

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
58th Legislative Day
Tuesday, April 5, 1988

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

Prayer by Reverend Carl Geores, Leeds Community Church.

The Journal of Monday, April 4, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Bill "An Act to Create the Maine Educational Loan Authority" (Emergency) (S.P. 988) (L.D. 2616)

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

Was referred to the Committee on Education in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Create Minimum Standards for Licensing Shelters for Homeless People" (S.P. 928) (L.D. 2439)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

ORDERS

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1489)

Representative CARROLL from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1988 (Emergency) (H.P. 1417) (L.D. 2617) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1489)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 863) (L.D. 2251) Bill "An Act to Assist Homeowners and Businesses to Comply with the Overboard Discharge Law" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(S.P. 794) (L.D. 2091) Bill "An Act to Extend Entitlement Programs" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-390)

(S.P. 817) (L.D. 2137) Bill "An Act to Amend the Principles of Reimbursement for Nonhealth Employees of Nursing Homes" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-391)

(S.P. 844) (L.D. 2190) Bill "An Act to Allow Disclosure of Confidential Information Relevant to Personnel and Licensure Actions" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-392)

(S.P. 895) (L.D. 2324) Bill "An Act Establishing a Medicare Assignment Program" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-393)

(S.P. 897) (L.D. 2326) Bill "An Act to Clarify the Site Location of Development Law" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-394)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session, under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1752) (L.D. 2401) Bill "An Act to Establish a Permit to Operate a Railroad" (C. "A" H-590)

(H.P. 1776) (L.D. 2429) RESOLVE, Establishing the Advisory Committee on Education and Critical Issues for State Decision Making (C. "A" H-589)

(H.P. 1801) (L.D. 2465) Bill "An Act to Amend Maine's Domestic Relations Laws" (C. "A" H-601)

(H.P. 642) (L.D. 865) Bill "An Act Relating to the Maine Uniform Transfers to Minors Act" (C. "A" H-602)

(H.P. 1486) (L.D. 2020) Bill "An Act to Amend the Maine Juvenile Code to Expand Notice Provisions" (C. "A" H-603)

(H.P. 1592) (L.D. 2178) Bill "An Act to Ban Disposable Styrofoam Food and Drink Containers from Public Cafeterias" (C. "A" H-604)

(H.P. 1806) (L.D. 2472) Bill "An Act to Clarify the Obligations of Distributors, Dealers and Redemption Centers" (C. "A" H-605)

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

(H.P. 1549) (L.D. 2109) Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Laws" (C. "A" H-607)

On motion of Representative Mayo of Thomaston, was removed from Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-607) was read by the Clerk.

On motion of Representative Mayo of Thomaston, tabled pending adoption of Committee Amendment "A" and later today assigned.

(H.P. 1814) (L.D. 2482) RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency) (C. "A" H-608)

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

(S.P. 936) (L.D. 2469) Bill "An Act to Promote Greater Workplace Safety" (C. "A" S-396)

On motion of Representative McHenry of Madawaska, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-396) was read by the Clerk.

On motion of Representative McHenry of Madawaska, tabled pending adoption of Committee Amendment "A" and later today assigned.

(H.P. 1736) (L.D. 2381) Bill "An Act to Improve Supervision of Prison Furloughs" (C. "A" H-609)

(H.P. 1797) (L.D. 2461) Bill "An Act to Prohibit the Sale of Polystyrene Foam Products Containing Chlorofluorocarbons" (C. "A" H-596)

(H.P. 1731) (L.D. 2374) Bill "An Act to Extend and Strengthen the State's Mandatory Shoreland Zoning Laws" (C. "A" H-597)

(H.P. 1769) (L.D. 2422) RESOLVE, Authorizing the Bureau of Health to Conduct a Time-Trend Study of Leukemia Incidence in Maine (C. "A" H-598)

(H.P. 1503) (L.D. 2053) Bill "An Act to Allow Greater Departmental Input Under Certificate of Need Provisions" (Emergency) (C. "A" H-599)

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

(H.P. 1791) (L.D. 2452) Bill "An Act to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace" (Emergency) (C. "A" H-600)

On motion of Representative Diamond of Bangor, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-600) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

SECOND READER

Later Today Assigned

Bill "An Act to Establish the Maine Commission on Agent Orange and Radiation Information" (Emergency) (H.P. 1914) (L.D. 2613)

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

On motion of Representative Diamond of Bangor, tabled pending passage to be engrossed and later today assigned.

SECOND READER

Later Today Assigned

Bill "An Act to Amend the Rehabilitation System under the Workers' Compensation Act" (Emergency) (H.P. 1915) (L.D. 2614)

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

On motion of Representative Brown of Gorham, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend Property Tax Exemptions" (H.P. 1657) (L.D. 2267) (C. "A" H-586)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

SECOND READER

LATER TODAY ASSIGNED

Bill "An Act to Establish Guidelines for Genetic Engineering Experimentation" (H.P. 1727) (L.D. 2370) (C. "A" H-583)

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

On motion of Representative Diamond of Bangor, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENGROSSED

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989" (Emergency) (H.P. 1788) (L.D. 2449) (C. "A" H-584)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

FINALLY PASSED

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Make the Language of the Constitution Gender-Neutral (H.P. 1877) (L.D. 2571) (H. "B" H-579; H. "A" H-521; S. "A" S-360)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken. 98 voted in favor of same and 27 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Reform the Pharmacy Laws (S.P. 963) (L.D. 2555) (S. "A" S-349; S. "B" S-378)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Protect Maine's Outstanding Rivers from Water Diversion Projects (H.P. 1553) (L.D. 2113) (C. "A" H-577)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Ensure Local Participation on the Radiological Emergency Preparedness Committee (H.P. 1706) (L.D. 2343) (H. "A" H-566)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act Relating to Horse Racing and Racing Facilities (H.P. 1781) (L.D. 2434) (S. "A" S-381)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 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.

ENACTOR
Emergency Measure
Later Today Assigned

An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1988-89 (H.P. 1800) (L.D. 2464) (C. "A" H-563)

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

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

PASSED TO BE ENACTED
Emergency Measure

An Act to Increase the Debt and Reserve Fund Limits and to Change the Annual Meeting Date of Frye Island Municipal Services Corporation (H.P. 1908) (L.D. 2606)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED
Emergency Measure

RESOLVE, to Amend the Duties, Title and Reporting Date of the Special Commission to Study School-Entrance Age and Preschool Services (H.P. 1874) (L.D. 2566) (C. "A" H-568)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Increase the Eligibility of Juveniles for Attendant Care (S.P. 768) (L.D. 2025) (C. "A" S-384)

An Act to Protect Elderly, Infirm Persons from Improvident Transfer of Title to Property (S.P. 848) (L.D. 2204) (C. "A" S-386)

An Act Relating to the Penobscot Indian Reservation (S.P. 860) (L.D. 2248) (C. "A" S-373)

Were 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.

ENACTOR
Later Today Assigned

An Act to Enhance Outdoor Recreation Opportunities (S.P. 889) (L.D. 2301) (C. "A" S-363; S. "B" S-376)

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

On motion of Representative Hillock of Gorham, under suspension of the rules, the House reconsidered its action whereby L.D. 2301 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "B" (S-376) was adopted.

The same Representative offered House Amendment "A" (H-591) to Senate Amendment "B" (S-376) and moved its adoption.

House Amendment "A" to Senate Amendment "B" was read by the Clerk.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: This amendment that I introduce here today deals with a major problem of one of our largest recreational industries in the state. 160 plus private campgrounds in Maine have a major problem with liability insurance. The Maine Commission on Outdoor Recreation is aware of this problem and has presented us with L.D. 2301. The only problem is that the intent of this legislation is very narrow. It only helps the rich landowners and the large paper companies in the State of Maine. Campgrounds owned by paper companies are protected from frivolous lawsuits in this legislation.

There is agreement that protection against frivolous lawsuits should be given to the campground industry. For those of you who still have the Maine Commission on Outdoor Recreation can read their recommendations on that issue.

Why is it that we are only giving relief to primitive campgrounds that make up less than one percent of the site rentals in the campground industry in the state, while the commission acknowledges that there is a liability problem industry wide? The answer is simple. The big money lobby wins again. This is an issue of big business like International Paper winning out at the expense of small private family-run campgrounds.

It was Shakespeare that said, "Alas, here lies the rub." The rub here is the sophisticated lobby of the large paper companies versus the unsophisticated lobby of Maine's private campground owners.

I might add here that, while this commission was meeting on this study, the owners of the Maine campgrounds were out there working and making a living. Almost all of them are family-owned businesses.

We are charged with asking the right questions for the betterment of Maine people. Too often, we ask the wrong question and get the wrong answer. When we ask the right question, we only get the right answer, half the time.

We agree there is a problem in the industry. Let's treat everyone the same.

Again, all this amendment does is treat all licensed campgrounds the same. We should reward, not punish, campground owners who invest their personal time and money to upgrade their sites. This issue of exempting campground owners from frivolous lawsuits only because they had running water on their sites approaches ridiculousness. Camping is a major part of our recreational industry in Maine. Let us stand tall against the special interest of the rich landowners and the paper companies and show them we

care about the small business. Vote to accept my motion for this amendment.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I move the indefinite postponement of House Amendment "A" to Senate Amendment "B."

