatsoever, the defendant settled. This time it had been seven years from the original date of misdiagnosis and three years from the screening panel decision. The screening panel process did nothing to speed up the decision in this case. In fact, it caused significant delay and significant duplication of expenses, which compounded the losses that the patient had suffered.

It seemed to me that timeliness and accessibility and fairness needed attention in the regulation of the panels. Timeliness is one of the issues this amendment addresses. It is a small but reasonable change. It calls for some shortened time limits rather than the current six months of waiting for a hearing after service of notice. This amendment states the hearing may be bypassed if it has not been held within four months. As to accessibility, presently a plaintiff and attorneys can anticipate easily \$10,000 just to present a case before the panel. This alone can be prohibitive. By simplifying the panels collection of information to using depositions by requiring statements rather than bringing in very costly expert witnesses. The cost to a plaintiff, separate even from the legal fees, are significantly lessened.

Finally, some issues of unfairness or inequity have been addressed in this amendment. In particular, there is no

protection that someone who is sitting on the panel won't be in a conflictive position by being insured by the same carrier as the defendant's insurer, which is what brought Representative Savage from Union to bring this bill forward initially. This, in fact, has been quite likely, this conflict of interest, in one insurance company covers about 50 percent of the physicians in Maine. The Committee Amendment addresses this by disallowing any such conflict of interest. You will hear or have read that this necessarily will limit the eligible physicians who may sit with unbiased and open minds on the panels. I think that is right and I support that protection for the plaintiffs.

This bill is not, however, all gifts to plaintiffs. Protective of them, but heavy handed toward the doctors. In order to maintain the ultimate purpose of the panels, to screen out frivolous cases, this bill clearly states that if a case goes on to trial and the panel has previously, unanimously found against the person accused of personal negligence, that finding may not be presented to the jury, even though a unanimous finding against the claimant may be presented at the trial. That seems fair. Colleagues of the House, I ask you to be willing to consider these few small changes to the operation of the malpractice screening panels and to vote against the pending motion so that we can go on to pass the Minority Report. Thank you very much.

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

Representative VIGUE: Madam Speaker, Men and Women of the House. I have another letter here from another doctor in the Waterville area in reference to the screening process. "The screening panels effectively weed out frivolous lawsuits and hasty settlements of meritorious claims. I think they are a valuable asset for our patients as well as physicians and should be left unchanged." Ladies and gentlemen, based on what is on the board at the present time, the majority of the Judiciary Committee opposed LD 1050 and I ask you to respect the majority position of the committee and Indefinitely Postpone the Bill and all its papers.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Madam Speaker, Men and Women of the House. I will be supporting the Indefinite Postponement of this bill. I hope that you would consider doing so also. I have two reasons for doing that. First of all, the current method of screening seems to be working in the vast majority of cases. There are always incidence where it may fail. That happens in any system, but most of the time the system is working well. I don't think we should be tinkering with it. The second reason is, here in Maine we have a shortage of physicians, especially in the rural areas, which is most of Maine. Increasing the cost of insurance, which this bill could do if it were to pass, it will make it more difficult to recruit physicians to the State of Maine and it may even make it more difficult to retain those that we already have. That is an important part of this bill. I would ask that you consider Indefinite Postponement. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would ask you to vote against this motion to Indefinitely Postpone and go on to the report which was before you. This issue is before you because the system, as it exists, is working for doctors, but it is not working for the people who are injured as a result of the negligence of doctors. It is inevitable that doctors are going to write you and have had a very prolific letter writing campaign to tell you how horrible the medical malpractice bills are that are before you.

This bill is a result of a compilation of a number of bills which we had before our committee which resulted in the Minority Report, which is before you. Some of the problems that currently exist are very aptly demonstrated, which I have personally observed at being a lawyer that does not represent people in medical malpractice cases. Having run a small town practice for 17 years and representing my neighbors and friends and people in my area, occasionally I would have someone come in to me with a potential medical malpractice claim. Typically these would not be huge types of injuries. They would be moderate injuries as a result of some alleged malpractice. I would not handle the case myself because I do not do that type of case. I would then try to find a lawyer to represent someone. If that claim was not a horrendously bad claim or bad injury, it was virtually impossible to find someone to represent that person. The reason is typically in medical malpractice cases, the lawyers end up paying the expenses or fronting the expenses, sometimes they get paid for them and sometimes they don't, to hire experts to evaluate the case and all of that. It just doesn't make sense to do it for a claim that is worth, just say, \$50,000. To get in front of a medical malpractice panel the way it is set up now, you probably have to front a minimum of \$10,000 or more likely \$20,000 in expenses just to present your case to the panel. Then you have to do it all over again and try it in court. Here you can have \$20,000 or \$30,000 in expenses for a \$50,000 case. It doesn't make sense.

The Department of Insurance did a study, which we just received this year and in it they say, quite clearly, do prescreening panels and peer access to recovery for claims with merit? It says, "Before panel data, 21 percent of claims are resulted in awards or settlement. After the panels, only 15 percent of the claims resulted in awards or settlements. This was a significant percentage." They can't determine whether they were claims of merits or not. That is not part of the data that they review. What is more telling on those statistics is this. The vast majority in the reduction of claims was for low-level claims. There was an overall reduction in claims that made recovery of 29 percent. They are saying that 29 percent fewer people got a recovery after the panels were instituted. If you have a claim that was worth up to \$25,000, 50 percent fewer of those claims were paid. If you had a claim that was worth from \$25,000 up to \$250,000, 32 percent less of those claims were paid after the panel.

Now you have heard a lot of talk about how these panels have resulted in quicker court action and a quicker settlement and all that. I will tell you one thing you haven't heard is that in 1987 and 1988 when these panels were instituted, the court system was a shambles. There wasn't a civil case that didn't take eight years to get through the courts. It didn't matter if it was a malpractice case or an automobile case. The court system has increased their efficiency to a major degree since the panels were initiated and since that time period. The statistics on the things that get settled faster and go to court quicker are true not just for malpractice claims. They are true for all civil claims. Statistics can be made to say just about anything anybody wants to do. You can pick up this book and you can look at it and you can pick out a statistic that helps you. You can pick out a statistic that hurts you. You can pick out the same statistic and it can do both things. The truth is, I have seen the people that can't get lawyers to represent them because of the panels. I have seen people that don't get compensated because of the panels. We have information on people that don't get compensated because of the panels and that is the truth.

This bill is to make it what is supposed to be, a screening panel. Look at the case and say, does it have some merit and if it has some merit, it should go forward. The way it exists now is they get to be your trial jury. They get to stand there and hold

days of testimony with competing experts. Tell me what is wrong with saying you shouldn't have a doctor on your panel that has the same insurance company as the doctor who is being charged with the malpractice. In this body we consider an awful lot about impropriety, about appearances of impropriety and all that. Do you want someone looking at your claim that is insured by the same insurance company as the doctor who you are trying to go against? Would you want your judge to be in the same position?

Let's get beyond all the letter writing you have gotten and let's read the bill. Let's listen to what is in the bill. What is in this committee report is vastly different than what was in the bill as submitted. Take the time to read the bill, I ask you. Take the time to consider the people that are going without compensation because of injuries they have received through the negligence of one of the physicians. That is what insurance is all about folks. Doctors make mistakes. Truck drivers make mistakes. Lawyers make mistakes. As a lawyer, I have to carry malpractice insurance. I would love there to be a panel where I could have people who make a claim against me go through and jump through hoops. A third of the claims would go away. The truth is Medical Mutual, for example, is making major profits off the medical malpractice line and believe it or not, they are doing business in New Hampshire and making major money and guess what, New Hampshire doesn't even have screening panels. They are doing business in Vermont and making a major amount of money. Vermont doesn't have screening panels. The crisis of the '80s was not just Maine. It was nationwide. It had to do with the economy and court systems and it had to do with a lot of things.