I am, indeed, distressed by the accusations that were set forth by the previous speaker that this bill was drafted to take care of the large paper companies and the major landowners. If you look at the title of the bill, the title is, "An Act to Enhance Outdoor Recreation Opportunities." I served on both outdoor recreation commissions, the one that was commissioned by Governor Brennan and this past one that was commissioned by the Energy and Natural Resources of the 113th Maine Legislature. When we were looking at one of the problems with some of the large landowners and allowing people on their land, one of their problems was, they are perceived as having deep pockets. Under the law now, if you allow someone on your land for free, as with the Maine Snowmobile Association or the ATV law, you are given the exemption from frivolous suits. That means that the judge can award the cost of the court to the person who was taken to court if the judge rules it frivolous and without grounds. If you post your land and you allow no one on it legally, but someone still goes on and gets injured or claims to be injured, you are afforded this protection. But, if you charge an access fee or a fee to use a primitive campground, you are not afforded the protection.

The major landowners who have 10 million acres of land where most of the people are going for their outdoor recreation said that, if they could at least have that protection from frivolous lawsuits, it would encourage them to open up their lands more to the people of the State of Maine.

Again, I bring you back to the title, "An Act to Enhance the Outdoor Recreational Opportunities in the State of Maine." This is not designed to remove somebody from any liability. There was great discussion on both the commission and the committee that, if we gave this exemption to a KOA Campground or Fun City in Saco or whatever the case may be, we would be giving the exemption to everybody who is in business that gets whatever fee they want to get for you to partake, whether it be Simpson's Wild Animal Park or any recreational activity in the state.

This is not what this bill is designed to do. The bill is designed to keep wild lands open to the public thus, coming up with the definition that was adopted by the other body. The bill was worked out by legal counsel that it would be primitive campsites as defined by the Department of Human Services and that is a campsite that has a privy, a fire ring and cleared ground.

If you go along with this amendment, you are going to put everybody in the same category, but it will do nothing to encourage the opportunity for outdoor recreation because these big campsites that are involved, small or big, family-owned or corporate-owned, whatever, are getting a large fee.

What we tried to do was encourage the companies to keep their fee low because, if they keep getting frivolous lawsuits that they have to defend against because everybody figures they have got deep pockets and they will settle out of court, then what will happen is the companies will start charging the people of this state to pay for that liability insurance. Men and women of the House, the people of this state can ill afford to do that. It will also

quicken the pace of more gates and more blockages to the people of the State of Maine. This is a very, very bad amendment and I would urge you to vote to indefinitely postpone it.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I guess the only thing that I can agree on with the Representative from Waterville is that there is a severe crisis out there in the industry dealing with liability insurance. He is correct, very correct, of the fear of the large landowners in the state about frivolous lawsuits.

Let me tell you, the 160 plus small campgrounds in the state have the insurance companies hands around their necks. Before I came to this legislature, I managed a campground for which I have no association with now, our liability insurance was \$850 a year. When I left in 1984, we couldn't get insurance. I worked for six months to get insurance and the best quote I could get was \$30,000 for half the coverage. Did that small family campground have deep pockets? How can we compare a mom and pop operation to International Paper? Where do our sympathies lie and who do we represent here?

Just ten hours of investigation yesterday brought up some interesting results. Primitive campsites in northern Maine are needed, there is no question about that. I found out that these sites had been rented -- they did not pay the lodging tax on this. So, state taxpayers not only subsidize the large tracts of land owned privately in the State of Maine by Tree Growth Tax (which is another issue here) but we also subsidize them by not collecting the lodging tax, therefore presenting an unequal playing field.

Small business in the State of Maine is something that we all should hold dear to our hearts because they make up a majority of the people that are employed in the State of Maine. I guess of any industry that typifies the Maine work ethic, it is the Maine campgrounds. Many were started with just husband and wife who took raw land and, sometimes with just their bare hands, cleared a few sites. Year after year, they upgraded their sites. Many of these campgrounds across the state from Aroostook County to York County were primitive campsites when they started out, 10 or 20 years ago, but through personal sacrifice and investment, they were upgraded. They were upgraded to have flush toilets, to bring Maine into the 20th Century. Now we have one of the proudest campground industries in the state.

I would like to add, the Maine Campground Owners Association is the oldest campground association in this country. Not to accept this House Amendment is a slap in the face to them. I would like you to seriously consider on one hand, if we are willing to give rights to large corporate industries, are we willing to treat the small unsophisticated businessman in Maine the same? This is the basic question here.

I am also offended by the naive remark that campgrounds are like Fun Town in Saco. Each of these campgrounds are licensed by the Department of Human Services for campgrounds and that is what they are. Fun Town is not a campground. I wouldn't go with limiting the liability for amusement parks or whatever, this is part of the smoke screen that is before us here today.

Many of you have campground operators in your district, think of the efforts that they have made.

In the Maine Camping Guide, you will only see one KOA Campground which is a franchise operation run by Maine people. This is not Madison Avenue here folks,

this is about as close as we can get to grass roots business and we should protect it.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I, too, had the privilege of serving on the Commission on Outdoor Recreation. I can tell you there was some disagreement on the commission.

While the majority did support the provision that you see before you or at least a version of that provision, I was in the minority on the commission against any type of change that limits the liability. I would like to explain why I did that.

First of all, the courts, as you know, already have the right to grant payment to the defendant in a case where it has been judged that it was in fact a frivolous lawsuit. Difference between that, the court already having that ability to do it, is that this law says that they shall do it and the Representative from Gorham is correct, they shall do it only for large landowners, i.e. paper companies and other large landowners who charge a fee for people to access their land.

The reason why that problem came before us is because of the growing phenomenon of this state that the large landowners are charging a fee for access. If they did not charge a fee for access, their liability standards would be less. They would be the same as if someone came on your land and was injured. But, because they charge a fee, they now enter a new domain, they enter the domain of a business charging a fee for recreation. We have, by this legislation, carved out an exception for the large paper companies and other large landowners who charge fees. We are dealing with a very large class of citizenry.

Remember the court already has the right to grant awards for frivolous suits. This law specifically says that they shall, with no exceptions, grant payment to large paper companies and large landowners when a frivolous suit has been judged.

The issue before us is an issue of fundamental fairness. In this case for the camp owners and I wouldn't be surprised if there were other amendments to include this issue as a fairness issue for all people. Do not harbor any illusions that this particular measure will affect the liability rate for the large landowners, it will not.

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

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: I, too, was a member of this committee. When this issue came up, we went round and round trying to find a solution. We talked about setting a ceiling on how much could be charged at the camp lots. We just couldn't do it. We were told that we would have to give it to all camp lots.

My interpretation of this was to protect the smaller folks, the people that couldn't afford these high-priced insurance policies. It was not the intention to protect the large landowners, the paper companies. The paper companies have insurance to take care of this, it's the small guy that doesn't have the insurance and can't afford the insurance. All we were trying to do is find some solution that would protect these small people or small people who were considering going into the business so they could get started and not have to pay these high-priced costs of liability insurance.

To say that we are in the pockets of the paper companies is certainly a mistake because that isn't my intention. I never have been in the pocket of the paper companies and don't intend to be.

I would like to see it fair for these small people to be able to do something without being choked to death with insurance policies. So, that is what we went with. We went with what we were told by the legal beagles that we could do and do it legally and that is what happened.

I am sure that if Paul remembers, we went round and round and round trying to find a level of what people could charge or something we could come up with that would be acceptable.

Of course, this amendment came on from the Senate, it was a total surprise to me because this wasn't considered at all. Still they came up with this amendment from the Senate and this is what we have before us and I think it isn't fair. I think it should include the small campgrounds and I would go with the amendment.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I wasn't going to speak on this bill. I chaired the Outdoor Recreation Commission. I want to tell you right now that we put in long hours and long debate on this commission. We probably had a total of seven commission meetings. The meetings ranged from between six and seven hours and a lot of times we went without a lunch or had lunch brought in to us.

I am very appalled to hear the good Representative from Gorham state that we are in the pockets of large paper companies or rich landowners. One of the things that we did look at was the small people that owned land.

I was on the Minority Report. Every item that we took up on that commission went to a vote.

We spent a lot of time on this commission, I thought we put out an excellent report. The report itself went to the Energy and Natural Resources Committee and they put out the bill. If any of you can sit here and think we didn't do our job, I am very ashamed to hear that, because we put in long hours and hard debate. A lot of times, I was not on the winning side but I had to live with the result of the vote.

I hope when the vote is taken, we do not accept the amendment. I think we did a good job in the committee, a good job on the study, and I hope that is where it stays now.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: To clarify a few points, I don't know what the Representative from Gorham was referring to but if you have a campground that is over a certain size, you are not, you are not in tree growth, you have to deduct that from tree growth.

The campgrounds that the Representative referred to, some of them that have been leased out belong to the State of Maine, I want you to know. We now have a contract with north Maine woods to maintain those campgrounds because the State of Maine could not afford to do it. We did not have the personnel and we did not have the money to do an appropriate job.

If the members of this House want to go along with this amendment, then I think we should come back and apply this same provision to everyone that provides any recreational opportunity, roller skating rinks, all the campgrounds, all the parks, any privately-owned group anywhere. But that will not encourage the enhancement of opportunity in outdoor recreation.

I am not too thrilled with the claim that we are doing this for the large paper companies. We are

not. We tried to do something that affected everybody from the small landowner who charged a fee because let me reiterate, if you do not charge a fee and allow people on your land, you are given that protection now. If you allow no one on your land legally, you are afforded that protection now.

Some of the companies who have set up access fees have two options, they can either open the lands back up with no access fee, which is what some people want. If that is the case, then I guess you are going to have to accept the roads and the campgrounds in whatever condition you find them.

The second option is to stop everyone from going on their lands and they will be given that same protection. That is why we did it and we didn't do it very easily. We didn't do it especially for the large landowner because they all stated they have multi, multi million dollar liability policies now. The tendency is to go after those guys because they will settle out of court.

Now, if you want to go back to the way we should, then we should indefinitely postpone this amendment, indefinitely postpone the Senate Amendment, have no one be able to charge any fees, no one (period). Then let's see what happens, see how much opportunity is increased for outdoor recreation.

I'll tell you what I think is going to happen, the first time these companies have to start dealing with these situations over and over again, they are going to turn around and they are going to say, fine instead of paying four dollars to get on these access roads, you are going to pay \$14 or \$20. This is the United States of America, this is the State of Maine and our Constitution doesn't allow us to stop companies or landowners from charging to get on their land. Until we change those Constitutions, it was made very clear to us that there is not much we can do about it, if they decide to charge fees and more and more are looking into charging fees.

I would just like to point out that in the State of New York, they just passed a \$250 million bond issue for public access. At the same time, three of the largest major landowners in the state that had gone into a cooperative agreement with the Department of Inland Fisheries and Wildlife and their Parks Department to allow their land to be used for free because of all the problems they had with liability and somebody suing them because they tripped and sprained their ankle on their lands have now got out of that cooperative and they are all going on a pay-to-use program, either large leasing or pay to hunt and fish on any tract of their land.

All the commission tried to do was come out with a very narrowly defined way that would kind of solve some of those problems. If you don't like the way we did it, then we apologize for that and maybe we were wrong. This does not help the situation, this only makes it worse. So, if you want to get back to where we were, ground one, get rid of this amendment, and get rid of Senate Amendment "B" and then everybody will be treated the same.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I would like to pose a question to the good gentleman from Gorham, Representative Hillock.

I understand he made a statement a while ago that the campground that he used to manage had a hard time obtaining insurance. I would like to ask, do they have insurance now?

The SPEAKER: Representative Clark of Millinocket has posed a question through the Chair to Representative Hillock of Gorham, who may respond if he so desires.

The Chair recognizes that Representative.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: We do have insurance or the campground that I used to work for does. The way they did it was this, they combined and they self-insured with other campgrounds across the country. They were shut out and shunned by the major insurance companies of the United States, formed an insurance company in Bermuda and reinsured themselves. The cost now is \$25,000. Four years ago, it was \$850. This is only for half the coverage, \$500,000 of liability coverage.

While I am up, I would also like to add that the statement has been made about tree growth and us subsidizing the large landowners. It is true, we do not subsidize through tree growth a majority of the small independent campgrounds in the State of Maine. They do not receive any benefit from a tax subsidy in tree growth.

I hope we can see the issue and make it clear here that we are looking for a level playing field. There is a lot of advantage being in large corporate America and we should extend to the fullest extent a level playing field for the small businessman.

This commission was charged at its development, under the Brennan administration, with dealing with problems of the outdoor recreational industry across the state. It was never intended by Governor Brennan or Governor McKernan that this commission would only deal with large businesses in the State of Maine especially when they make up one percent of the campground site rentals. We have to look at this for what it is. I hope you can vote your conscience.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: The reason I asked that question is because I serve on the Banking and Insurance Committee and we dealt with a bill pertaining to the hard to obtain insurance. I can't remember any time seeing anything from this organization or group saying that they had a hard time to obtain insurance. I wish they had come to us, maybe we could have worked out something in that committee.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: In reaction to some of the statements made by my good friend and fellow commission member, Representative Jacques, the suggestion that we indefinitely postpone this amendment and the Senate amendment and that way get back to a level playing field would be even more horrendous than the situation we are already in.

The original legislation that came out of the commission or out of the committee states, "The courts shall award" -- now that is no leeway to the courts, "the courts shall award any direct legal costs including reasonable attorney fees to an owner, lessee or occupant of premises (a) who is found not to be liable for injury to a person or property pursuant"...(b) "who is found not to be liable for injury to a person or property in an action for negligence" etcetera. That would mean that, if you were injured on a large landowner's property who happened to be charging a fee for your access and you took your suit to court and lost, you would be liable to pay all of the costs related to that action to that large paper company or landowner.

The suggestion by my good friend from Waterville that we kill this amendment, the Senate amendment, and get back to a level playing field is, in my opinion, much more horrendous than the situation we find ourselves in now.

The Representative from Gorham is simply trying to attempt to reach an equitable position for all people in this particular recreation business. The dilemma we face is, is this good public policy that we direct the court to, in all cases without exceptions, pay those kinds of costs? If it is, I believe it ought to be the kind of privilege we extend to all people involved in this industry and not just a select few. If it isn't good public policy, then I suggest the entire section 7 of the original bill be deleted and then we do in fact get back to a level playing field.

I advocated this position on the commission. Representative Clark from Millinocket is right, I lost that battle there. I was not a member of the Energy and Natural Resources Committee and other duties prevented me from partaking in their work sessions. However, the idea of making things just and level for all people in this state is much more appealing. The idea of cancelling this amendment as well as the Senate amendment does not achieve that goal except making things much more horrendous.

Representative Hillock of Gorham was granted permission to address the House a third time.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: The cry of the small campground owner has been consistent, it has been consistent since 1982. This year, their cries were heard through our tort reform package that did not deal with their needs. They have been up here consistently. These people are not wealthy people, ladies and gentlemen, they cannot afford a lobbyist at \$100 an hour to sit in the halls here and bring forth their points of view.

I guess it is altogether fitting and proper that this may be the last time that I speak before this House on an issue that brought me to the legislature. When I came before the Legal Affairs Committee in 1982 to present the problems of the small campground owners, all I got from the chair was, "Well, that is the way it is, if you don't like it, come up here and try to change it." I never wanted to come up here, I never wanted to be a politician and I don't think I am. That is why I am leaving today and that is why I came up here.

The plight is consistent, it is getting worse every year, the spin off is hurting the jobs in the State of Maine, it is raising the costs for the average common man to go camping and recreate, the cost have been driven up and yes, if you don't pass on costs ladies and gentlemen, you are not going to be in business. We must understand that the millions that come here every year, the majority of them stay in our campgrounds.

We have heard testimony before us today that the state funds are inadequate to maintain campgrounds in the northern woods, they have been turned over to private industry. Well, I contend to you, unless we deal with this problem, it is never going to go away. As campground sites decrease in numbers across the state, the need for outdoor recreation is going to grow greater and the pressure for public support for more state parks is going to be greater and the pressure on the state funds, the General Fund, to support these is going to be greater and the dilemma is going to be greater.

So, what do we do here today? I feel it is fair that we have an equal, level playing field.

I request a roll call on this issue.

Subsequently, Representative Jacques of Waterville withdrew his motion to indefinitely postpone House Amendment "A" to Senate Amendment "B."

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

Amendment "B." Those in favor of adoption will vote yes; those opposed will vote no.

A vote of the House was taken.

63 having voted in the affirmative and 48 in the negative, House Amendment "A" to Senate Amendment "B" was adopted.

On motion of Representative Mitchell of Freeport, tabled pending adoption of Senate Amendment "B" as amended by House Amendment "A" thereto and later today assigned.

PASSED TO BE ENACTED

An Act Providing for the 1988 Amendments to the Finance Authority of Maine Act (S.P. 912) (L.D. 2378) (C. "A" S-372)

An Act to Provide Reimbursement to Certain Employees of the Department of Corrections for Meal Expenses (S.P. 940) (L.D. 2484) (C. "A" S-375)

An Act to Establish Operating Permits for Commercial Dairy Farms (S.P. 971) (L.D. 2579)

Were 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.

ENACTOR

Later Today Assigned

An Act to Extend a Sunset Provision in the Civil Service Law (S.P. 980) (L.D. 2605)

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

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

PASSED TO BE ENACTED

An Act to Amend the Maine Insurance Guaranty Association Law (S.P. 981) (L.D. 2609)

An Act to Strengthen Enforcement of Marine Resources and Boating Safety Laws (H.P. 1463) (L.D. 1974) (C. "A" H-571)

Were 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.

PASSED TO BE ENGROSSED

An Act Concerning State Mandates to Local Governments (H.P. 1536) (L.D. 2090) (C. "A" H-578)

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

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 1536 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-578) was adopted.

The same Representative offered House Amendment "A" (H-613) to Committee Amendment "A" (H-578) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: If we are really serious about responsible government and about property tax

reform, it is very important that we get a handle on unfunded state mandates. It isn't clear to me though exactly what, if anything, is going to be accomplished by enactment of this bill.

What we need to be able to do is to say what the cost of each bill is going to be that has an unfunded state mandate to each municipality. I don't see anywhere in this bill that that will be provided for. It will cost approximately \$228,000 to get out that information.

I would like to pose a question through the Chair to the Chairman of the State and Local Government Committee. I would like to know how the plan will work in this bill and what the money in this legislation will be spent on?

The SPEAKER: The Representative from Cape Elizabeth, Representative Webster, has posed a question through the Chair to the Chairman of the State and Local Government Committee who may respond if he so desires.

The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: The Committee Amendment establishes a state mandate table to look at bills that may have state mandates on them. The money on this amendment goes to fund a position for the Office of Intergovernmental Affairs, which will set up a relationship between state, local and county governments so hopefully, some kind of communication will take place between those three levels of government.

The other appropriation establishes a position in the Fiscal and Program Review Office for that individual to look at all bills as they go through to determine whether or not they do have a state mandate and whether or not that mandate can be funded.