What we are looking at here is a matter of fairness and a matter of balance. The bill doesn't say do away with the panel. It says make it a reasonable process where you are screening the cases, not trying them. I would ask that you vote against the motion to Indefinitely Postpone and go on to accept the Minority Report.

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

Representative SAXL: Madam Speaker, Men and Women of the House. You have heard Representative Thompson speak wonderfully well and one of the things about lawyers are their training which allows them to be so very articulate and so very convincing. I certainly never would want to see someone who was injured not have the right to have claims, but the screening panel is one of the roads. It is an ADR procedure, a less formal procedure than a court procedure. It is a method of trying to settle a case before it goes to court. The ability to go to court is not stopped by the screening panel process. It is there and available to anyone who needs it. In fact, the number of malpractice cases had increased enormously and so one looked for a different way in which to address these cases. A way in which one could throw out cases that were frivolous because not all the cases that are made by individuals are valid and worthwhile ones. What we want with the screening process is to send those cases which do deserve further attention on to the court process or to speedy resolutions. There was an independent study done of this process and as chair of Banking and Insurance, I am pleased to let you know that the Bureau of Insurance commissioned a study in the 117th of the effectiveness of the panels. The bureau concluded that the panels are doing their job, as intended, and a unanimous decision for the plaintiff is usually settled. The unanimous decision for the defendant are usually dropped. This benefits the victims because damages are usually paid out sooner and spares the party the time and expense of lengthy jury trials. This also benefits the state by keeping health costs down by reducing the number of

malpractice cases. It seems to be a system which is working well. There are always exceptions to that. You are hearing some anecdotal evidence of that tonight, but this was an independent study. I hope you will bear that in mind. Thank you.

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

Representative SNOWE-MELLO: Madam Speaker, Ladies and Gentlemen of the House. I am sorry to rise again and talk to you, but I feel that we are really condemning doctors here. I have to tell you that Doctor Moyer talked to me personally and he isn't a physician of mine in South Portland. He is a kind, gentle, caring man as well as the other physicians I mentioned. He has served on these panels and he has told me that most times, as a matter of fact he said, never has a patient lost when he has been serving on those panels. They are very, very effective, but, yes, there are a few I imagine, like anything, that has a difficult time and loses, but it is really the minority. It doesn't happen that often. The panels are working. They are working very well. Please, it wasn't just letters that I received. It was phone calls. The doctors came up and spoke to me personally because they know me and they trust me. When you vote for this bill, remember that these panels do work. Let's leave it alone. Thank you.

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

Representative KANE: Madam Speaker, Men and Women of the House. Have you ever been in a position where you have been injured in a situation where their might be possible malpractice? Do you know somebody? Somebody in your family or a friend who has been. It is a terribly difficult and intimidating process to attempt to challenge both the legal system and the medical system at the same time. When I was 16 years old and I was working in a bottling plant, I had a bottle blow up in my face. It just missed my eye. We rushed to a doctor's office and I was sewed up by a male nurse who was not authorized or licensed to this kind of surgery and left a significant scar in my forehead. I grew up in a poor family. We didn't know what to do and we didn't know where to turn. Just thinking about challenging a court system or the legal system is a very intimidating barrier in and of itself. Ladies and gentlemen, we should be looking for every single way possible to level the playing field for people who, once they are injured and are in these circumstances, are already in a disadvantageous position. Put yourselves, for a moment, in the shoes of one of these folks that are attempting to gain some redress and look at what the panel has done. The panel has done its job very well, but has a disadvantage to the people who are seeking a just settlement from the court. I don't think so. The Representative from Naples described very well that what we are looking at here in this panel is not a screen, but it is a barrier. Let's remove the barrier. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I have been trying to go through three or four of the things which have been passed out to assertion as to perhaps how I would vote. My thinking is sort of in a gray area right now. As I look at some of these, it shows that the insurance companies have done very well. The study that I see here for 10 year period, certainly in the last three or four years, they have done enormously well. Now, my question, if anyone on the committee if anyone will answer it please, is this, is there any correlation between the insurance costs to doctors relative to the insurance profits been substantiated in the last six to eight years? I would ask that Madam Speaker for anyone on the committee that would answer that for me please.