In response to the amount of money that it will take, we are still in hopes that MMA will be true to their endeavors that they will have their data base on line by January of next year so we can tap into that to get accurate figures on what legislation will cost if it goes back to local governments.

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

Representative WEBSTER: Mr. Speaker, Men and Women of the House: Until we have the information that will show us what it is going to cost each town by unfunded state mandates, I don't think we should spend any additional monies on research until we have the information that we need. I think we ought to vote no on this bill.

Representative Gwadosky of Fairfield requested a roll call on engrossment.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is passage to be engrossed as amended by Committee Amendment "A" (H-578) as amended by House Amendment "A" (H-613) thereto. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 239

YEA - Allen, Anderson, Anthony, Baker, Bost, Carroll, Carter, Cashman, Chonko, Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Davis, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Harper, Hichborn,

Hickey, Higgins, Hوجلund, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, Kimball, Lacroix, LaPointe, Lisnik, Look, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Norton, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pouliot, Priest, Rand, Rice, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Small, Smith, Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Tracy, Vose, Walker, Warren, Wentworth, The Speaker.

NAY - Aliberti, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Clark, H.; Curran, Dellert, Dexter, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Hepburn, Jackson, Lawrence, Lebowitz, Lord, MacBride, Macomber, Marsano, McPherson, Nicholson, Pines, Racine, Reed, Salisbury, Seavey, Sherburne, Soucy, Stanley, Stevens, A.; Tupper, Webster, M.; Whitcomb, Willey, Zirkilton.

ABSENT - Armstrong, Boutillier, Farnum, Hillock, Ketover, Nadeau, G. R.; Nutting, Reeves, Scarpino, Stevens, P.; Taylor, Thistle, Weymouth.

Yes, 94; No, 43; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

94 having voted in the affirmative and 43 in the negative with 13 being absent and 1 vacant, the Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

An Act to Make Certain Statutory Changes to Facilitate District Court Judicial Administration (H.P. 1555) (L.D. 2115) (C. "A" H-567)

An Act to Improve the Regulation of Pesticides (H.P. 1557) (L.D. 2121) (S. "A" S-356 and S. "C" S-380 to C. "A" H-516)

An Act to Amend the Harassment Law (H.P. 1579) (L.D. 2157) (C. "A" H-561)

Were 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.

ENACTOR

Later Today Assigned

An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years (H.P. 1594) (L.D. 2180) (H. "A" H-559 to H. "A" H-519)

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

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

PASSED TO BE ENACTED

An Act to Request the Alcohol and Drug Abuse Planning Committee to Examine the Feasibility of Establishing a Detention and Rehabilitation System for Chronic Operating-Under-the-Influence Offenders and Expanding the Kennebec County Community Alternative Sentencing Program (H.P. 1597) (L.D. 2183) (C. "A" H-565)

An Act to Reduce Special Education Costs to Local School Administrative Units (H.P. 1607) (L.D. 2198) (C. "A" H-560)

An Act to Facilitate the Collection and Organization of Data for Effective Use in State Government (H.P. 1622) (L.D. 2217) (H. "A" H-575 to C. "A" H-557)

An Act to Appropriate Funds for Nonresidential Services in Sheltered Group Homes for Girls (H.P. 1627) (L.D. 2222) (C. "A" H-558)

Were 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.

PASSED TO BE ENACTED

An Act to Designate the Schooner Bowdoin as the Official State Vessel (H.P. 1679) (L.D. 2308) (C. "A" H-570)

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

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: Today with the vote you are about to take, you become responsible for writing another paragraph in the history books of the State of Maine and the history books of the Schooner Bowdoin. In years ahead, people will look back to the 113th Legislature and marvel at the foresight and wisdom of this body when it voted to name the Schooner Bowdoin as the Official State Vessel.

When I testified before the members of the State and Local Government Committee, I told them that after they had heard the history of the Bowdoin, they would agree that no other vessel in Maine could possibly be more worthy of the distinction. That same committee also heard from a number of respected individuals and organizations who made the same point in their own ways. There was Dr. Edward Morse of Schooner Bowdoin Associates, who was actually a member of a couple of the Schooner Bowdoin expeditions. There were representatives of the Maine Maritime Museum, Hurricane Outward Bound School, Historical Preservation Commission and Maine Maritime Academy on behalf of the former Governor, Ken Curtis, who was unable to be present the day of the hearing. There was Sonny Hodgdon, who was not only part of the Bowdoin's restoration but whose grandfather is credited with the Schooner Bowdoin's creation. All of them know the Schooner Bowdoin's glorious history and realize how well the Bowdoin represents Maine's historically close ties with the sea.

I would like to give you a very brief history of the Schooner Bowdoin because I think after you hear it, you will also understand its significance as representative of Maine.

Second, it will enable us to have the ship's proud history on record.

The Schooner Bowdoin was built in East Boothbay in 1921 at an original cost of \$33,000 by George Hodgdon of East Boothbay. It was timbered and planked in Maine white oak. To this date, this is the only American built vessel specifically created for Arctic exploration. Over several years, after her completion, the Schooner Bowdoin sailed from Maine 26 times to probe the mysteries of the frozen north. During those voyages, the vessel chartered unknown waters, took medical, dental and school supplies to the Inuit people of Labrador and other northern points and returned with scientific data that permitted subsequent safe passage and exploration in Arctic waters by both surface and underwater vessels. Her noble skipper was Admiral Donald MacMillan, a Bowdoin College graduate who was raised in Freeport, Maine. MacMillan later married and his wife, Miriam, became the first woman to ever explore the Arctic -- after a unanimous vote from the crew.

Because of the Schooner Bowdoin's work in the Arctic, in 1925, the first radio message ever sent and received from this hostile Arctic environment

originated from the Schooner Bowdoin. During that same expedition, the first airplane flights were made in the Arctic -- the planes, fuel and spare parts having been shipped aboard the two vessels, the Peary and the Bowdoin.

The vessel later earned a number of ribbons during World War II for escorting navy ships through waters off Greenland.

On April 9, 1986, the Schooner Bowdoin had its rebirth on its 65th anniversary of her original launching. Schooner Bowdoin Associates spent \$1 million to have her refurbished to her original splendor. July 3, 1986 was proclaimed "Schooner Bowdoin Day" by then-Governor Joseph E. Brennan, and on the following day, the Bowdoin represented the State of Maine at the rededication of the Statue of Liberty in New York City. At the rededication ceremony, the vessel was in the position of right flank escort to the "Eagle" -- a position of high distinction.

Now, as in the past, the Bowdoin is again serving the people of Maine -- this time as a floating classroom from which to learn navigation, the care of wooden boats, ornithology, botany, and many other marine sciences.

As Dr. Morse has so appropriately stated, "Maine men have built her, have tended her, have sailed her. All Maine has loved and admired her."

I also believe the Schooner Bowdoin truly belongs to Maine and is worthy of being Maine's ocean-going ambassador for years to come. I would like to thank Dr. Morse for supplying me with all the information I have just presented, and I urge you to support this motion.

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

PASSED TO BE ENACTED

Act to Require Legislative Confirmation of Members of the Maine Human Rights Commission (H.P. 1716) (L.D. 2355)

An Act to Revise and Modify Certain Laws Relating to the Department of Inland Fisheries and Wildlife (H.P. 1729) (L.D. 2372) (C. "A" H-548)

An Act Establishing the Maine Seed Capital Tax Credit Program (H.P. 1730) (L.D. 2373) (C. "A" H-564)

An Act to Extend the Uses of the Potato Marketing Improvement Fund (H.P. 1745) (L.D. 2391) (C. "A" H-569)

An Act to Exempt Law Enforcement Personnel from Having to Pay Ferry Tolls (H.P. 1823) (L.D. 2498)

An Act to Add the Commissioner of Labor as an Ex Officio Member of the Board of Trustees of the Vocational-Technical Institute System (H.P. 1824) (L.D. 2499)

An Act Concerning Charter Changes in Quasi-Municipal Corporations or Districts (H.P. 1888) (L.D. 2583) (S. "A" S-387; H. "A" H-524)

An Act to Create the Economic Corridor Action Grant Program (H.P. 1904) (L.D. 2601) (S. "A" S-383; S. "B" S-385)

An Act Concerning the Regulation of Welders (H.P. 1910) (L.D. 2607)

An Act to Make Changes in Marine Resources Laws (H.P. 1458) (L.D. 1969) (H. "A" H-562 to C. "A" H-553)

An Act Relating to School Construction (H.P. 1828) (L.D. 2504) (C. "A" H-573)

Were 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.

FINALLY PASSED

RESOLVE, to Compensate Kenneth and Janice Demuth (S.P. 862) (L.D. 2250) (C. "A" S-377)

RESOLVE, to Establish the Commission to Study the Management of Water Resources in Maine (H.P. 1822) (L.D. 2497) (C. "A" H-574)

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

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative GWADOSKY of Fairfield, the following Joint Order: (H.P. 1918)

Ordered, the Senate concurring, that Bill, "AN ACT to Ensure that a Certain Percentage of Public Housing is Handicapped Accessible", H.P. 1869, L.D. 2558, and all accompanying papers, be recalled from engrossing to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate with the exception of those held.