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 Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I will try to answer the Representative's question. This is a mutual insurance company. Any monies that are not expended are returned in the form of dividends to the people who paid the premiums. However, with the statute of limitations and the screening panel and trial process, you cannot, at least until the claim year is completely passed the statute of limitations and all claims have settled determine what the level of return to the physicians is. Looking at 1996 and 1995 and 1997, especially, when you see the dividends that are collected, that does not necessarily reflect, in fact, it does not reflect any payments that will have been made for awards, as many of the people who would bring forth claims during that time are still under a statute of limitations and are not even required for several years to bring forward their claim for damages. You must go way back in order to know exactly what the dividends earned actually are.

In 1987 a family practitioner who provided OB services 10 years ago paid \$18,226 a year, one doctor, for his medical malpractice insurance. In 1996, he paid \$9,939. His cost for medical malpractice costs in half. An OB-GYN in 1987 paid \$44,175 for medical malpractice insurance. In 1996 is currently paying approximately \$31,000 dividends may make that a little bit lower depending on what the claims and the payments are. I had a baby in 1987. My doctor didn't charge me a whole lot it seems. If she had to come up with \$50,000 to deliver babies and she was charging me about \$2,200, that is an awful lot of babies she had to deliver just to pay her medical malpractice insurance. In 1989, there was such a shortage of persons providing OB-GYN services that former Senate President Charles Pray recommended setting up a pilot program to pay the difference up to \$6,500 to a doctor who would agree to deliver babies. Senator Paul Gauvreau of Lewiston wanted the state to set up a fund so that doctors wouldn't have to pay the premiums. What happened was the medical industry and the legal industry got together and agreed on a set of reforms and that is what institutional memory will bring you. They agreed on a set of reforms and they agreed that this is how each would abide by what was going to happen in the medical malpractice area. In Lewiston doctors were pulling out everywhere. In rural areas you couldn't find someone to deliver a baby. OB-GYNs are not that plentiful now. People still have to go quite a ways to have baby delivered if you live in a rural area.

The study that was commissioned is an independent study and the conclusion said that the panels don't need any changes. We have a study that says it doesn't need any changes. It also said, which I found interesting was that awards that went before a screening panel on average increased by \$113,000. After screening panels were introduced, awards went up by \$113,000. Attorneys who do business as in medical malpractice, product liability cases and any other tort cases know that when someone walks through the door with a case like this, that there will be a contingent fee agreement signed and the lawyer will agree that they will pay the up front costs and lawyers who cannot do that don't take that kind of work. Lawyers who get good lines of credit at the bank do.

The contingent fee agreement says that we will move this case for you in the proper setting through the court or the screening panel and for putting out the initial cost, you will pay us one-third of what we get for you, plus costs. When the check is made out to the claimant, it is made out to attorney so and so and the client. The client is called in to sign the check. The

check is put into a trust account and a settlement document is drawn up. The award of \$100,000 will say now has one-third deducted from it with the remaining \$67,000. The \$67,000 is now going to be reduced further by costs incurred by the attorney for producing the work. The claimant receives the rest. That is how these things work. Having been a legal secretary for 13 years, I am glad to hear that the system is not as clogged up as it was. The cases that receive priority are criminal cases, child protection cases and family disputes. Trial lists are set on a basis and you hope that somebody in front of you will hurry up and settle so you can move up. If you don't get your turn that time, you have to wait until the next time. Trials are not done every week in the courts of the State of Maine. If we are talking about things taking a long time, it doesn't matter if it is an automobile case, a personal injury case, a product liability case or a medical malpractice case. It takes time. There are all kinds of things that have to be done. You send out interrogatories. If you have never had to fill out an interrogatory, wonderful, but you have 30 days to respond. After 30 days the other side sends you their interrogatories and you have 30 days to respond. You ask for a scheduling order from the judge. You have so many days to take that position. It takes time no matter what the case is to move things along. That is secretarial law, law as a secretarial staff person 101.

When you hear that things take this much time, that is the natural order of things. Things may move quicker now, but during these years, they didn't. The panels are working. We spent a lot of money for an independent person or company to come in and look at this. Please don't prejudge what you are hearing about insurance companies making lots of money until you understand how claims are paid. I ask you as we go through this evening to continue to support the motion to indefinitely postpone and to let this well working system that we do have to continue to do what it does for the people of the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

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

The SPEAKER: The Representative may pose his question.

Representative TREADWELL: Thank you Madam Speaker. The Representative from Hampden just mentioned, I think, premium reductions up to 50 percent or close to that since 1985 or 1986 time frame. I have two handouts here, one from the Representative from Waterville that alleges that the insurance companies are making fantastic profits at the current time. I am curious how we can say that they are making these profits when we have had a 50 percent premium reduction. Could anybody explain that to me please?

The SPEAKER: The Representative from Carmel, Representative Treadwell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative JABAR: Madam Speaker, Ladies and Gentlemen of the House. We have a great many statistics which I would be willing to share with him. The reference to Maine Mutual has to do with a company that may be not for profit, but there are many other companies that are for profit. A lot of the information we have makes reference to the money and the return on the money that they have made from the premiums they have collected. I can share those with you and I will be glad to give you these without going through line by line as far as the profit on these premiums are concerned. Also, you will see that medical malpractice insurance is a line of insurance compared with other lines of insurance in the State of Maine. It is right near the top as far as return on net worth. I would be more than

willing to share the numerous tables we have from which you secured the information on this sheet. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I have a great respect for the law, as I am sure you do. In my own family I have two children who are lawyers who are married to two lawyers and my brother is a doctor. I have great respect for what they do. A lot of people say a lot of things about lawyers and about how litigious a society this is. If you read back in American History, we have always been a litigious society. Hector St. John in his letters from the American farmer talks about the particularly litigious people who live in northern New England. Why are we that way? They said the same thing. Our country is routed in a high regard for fairness and justice. Maybe it is because our ancestors endured centuries of subordination and injustice. Finally, when they got here they were able to find a place where freedom and justice and fairness were codified in law. I believe that these screening panels actually make justice hard to obtain. These medical malpractice screening panels deny justice. Maybe they were meant to bring down and stabilize the medical liability costs, but they were not meant, I hope, to forego fairness. For example, is it fair to allow a case to be submitted in writing without a hearing in most cases? Is it fair to call this process a screening and then conduct it like a trial, but without the safeguards of our American justice system? Is it fair to simply settle in order to keep the process short, rather than to spend the time that it takes to establish the truth through our time honored courts of law? Is it fair that one member of the screening panel might, in fact, actually be insured by the same company as the medical doctor involved in the malpractice allegations? Is it fair that the injured health consumer must wait years for the resolution of her claims? I think not.

If by some stroke of misfortune, you or I in our automobiles, may be struck by a careless driver under the influence or if you may be gauged by an unscrupulous contractor or if you are injured in an unsafe workplace or if you are poisoned by poorly prepared food, do you want to be told your case will first be screened? Will anyone question that your quest for justice has merit? Is this the American justice system that we are so proud of? If you have high regard for the law, as I do, and I know that you do, I hope that you will vote with me to oppose the motion to indefinitely postpone this bill and go on to adopt the Minority Report on LD 1050. Thank you.

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

Representative MAILHOT: Madam Speaker, Ladies and Gentlemen of the House. I rise this evening as a member of the Judiciary Committee. Having taken the choice to vote with the majority of Ought Not to Pass on LD 1050, because, for various reasons. Actually, I would like to begin by saying that a medical malpractice lawsuit is a terrible thing to go through for the medical provider and also for the patient as well. In the early '80s, I remember that malpractice lawsuits were growing in numbers at an alarming rate and I also remember that many of our physicians opted to leave or change the direction of their professions. For example in my area, which is the Lewiston/Auburn area, I recall that many OB-GYNs were economically forced out of their professions or that many of them limited their practice to reduce their chances of lawsuits. Many of those lawsuits were frivolous and needless, to say the least.