On motion of Representative Dutremble of Biddeford,

Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative RIDLEY from the Committee on Appropriations and Financial Affairs on Bill "An Act to Enhance the Provisions of Head Start Services in Maine" (H.P. 1620) (L.D. 2213) reporting "Leave to Withdraw"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase the Appropriation to Municipal School Districts for the Inspection and Replacement of Unsafe School Buses" (H.P. 1835) (L.D. 2512) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1673) (L.D. 2292) RESOLVE, to Reconstitute the Commission to Review the Laws Relating to Registered Maine Guides (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-610)

(H.P. 1767) (L.D. 2420) Bill "An Act to Make Changes in the Laws Concerning Licensed Maine Guides

and Related Laws" (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-611)

(H.P. 1701) (L.D. 2338) Bill "An Act to Give the Commissioner of Transportation Power to Condemn Existing Rail Lines for Transfer to Safe, Reliable and Efficient Rail Operators" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-616)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, April 6, 1988, under the listing of Second Day.

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-617) on RESOLVE, Creating the Commission on Marine Research (Emergency) (H.P. 1741) (L.D. 2387)

Signed:

Senators:

TUTTLE of York

ESTES of York

Representatives:

HOLT of Bath

KETOVER of Portland

CROWLEY of Stockton Springs

RICE of Stonington

SALSBURY of Bar Harbor

COLES of Harpswell

MITCHELL of Freeport

LOOK of Jonesboro

RUHLIN of Brewer

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

Signed:

Senator:

CAHILL of Sagadahoc

Representative:

SCARPINO of St. George

Reports were read.

On motion of Representative Mitchell of Freeport, the Majority "Ought to Pass" Report was accepted, the Resolve read once.

Committee Amendment "A" (H-617) was read by the Clerk and adopted.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

Divided Report

Majority Report of the Committee on Transportation pursuant to Joint Order (H.P. 1909) reporting a Bill "An Act Relating to 6-Axle Vehicles Carrying General Commodities" (H.P. 1919) (L.D. 2618) and asking leave to report that the same "Ought to Pass"

Signed:

Senators:

THERIAULT of Aroostook

CAHILL of Sagadahoc

DOW of Kennebec

Representatives:

MACOMBER of South Portland

SALSBURY of Bar Harbor

MOHOLLAND of Princeton

McPHERSON of Eliot

STROUT of Corinth

CALLAHAN of Mechanic Falls

MILLS of Bethel

SOUCY of Kittery

POULIOT of Lewiston

Minority Report of the same
Committee reporting that the same "Ought Not to Pass"

Signed:
Representative: REEVES of Pittston

Reports were read.
Representative Moholland of Princeton moved that the House accept the Majority "Ought to Pass" Report.
The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.
Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will consider voting against the "Ought to Pass" Report and vote "Ought Not to Pass" on this bill.

We discussed this bill before this session. It is a bill to allow an additional 20,000 pounds of truck weight bringing the weight of trucks carrying general commodities to 100,000 pounds from the present 80,000 pounds which is allowed on our interstate highway. The interstate was constructed to support a truck weight of 80,000 pounds.

The argument for allowing the 100,000 weight is that the distribution over 6 axles is going to put less stress on the road than the present way of distributing the 80,000 pound weight on trucks.

Right now, we are getting ready to consider a gas tax increase to repair these roads. The House has voted against a bill to allow the Department of Transportation and the State Police to fully evaluate the impact of overweight trucks on the road and I think this is a poor time for the legislature to pass a bill allowing additional truck weights when we don't know what the damage of these trucks is doing to the roads and what it is costing.

There has been considerable controversy about the fiscal note on this bill. At present, there is not an actual cost figure but acknowledgement of the Department of Transportation that additional stress will be placed on certain bridges.

I hope that you will vote against the "Ought to Pass" Report and vote "Ought Not to Pass" on this bill.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Princeton, Representative Moholland, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

87 having voted in the affirmative and 22 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading Wednesday, April 6, 1988.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1514) (L.D. 2067) Bill "An Act to Provide Additional Resources to the Board of Pesticides Control" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-619)

(H.P. 1785) (L.D. 2446) RESOLVE, to Establish the Special Commission on Boating Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-618)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed as amended and sent up for concurrence.

CONSENT CALENDAR

Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 863) (L.D. 2251) Bill "An Act to Assist Homeowners and Businesses to Comply with the Overboard Discharge Law" (Emergency)

(S.P. 794) (L.D. 2091) Bill "An Act to Extend Entitlement Programs" (C. "A" S-390)

(S.P. 817) (L.D. 2137) Bill "An Act to Amend the Principles of Reimbursement for Nonhealth Employees of Nursing Homes" (C. "A" S-391)

(S.P. 844) (L.D. 2190) Bill "An Act to Allow Disclosure of Confidential Information Relevant to Personnel and Licensure Actions" (C. "A" S-392)

(S.P. 895) (L.D. 2324) Bill "An Act Establishing a Medicare Assignment Program" (C. "A" S-393)

(S.P. 897) (L.D. 2326) Bill "An Act to Clarify the Site Location of Development Law" (C. "A" S-394)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace" (Emergency) (H.P. 1791) (L.D. 2452) (C. "A" H-600)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

(At Ease to Gong)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-588) on Bill "An Act to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges" (Emergency) (H.P. 1799) (L.D. 2463)

Signed:

Senators: SEWALL of Lincoln
DOW of Kennebec
TWITCHELL of Oxford
Representatives: SEAVEY of Kennebunkport
JACKSON of Harrison
WHITCOMB of Waldo
ZIRNKILTON of Mount Desert

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

Signed:

Representatives: MAYO of Thomaston
DUFFY of Bangor
DORE of Auburn
NADEAU of Saco
SWAZEY of Bucksport
CASHMAN of Old Town

Reports were read.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I move that the House accept the Minority "Ought Not to Pass" Report.

This is, of course, the gas tax increase bill. It was reported to the floor of this House yesterday from the Transportation Committee, then recommitted to the Taxation Committee, we dealt with it today, and it appears before you tonight in a very Divided Report.

This was a very difficult issue for me personally and I am sure that is the case for most members of this House. There are a lot of reasons to support this bill and there are a lot of reasons to be against it. I suspect before we get out of here tonight we will hear most, if not all, of those reasons.

For my own part and speaking only for myself, the reason I signed the Minority "Ought Not to Pass" Report was simply the timing of the bill. It troubled me as to why this bill is here. It is here in advance of a cost allocation study. It is the first time, to my knowledge, that we have ever passed a gas tax increase in advance of a cost allocation study. It is here in advance of a study that will look into how we allocate money to cities and towns in this state which will take place this summer, even though the report out of the Transportation Committee calls for an additional half a cent to be distributed to the cities and towns. Even though that is the case, we will pass the increase in advance of that study.

We are being asked to tax first and ask questions later. That bothers me. That is not the normal course of events around here. I think when we pass a tax increase of any kind in this legislature, we do so after the questions have first been answered.

So the question then becomes, why is it in here in advance of all of that? I think the reason is because the McKernan administration felt that they had to rush into a tax increase here because of actions that have taken place in Washington and the fact that the federal government has chosen to hold \$20 million dollars of Maine taxpayers' money -- hostage. They have embezzled money paid by our taxpayers. They are sitting on \$10 billion dollars in money that was collected in the federal gas tax to go into a dedicated highway fund and they refuse to release it.

The argument will be made later this evening, I am sure, that there is no indication that that situation is going to change. That may be true but if you pass a gas tax because of that happening, what you are doing is, punishing Maine taxpayers to the tune of a nickel a gallon for gasoline because the federal government has chosen to sit on \$10 billion dollars of taxpayer money to make themselves look good on paper.

I really don't want to do that. I would much rather answer the questions that need to be answered before we rush into this gas tax and I would urge this House to support the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I rise as the sponsor of this piece of legislation. Frankly, I am not a frequent supporter of tax increases. I will admit that upfront but as I told the Joint Standing Committee on Taxation and Transportation, when I presented the bill, that it was, indeed, my pleasure to be the sponsor of this important piece of legislation.

In response to the comments you have just heard, the timing of this bill is not of our making. The

timing of this bill is in response to an action that is out of our hands. The unfortunate set of circumstances is that, when George Mitchell, Bill Cohen and Ronald Reagan agree on an action, we are set in a set of circumstances that we find impossible to deal with in anything other than this manner.

We have before us a budget from our highway transportation that has a potential for a \$44 million dollar loss. We have before us a decision to make. The people in our communities have been told the needs of the state and have been categorized in the so-called "red book." These are projects already planned. These are major bridges committed to be built. The immediate impact of the loss is, yes \$20 million dollars. We know that is gone. But without the increase in revenues, the loss that we face is even greater than that.

We have, as you all are well aware, extraordinary bridges in this state that need to be built. In all honesty, they will be built, but the expense to build specifically two bridges will be at the hands of every other project in this state. To come up with the state's portion of the matching funds, without this tax increase, will be to draw \$24 million dollars out of the account that our towns and cities are planning to see spent on state projects in their area. So, we are talking, first in terms of \$20 million dollars being removed by the federal government from our current highway budget, but we must expand upon that. We must be realistic and understanding that that also means an additional \$24 million dollars to make up the state's match for those very expensive bridges that the federal government will fund.

The cost of not passing this piece of legislation is astronomical. Yes, we are talking about taxing our people to the tune of 5 more cents per gallon but the cost of deferring the maintenance further, of deferring the projects, is more than just dollars and cents, these are projects that need to be built from a safety point of view. These are bridges that need to be replaced. One example -- the Bangor-Brewer bridge, this bridge is at the point of being condemned, there is a safety factor involved.