Another true fact that we all remember is that we allowed our best medical specialists and surgeons that do some of the most skilled and challenging surgical procedures to be at the mercy of the courts and also at the unfair, way to expensive costs of

medical malpractice insurance. As you have heard earlier, I checked with a few doctors recently in my area. They did not call me, I called them. They both were in the \$18,000 range before the panel existed and now they are paying between \$10,000 and \$11,000. In 1986, thanks to the Legislature of that time, a prelitigation malpractice screening panel was enacted. To this day there are overwhelming and positive documented facts that tell us that the panel works. It is also a well known fact that a large number of cases are solved before or during the early stages of the panels process.

I would like to say at this time that when I did take my vote in committee that the amendment that is being presented on the floor this evening was not an issue. This came to us after our votes were taken and it came to us as an 11:00 deal. It was never discussed fully in committee and it was never discussed in work sessions. We never reviewed this Committee Amendment "A," which is the Minority Report. We never discussed it as a whole committee. I urge this body tonight to indefinitely postpone LD 1050 and keep the panel as it is because it works. Thank you very much.

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

Representative JABAR: Madam Speaker, Ladies and Gentlemen of the House. I will be very short. My colleague from Winslow made reference to some letters from Waterville doctors to trial attorneys presenting these bills out of self-motivation. I think I just want to set the record straight with regards to my motivation for supporting the minority opinion. First of all, in the 10 or 11 years that the panels have been in existence, I have been involved in one case as a litigant. As a matter of fact, my experience with the panel comes more as a chairman of the panel or serving on the panel itself, rather than being a litigant. I have a brother who is a doctor. He performs surgery. I have a niece and nephew who are in the medical profession. I have numerous other family members who are nurses and nurse practitioners. I have no ulterior motive of either getting rich on these types of cases or going after doctors.

My motivation is because I believe our court process is too long, too complex and too expensive. It is becoming impossible for the average person to gain access to the court. I am not against the screening panel. What we have here are some adjustments in the screening panels to make it easier for people to have their case reviewed. In some of the handouts that you had there is an indication that if you spend a lot of money, it is not money lost because you can turn around and spend it in the trial. What it fails to take into consideration is the case that the person may want to have reviewed by the panel and if the panel finds there is no case, he can walk away from it. That person would like to have the case reviewed by a panel without having to spend a great deal of money to simply have the case reviewed by the panel.

We also heard from a Representative talking about the contingency fee, like that is what is driving cases. Believe me, as an attorney, the simple math is one-third of zero is zero. No attorney is going to take a frivolous case or lousy case and invest his time and money if there is no merit to the case. These screening panels, in the language from the original language back in 1986 was the purpose of mandatory prelitigation screening a mediation panels. Not one case did we hear in the statistics ended up in mediation because that is not what happens at this level. They have become mini-trials. What this bill tries to do is do away with all the interrogatories and all of the depositions that both attorneys, the attorney for the insurance company and the attorney for the litigant that get involved with. That is what makes it complicated. It isn't just the plaintiff's attorney, it is the defense attorney that is spending a lot

of time. He is getting paid by the hour. It becomes complicated and it becomes long and it becomes expensive. It becomes expensive for everybody involved.

What this does is try to get away from some of this formality to let a panel review the case on its merits, on the reports, what the people have to say and let me look at the case and tell you whether this should go in front of a jury. That is what this is trying to do. This is not a question of whether we should or should not have screening panels. The medical profession is the only people who have the screening panel available before suit is filed against them. Even the President of the United States doesn't have the advantage of a screening panel. States can be sued. Municipalities can be sued without a screening panel. These are the only people who have this added protection. All this bill is trying to do is to make it less expensive, less time consuming and much quicker to have it really what it was, a screening panel.

It is also interesting to note that the Maine Medical who set up and self-insured themselves are doing business in New Hampshire where there is no screening panel. If you look at the statistics, it costs \$500 less in Maine for a family physician with OB credentials than it does in New Hampshire. We ask you, again, what Chairman Thompson indicated of the Judiciary Committee, look at the bill and see what it does. It really does not gut the screening panels as many people have claimed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. I promise just a quick review of this study. We did pay almost \$30,000 for it so we ought to get our money's worth out of it. The Bureau of Insurance convened a committee of, again, all the participants in this issue, the doctors, the lawyers and the insurance company and asked them essentially four questions. The answers under this short paragraph under conclusions of the report were that these panels promote quicker payment for those who receive awards and provide a lot of detail for that. Promote earlier dismissal of claims that conclude with no award. Do not reduce the overall average size of awards. Finally, reduce the proportion of claimants receiving awards. They have two other conclusions. There has been a downward trend in the length of time needed to settle claims that conclude with no awards. Finally, the trend and settlement period for claims with awards has been relatively flat.

Just one final message. The prior speaker talked about the medical profession is the only place where a claimant can bring a malpractice issue like this. There is, however, one glaring other profession that has it. It is called the overseers of the bar. You can reach your own conclusions on what that profession is.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. We are talking apples and oranges now. Our overseers job is to discipline attorneys who are charged with misconduct. We are talking about lawsuits here. If you want to sue a lawyer, you run into court and sue them, period. There is no screening, no nothing.

On POINT OF ORDER, Representative NASS of Acton asked the Chair if the remarks of Representative THOMPSON of Naples were germane to the issue.

The Chair advised all members to address their remarks to the legislation before the body.

Representative THOMPSON: Thank you. If you want to sue a lawyer, there is no screening involved. If you want to sue a doctor there is screening involved. I don't want to get into this lawyers against doctors thing. That is not what we are talking

here. We are talking about the people who are injured. Let's blame in on the lawyers. If you want to do that, go ahead. You are going to vote that way anyway. If you want to listen to the bill, let's look at the bill and make your decision based on the facts. You will think about the person bringing the suit and whether they are entitled to a process that is fair. I urge you to vote against the motion to Indefinitely Postpone.

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

ROLL CALL NO. 571

YEA - Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Chartrand, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Dexter, Donnelly, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagnon, Gamache, Goodwin, Gooley, Joy, Joyce, Kasprzak, Kerr, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, Meres, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Pieh, Pinkham WD, Plowman, Poulin, Quint, Saxl JW, Saxl MV, Shannon, Snowe-Mello, Stanley, Stedman, Taylor, Tessier, Treadwell, Tuttle, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

NAY - Ahearne, Baker, Berry RL, Brennan, Bryant, Bull, Carleton, Chick, Desmond, Driscoll, Dunlap, Gagne, Gerry, Gieringer, Green, Hatch, Jabar, Jones SL, Jones SA, Kane, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, McAlevey, McKee, Mitchell JE, O'Neal, Powers, Richard, Rines, Rowe, Samson, Sanborn, Savage, Shiah, Sirois, Skoglund, Spear, Stevens, Thompson, Townsend, Tripp, True, Usher, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Dutremble, Fisk, Honey, Jones KW, Joyner, McElroy, Perry, Pinkham RG, Povich, Tobin, Underwood, Winn.

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

88 having voted in the affirmative and 51 voted in the negative, with 12 being absent, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent up for concurrence.

On motion of Representative KONTOS of Windham, a message was sent to the Senate to inform them that the House had transacted all business before it and was ready to adjourn without day.

The Speaker appointed Representative KONTOS of Windham on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor Angus S. King, Jr., and inform him that the House has transacted all business before it and was ready to adjourn without day.

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

At this point, a message came from the Senate borne by Rand of Cumberland informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

Subsequently, Representative KONTOS reported that she had delivered the message with which she was charged.

Subsequently, the Committee reported that they had delivered the message with which they were charged.

On motion of Representative GAMACHE of Lewiston, the House Adjourned Without Day at 9:36 p.m. on Tuesday, March 31, 1998.