I wouldn't be entirely honest if I stood before you and said, "these bridges will never be built, these major highway improvements will never be done" because, in fact, they will be at some point in time. If this legislature will not face the tax increase, at some point in time, the increase will be made, but it will be at an even greater expense. There may be even a safety factor involved.

This isn't a perfect tax, I don't know if there ever is one. This certainly is not an easy piece of legislation to pass but we have to look at a number of problems facing our communities in addition to the state's needs. Sand and salt storage -- we mandated with the agreement of many and most of us in this body that that environmental problem be taken care of. This piece of legislation makes a significant commitment to supporting the communities as they go ahead and take care of that problem.

I urge you to defeat the motion before us, to not pass this tax on to a future generation. This is an abnormal set of circumstances. This is before us because we face a severe set of rules, if you want to call it that, pressures if you want to call it that, not of our making but they are nonetheless before us. We choose either now to face it or face it in the future. The needs of the highway system will not simply go away.

The SPEAKER: The Chair recognizes the Representative from Baileyville, Representative Tamaro.

Representative TAMMARO: Mr. Speaker, Men and Women of the House: It is never an easy task for anyone to ask for a tax increase. I am also a cosponsor of this bill.

I am in favor of the five cent gas tax because I honestly believe we need this increase in funding for our highways and bridges in all parts of the State of Maine. My rural area in Washington County depend upon our roads and highways as our link to the rest of the state. We badly need improvements of these roads. Both Route 1 and Route 9 are heavily utilized but are not as safe as they really should be.

I feel that my constituents in District 138 and surrounding areas have the right to get into their vehicles and feel confident that they will have a safe trip to Bangor and points south, whether it be for medical purposes, shopping or entertainment. I do not support the gas tax simply because I believe Washington County will benefit, I know that all parts of the state need better roads than we now have. We are always talking about promoting economic development and attracting businesses to Maine -- tourism is a major industry in nearly all parts of the state. Our tourism industry depends on safe, reliable transportation. However, our highway problems discourage businesses and tourists from coming into Maine.

It is easy for us to say that Maine has transportation needs, everyone pretty much agrees on this, but when it is time to come up with the money to fund the programs, we come up with excuses that it is too expensive. Well, to a certain extent, it is expensive but it is much more expensive to continue in the direction that we are going. Maine is losing millions of dollars in federal highway support -- how will this money be replaced? We are in dire need of new bridges and new and reconstructed roads. In some places, traffic is so bad that we need new by-passes or widening of highways.

Once again I ask, how are we going to pay for these needs? I think Commissioner Connors of the Transportation Department has put before us a well thought out plan that meets these needs. I sincerely believe that the only way Maine can continue to move ahead and to improve its economic situation is to approve this plan and its funding.

Believe me, I do not take lightly the idea of a gas tax increase and I know there are many who find it difficult to support this idea. However, Maine needs these highway and bridge improvements and we need this five cent gas tax increase to pay for the program. I am convinced that the whole state will benefit if it is approved.

I hope that you will support this bill.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, I would like to pose a question through the Chair.

His Excellency, the Governor, made a statement in his State of the State address that he did support the five cent a gallon increase. It was reported to us that he made the statement today that "it was not his idea, it was somebody else's idea." I would like to have somebody explain that statement, please.

The SPEAKER: The Representative from Lisbon, Representative Jalbert, has posed a question through the Chair to anyone who may answer if they so desire.

The Chair recognizes the Representative from Kennebec, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I would like to respond to that question. I am waiting for a call from the Governor in terms to that specific question. I think the individual who made that statement was a faster

driver back from Dover-Foxcroft and the Governor will be calling back in.

There is a history to this bill. The Governor has always laid out publicly that one doesn't just propose a tax and then find ways to spend it. This is the Governor's bill, and in a conversation with the Governor at four o'clock this afternoon before I became aware of what the gentleman from Lisbon has said, he indicated to me that he feels just as strongly now at four o'clock as he did back in January when he addressed us in the State of the State speech.

This bill, historically, has gone through three stages. There was a special Commission on Economic Development that looked at this state in terms of what its future needs are. In that report, they reported that there was a need in terms of certain economic development corridors, that the development of those corridors meant jobs. It also meant that we had to have roads, especially if we wanted manufacturing jobs rather than service industry jobs.

The Governor then directed the Commissioner of Transportation to look at those needs and how we could go about paying for those needs. The Commissioner came back and made a recommendation to the Governor for a five cent increase in the sales tax. In his State of the State speech, January 12, 1988 and I quote: "In order to carry greater opportunities to more parts of Maine, relieve congestion brought about by an expanding economy, opening up new markets and redirect growth to less prosperous areas of the state, we must invest in our roads and bridges. Because of major cutbacks in federal funding, we must, now more than ever, pay as we go from York County to Aroostook and back again. Therefore, I am proposing an increase of five cents in the state gas tax." He goes on talking about the courage, the dedication and what it will do as we look toward the 21st Century.

In January, just shy of three months ago, Maine's Governor had the courage to act upon that recommendation of that study commission and the recommendation of the Transportation Commissioner.

If we all remember, that was one of the few parts of his speech that there was no applause, not one member of this body applauded but he had the courage in January and he has that courage today in support of this bill.

Sometimes it is hard to tell what is the Governor's bill -- for some reason, I haven't been able to figure it out, bills that are the Governor's bills, this year are appearing without that across the L.D. I am not sure if it is still there on the Governor's bill but I can assure you that this is his bill, he supports it and hopes that this legislature has the courage to join with him.

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

Representative THISTLE: Mr. Speaker, Men and Women of the House: Today I had the great, good fortune and pleasure to be with the Governor of the State of Maine in Dover-Foxcroft, Capitol for a Day, and today over lunch, put on by the Chamber of Commerce in Dover-Foxcroft, at the head table sat our Governor, John McKernan.

In his remarks before we had lunch, he made this comment: "The gas tax was not my idea but I felt that I had to support it." I wondered about that comment when I drove back here to Augusta and raised it in our caucus and then sought out also his remarks to us here in the House when he addressed the Joint Convention in his State of the State. From a paragraph just further down than the one previously

quoted, it reads as follows: "I know that especially during an election year, this proposal will not be a popular one but it is a necessary one for Maine's future and we must have the courage to face it."

This evening, ladies and gentlemen, I am just wondering where was the courage today at noon in Dover-Foxcroft for that gentleman on the second floor to say, "It was not my idea." If not his idea, then why does he claim it in his State of the State?

Incidentally, as many of you did, I sent out a survey to my constituents in rural Maine, a place in desperate need of funding for roads. The first question on my questionnaire was: "Would you favor a five cent increase in the gas tax?" That was the first question. The response, three to one, was no.

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, Men and Women of the House: I also traveled to Dover-Foxcroft today, the Capitol of the Day, with the Governor and his commissioners. I do want to verify the statement that Representative Thistle has said that the Governor said and he did say that.

Being here for two years, I was here when he gave his speech on the House floor and I know that he was referring to a study but he never mentioned that study. He said, "This is not my idea, I bought into this." That is exactly what he said. I understood where he was coming from but the people from Dover-Foxcroft, Milo, Monson, and Greenville -- their faces dropped about a foot. Already they are paying 18 cents more per gallon for gas than what they are in the southern part of this state. We live in a rural area, we have to travel a long distance to get places and it costs us a lot of money to get there.

The Governor talks about an average of \$37 it is going to cost us more each year -- a lot of us travel around 35,000 to 40,000 miles per year, we are looking at \$75 to \$80 more a year.

I also sent out a questionnaire and I had a real good response to that, 33 percent of the people in my district responded, which is a good response. They overwhelmingly, 80 percent of them, said no to the gas tax.

I have already publicly come out in the paper with my announcement to my reelection that I would not support a gas tax and that is where I stand tonight. I will not support it.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I had prepared to make a speech tonight to defend my position but if these remarks made on the floor of this House tonight are true, I think somebody in this body should table this bill for one day so that we have the opportunity to know exactly what was said. If it is true, I think the Committee on Transportation should have the opportunity to meet with the Commissioner of Transportation of this state and the Governor so that we all know exactly what we have been working on for the last two months.

I want to tell you that my position that came out yesterday was not the position that I intended to take. I was put in a position last Thursday night to vote on a proposal, where I had not seen the final recommendation that had come out from the Commissioner. After I saw that final recommendation yesterday, I can support this package.

I have information that I would like to relate to this House but I am not going to tonight until I know whether the Governor of this state is, in fact, supporting the five cent increase. I will not make

my statements until I know that and I would suggest that somebody table this for one day.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I have just talked with the Governor's aide who had just finished a telephone conversation with the Governor. The Governor's quote was in terms of his speech, "This was not a political decision that I made but one made by the professionals at the Department of Transportation and they convinced me of the need for and the wisdom of the plan. I am 100 percent convinced of the need for this program."

It is in the exact steps that I had laid out. The Economic Development Study Commission identified the need, the Department moved toward -- how do we fund this need? The Governor was convinced, and in an election year as was said in his State of the State speech (and we didn't applaud here, not one member of this House) there is a need for this, it cannot be put off even though it is an election year. He stands solidly with this.

If a member of this House is going to vote no and is looking of an excuse, then I think they could probably manufacture anything out of any kind of cloth. If you are going to vote no, then vote no, but I think the Governor by his address that this is a Governor's bill and has indicated clearly his position.

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

Representative MACOMBER: Mr. Speaker, Men and Women of the House: I rise tonight to speak to you as one member of the Transportation Committee and I do not speak for the committee, only for myself. I was one of the members who signed the 12 to 1 "Ought to Pass" Report.

I think it is important that we go back just a few days -- when the gas tax came before this body, there was a joint hearing between the Taxation Committee and the Transportation Committee. It was then referred to the Transportation Committee for further study. The Transportation Committee had the bill for about five weeks. We discussed it with many people from the business communities, all the people from DOT, Commissioner Connors and many others. We spent five weeks on that particular report and we studied it very completely. We had about five different reports at one time and we finally came out with the report that you had last night before you, which was a 12 to 1 "Ought to Pass" Report.

I am going to speak to you on the basis of this 12 to 1 report. I think the fact that we had the gas tax bill for five weeks and that the Committee on Taxation met this afternoon from 1:30 to 2:00 p.m., thirty minutes they spent on that particular bill, so I would like to have you hear the Transportation Committee's side of the bill.

When this bill first came out, many people in this House came to me and asked me if I was going to amend the bill so there would be a local share. I assured them that I intended to do that and I did. During the discussion in committee, I had what I called a 1-3-1 amendment, I think all of you knew what it was. It was one cent for bridges, three cents for the highways and one cent for the municipalities. I only had one other member of the committee that went along with me on that particular figure. So after a lot of deliberations and a lot of comments, I talked to Commissioner Connors and his comments that "one cent would hurt other programs" convinced me that I would go with the one, three and

a half and one half cent, which is what you have before you tonight.

On the one, three and a half, and one half cent, I think the part that I referred to in the amendment is the one half cent that is going back. \$3.5 million dollars is going to the local block program. There is already \$15.8 million dollars in that program at the present time. The money in the formula that is being distributed to the municipalities now has many inequities in it and we didn't feel that that was the proper course to take in reimbursing this particular \$3.5 million dollars.

So, after quite a lot of discussion, we came up with 22 percent, \$3.5 million dollars distributed by 22 percent across the board to every municipality in the state. That was a one-time bonus, you might call it, that would be distributed in January.

Once this session is over, the Transportation Committee, the Maine Municipal Committee, the DOT, and I am sure there will be other people who will be interested, will do a study of the formula to try to correct some of the inequities that are in that formula.

Also in this thing, as I said, there is \$3.5 million dollars to invest in municipalities and, in addition to that, there is \$1.2 million dollars going back into salt/sand storage program, which is a great concern, I know, to many of you, especially in the small municipalities. Of that \$1.2 million dollars, the state will pay 25 percent of your costs for constructing, renovating or whatever you have to do, to take care of your salt and sand programs.

I don't think I have much else that I can say but I do hope that you will take into consideration that the members of the Transportation Committee did study this matter for five weeks. We came up with a strictly non-partisan 12 to 1 report. One person opposed the bill, the other 12, after a series of discussions, sometimes very violent discussions, finally arrived at what I think is a compromise and I hope you will give it some consideration.

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

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I rise today as the signer of the Minority "Ought Not to Pass" Report, which comes as a surprise to many of you, I imagine, in this House. As someone who has served here almost five years, I think I have voted for and cosponsored almost any tax increase that has been considered in that time period. I am not afraid to vote for tax increases when they are warranted. I have opposed this bill because of the timing of this bill and I want to go on and tell you why.

This year the legislature is considering a \$93 million dollar supplemental budget, the largest supplemental budget in the history of this state. We have a current year's surplus, we have taken in approximately \$57 million dollars more than we spent this current year. The Maine Turnpike even has a surplus. There is even a surplus in the highway fund as of December 31st. We just passed a \$26.5 million dollar bond issue in November. My constituents are all saying to me, "When is enough, enough?" When are we going to start looking and maybe tightening our belts in certain areas and achieving some economies by taking money from other sources rather than going to what I consider a very regressive tax. It is a tax that hurts and affects lower income Maine families more than it does people with greater means.

Let me remind this House that the present combination of federal and state taxes is 23 cents a

gallon. 23 cents a gallon already and, in most cases, that is in excess of 25 percent of the purchase price for that commodity. That is a pretty hefty consumption tax.

It has been pointed out that the need is out there and I don't question that need, it is a question of timing. Ladies and gentlemen of this House, there is a need everywhere in state government -- look at the Department of Corrections, look at the Department of Human Services, look at the Department of Mental Health and Retardation, the need is there. In fact, in my opinion, the need is even greater there.

It has been mentioned that the Taxation Committee only had this bill for a couple of hours -- I have been following this bill for the five weeks since it had its public hearing. I feel that I am as well informed on this subject as I am on any subject that has come before the Taxation Committee. Simply because we didn't have the bill for very long doesn't mean that we didn't consider all aspects of this bill. I certainly did, I worked very hard to both educate myself on what the bill did and the effect it had on the Maine taxpayers. It is very difficult to choose among the options for spending that money and that is why it took the Transportation Committee so long to come to a decision on a report. Our side of the question was where it would come from and that was rather limited and, therefore, it didn't take us a long time to come to that conclusion.

I urge this House to support the Minority "Ought Not to Pass" Report. This tax, in my opinion, is coming at the wrong time and is affecting in the worst way, the wrong people in the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I rise as someone, who for 30 years, worked for the Department of Transportation. I started back when it was called the State Highway Commission. I think it is very close to me, I think I understand it. I have seen what has happened when bond issues were defeated, how the former Commissioner, David Stevens, had to go back to the people and ask for reconsideration.

I felt happy today when I walked through the doors of this chamber because I had made my decision that something needed to be done. I, too, received a report on my questionnaire which ran 3 to 1 against raising the gas tax. I thought to myself, this is one heck of a decision to make. Right now, I am at a quandry because I don't know which way to go -- I hate to be in a position where I have to say that possibly politics is being played here so next November, they can come back and say, "You Representative Jalbert, voted to raise the gas tax" when, in fact, it was the Governor's idea. I remember sitting here and I felt that the Governor proposed something that was needed.

I agree with my good friend, Representative Strout, that maybe I would like to hear from his Excellency himself exactly what he meant. I will not be used as a political football. As I said before, I am a little too fat to be thrown around as a football but I think, at this time, this is a very difficult decision to make and I am sorry to have had to make this decision tonight. I felt glad when I left my good wife at the apartment and I said, "I am going there and it will be over, I will be back by seven o'clock." I hope she hasn't started cooking yet.

At this time, I feel I would like to hear from his Excellency, I think he is a good Governor, although I didn't support him for obvious reasons, my own constituents ran against him but I think I would

like to hear from him himself just exactly what was said today. Then we can see if we will get his support come November. I don't want to have to vote for something which will be used against me next fall.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Men and Women of the House: Let me if I can, just briefly, review for you the critical need on the significant bridge projects of this state that face us.

In phase one, there are four bridges, the first one is the Portland-South Portland Bridge. The state's share of that is \$18 million dollars. The bridge has inadequate lane width, serious structural deficiencies and a dangerously narrow span. The average traffic over that bridge is 27,000 vehicles a day and there is a 17 ton posted limit on that bridge.

The second one is the Brunswick-Topsham Bypass Bridge. The average daily flow of traffic over that bridge is 26,000 vehicles a day. Traffic flows frequently are severely impeded because of the condition of that bridge.

The third is the Bangor-Brewer or the Penobscot Bridge, which the state's share is \$3 million dollars. The existing bridge is completely and structurally deficient.

The fourth is the Waterville-Winslow Second Bridge, 27,000 vehicles a day. The traffic flow is expected to reach 31,000 vehicles a day on that bridge before the other bridge can be completed.

Phase II, you have the Carlton Bridge replacement whose traffic levels right now are entirely impeded because of the bridge.

You have the Biddeford-Saco Bridge, traffic service levels there are at capacity during the summer and the second worst category of traffic flow is experienced throughout the rest of year.

You have the third bridge here in Augusta, traffic service levels are now at capacity throughout the year.

The fourth bridge under that is the Skowhegan Second Bridge, the same scenario -- the traffic volumes cannot be handled.

I won't read them all but just let me read some of the supporters of this program. We have Maine Municipal Association, Maine Chamber of Commerce, the Farm Bureau, the AARP, Maine Better Transportation Association and the Associated General Contractors, the State Grange, the greater Portland Chamber of Commerce, the Biddeford-Saco Chamber of Commerce, the Lewiston-Auburn area Chamber of Commerce, the Kennebec Valley Chamber of Commerce, the Calais-Presque Isle Chamber of Commerce and a number of others. I won't take your time but I ask you to defeat the pending motion and then move on to the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative PARADIS.

Representative PARADIS: Mr. Speaker, Men and Women of the House: Before I begin my own remarks, I would like to comment on the remarks that were made earlier. It was stated a couple of times that the Transportation Committee had this bill for five weeks and that they reported the bill out 12 to 1 and that the Taxation Committee had had it from one-thirty this afternoon to two o'clock and I would like to say, how can the majority signers of this report presently before us, after only one-half hour of debate, sign their names and say that this is a real, necessary measure. I think that ought to be one of the considerations that we think about tonight. After a half hour of discussion, the majority of them are already convinced that this is a good proposal?

The good gentleman from Eliot mentioned some of the groups that had contacted this legislature in support of the Governor's gasoline tax increase. Let me tell you that some of these same organizations exist in my area, for instance, the Kennebec Valley Chamber of Commerce. Some of those same individuals called me at home and said, "I don't care what the Board of Directors of the Chamber of Commerce say, I am against this tax and I hope that you will not support it."

Some members of the transportation lobby, I have some of them in my district, one of them owns a trucking firm, he called me up one evening about 10 days ago and said, "I have seven trucks on the road every day. If you support this tax, I will never support you, ever." A very nice gentleman but he made no bones about where he was coming from. I said, "What about your own organization? They are lobbying us in favor of this proposal." He said, "I don't care what these professional lobbyists are saying, they do not reflect the rank and file members. I have talked to other truckers, they are against it, we already pay enough." I said, "You can't have it both ways, you can't be asking for better roads and better highways and not be willing to pay your share." He said, "I do not think that this tax is well-timed and is not before us at the right time. I hope that you will hold off."

The name of George Mitchell was mentioned earlier today in the debate. Some months ago, I asked his office to supply me with any information they might have in order that I might see this debate in a national framework. I think other states are being faced with the same problem. I would like to quote to you Senator Mitchell's testimony before his own committee. Dated, February 29, 1988 before the Environment Public Works hearing -- "The cash balance in the Highway Trust Fund is expected to climb from \$9.4 billion in 1987 to \$10.6 billion in 1991. Yet, many states including my own State of Maine, are considering raising gasoline excise taxes to make up a reduction in federal spending. In essence, we are compelling states to pay for our cash balance and the cash balance is obtained through an excise tax unrelated to the ability to pay. Last year the Finance Committee rejected raising excise taxes because such an increase would take back middle and low income taxpayers all of the gains achieved through tax reforms. Yet, we virtually mandate states to raise excise taxes by substantially limiting the funds that can now be drawn down from the Highway Trust Fund. It seems ingenuous to me to ask the states to pick up the tab for funds we actually have but aren't willing to spend. If the Highway Trust Fund were in danger of depletion, that would be a different story." That tells you pretty much where I am coming from.

There is no major catastrophe in the federal Highway Trust Fund, it is just a very poor decision on the part of the Congress to hold back some \$20 million dollars that we, the taxpayers of Maine, have been dishing out. We, under the federal laws, have every right to expect that to be turned back to us.

An analogy can be made that if Maine wants better roads and every state wants better roads and economic corridors and better transportation, then maybe we ought to be raising our taxes on our own and going on our own to bring about economic development.

In the same day's testimony before that Senate Committee, Mr. Ray Barnhardt, former administrator of the Federal Highway Administration, testified and I quote: "We can no more require each individual state to finance its own highway network and expect to sustain a dynamic national economy, then we could

hope to defend our nation by relying on state financed National Guards, it simply won't work."

Maine is not a rich state. Passing this gasoline tax will not make us a richer or more prosperous state. Don't be fooled into that. The taxpayers of this state, the majority of whom are below the national median income cannot afford every tax that we proposed and every tax that some administrator has come up with. You and I both know, and in the 10 years that I have been here, every group that has come before us and asked for a tax increase in the sales tax, excise tax and user fees, (they are all a tax) we have had to say no. We have said no before, I hope we will say no tonight.

Finally, in the discussion that was made regarding the Governor's comments, I can't help but think of a famous saying that was uttered some years ago by a gentleman far more knowledgeable about the political process than I am. "Defeat is an orphan, victory has a thousand fathers." It seems that the Governor, if that quote is true and I do not doubt its verity, seems to be smelling which way this tide is turning. I think he is making every effort to get himself away from this gasoline tax, this ill-timed tax, and he is saying, "I do not want to be the parent of this proposal, I think it is an orphan, some other group must have brought it before me, I don't know its parentage."

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker, Men and Women of the House: We have listened for better than forty minutes to the debate regarding the gas tax. We have listened to several reasons why it shouldn't be before us and we have also listened to why it should be before us.

I would just like to respond to the gentleman from Augusta's initial remarks regarding the majority's deliberations of one half hour. I think knowing me over the years while serving in this legislature, know that I don't take things lightly. To think the majority signers of that report took this issue lightly, I think is an affront. I hope that is not his attempt.

I have been following this gas tax since the Governor proposed it in his State of the State address. I didn't need a half hour to make my decision. I made my decision in the five weeks following the public hearing. My decision wasn't made lightly. I think many of you know that I have not been a proponent of taxes in this state.

The Department of Transportation has certainly demonstrated a need for this additional five cent per gallon tax. I think if every one of us do a little soul searching, you would have to agree to that. With the federal Congress holding hostage \$20 million dollars of transportation money that is due the State of Maine, that is needed in the State of Maine, is a disgrace. Those \$20 million dollars, folks, compounded by the extraordinary bridge program, which others have alluded to already, the Brunswick-Topsham By-pass and the bridge in Portland to South Portland, will take \$44 million dollars out of this program, the transportation investment program for 1988-1989.

I am sure that every one of you members of this body have had an opportunity to look at that book and what those projects are and where those projects are. Those projects are important to the economic vitality of this state. To say that the timing is not appropriate for this five cent gas tax bothers me. We are talking about (immediately if we don't pass it) and I don't see Congress hustling by returning \$20 million dollars to the State of Maine -- we are talking about immediately cutting \$20

million dollars in projects throughout the several municipalities of this state which people are anticipating. That bothers me.

As I said earlier, it is important to the economy of this state. The good gentleman from Eliot, Representative McPherson, spoke of the extraordinary bridge program, if it comes up. That is a tremendous investment in this state, it is an investment that is needed.

Just in Phase I, state contribution is going to have to be \$52 million dollars. Now I propose to the gentleman from Rockland, Representative Mayo, where do we get this \$52 million dollars for Phase I?

Phase II, \$110 million dollars -- is the gentleman prepared to vote from the General Fund these dollars to build these projects? Is he willing to vote for \$20 million dollars so that we can complete these projects when we have promised the citizens of the state that they will be done? I think and I feel that the timing is appropriate for this gas tax. I felt that the timing was appropriate last year. I could see what was happening throughout the several communities of this state, the communities that I travel to, that I represent, I have seen paved highways, ladies and gentlemen, and I am sure some of you have, go back to gravel roads. Is this 22 percent proposal from the Transportation Committee through the Block Grant Program frivolous? I don't think so. It gives money to communities so the communities won't have to rely on the property tax so heavily to meet their maintenance and reconstruction projects.

We have also discussed highways of regional significance and how important they are to the economy of this state. Routes 201, 26, 302, 4, 27 -- those various roads throughout the state have been addressed and will be addressed if the gas tax is passed. They are important to this state, folks, they are important because of the two Maine's. It is a fact, if we don't give them a transportation infrastructure, a highway infrastructure to travel and to move freely, then we will continue that division and it will get wider and wider and wider, eastern Maine, western Maine, and northern Maine. While southern Maine continues to flourish economically, the rest of the state will be left behind.

We have talked about the costs to the low and moderate income people. Statistics and figures that were given us during the public hearing would cost the average driver \$37.50 a year.

None of us like taxes folks, none of us like to pay any more than we have to. But it is a fact, folks, if we continue to let these roads deteriorate and we don't address our infrastructure problems, then the costs are going to get greater than the tax.

There was a study that was given to us during the public hearing, done by Trip I that stated, if we were to do nothing, that the cost just in repairs and additional gas consumption, would cost the average driver in this state \$100 per year. In that same report, it might be interesting to note too that they spoke of the needs of Maine and addressed the needs of Maine. They addressed the needs to be \$168 million dollars. Even with \$35 million, we don't even come close to \$168 million, we are going to come up to \$112 million.

That is why I think it is extremely important that this department under the current commissioner's leadership has established priorities. I think we ought to give him the tools to work with, the tools to do a job he started and, hopefully, a job he can finish.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I figured if I was here long enough, I would live to see this day and this day has come to pass. Not too many years ago, I remember the Democratic members of this House getting up and presenting the very same arguments presented here today by the good Representative, Representative Jackson, and the good Minority Floor Leader of the Republican Party. It just so happens, men and women of the House, that I have something here in my hand today that I would like to share with the members of this House and for the Record and for the people of this state.

The first one is from an outfit called the "House Republican Majority Pack." Lo and behold, it is located on Summer Street in Kennebunk, Maine. It says, "We are working to regain control of the Maine Legislature, the issues are ours. The Democrats in the House, in the Legislature and the Blaine House, have given the Maine people the highest taxes in New England." Yep, signed by Representative Tom Murphy who is the chairman.

Another one here: "In one year, Democrats in the Maine Legislature increase taxes - A, B, or C." The answer was C, \$150 million. Correct answer, C. It says, "In one year alone, Democrats increase everything from gasoline taxes to corporate taxes."

The third item: copy of an ad that appeared just before election time and it is titled, "Republicans running for the Maine Legislature and for Governor of Maine will work to bring state spending under control so we can prevent further tax increases on Maine's working people." Very honorable objectives, I might add.

Lastly but not leastly, it says, "Are you having a tough time making ends meet? You are not alone. For years, the Democrats who control our legislature have given Maine people the lowest income, highest unemployment, and highest taxes in all of New England." And down below it says, "The 10th highest tax paying index in the 48 continental United States, based on Forbes Magazine, July 29, 1985."

How you vote on this issue today is irrelevant to me as long as we have a roll call so I can show the people back home how I voted on the issue. But, I would just like to have the Record show that tax/spend, tax/spend, tax/spend, tax, tax, tax, spend, spend, did not come from the Governor of the State of Maine that was a Democrat and is a Democrat and it did not come from this Democratic controlled legislature.

I thank the good Lord that I have been here long enough to see this day come to pass. You don't know how it tickles me. Representative Jackson.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: In light of the preceding remarks, I would like to point out that irregardless of how you vote on this issue tonight, you will be voting for a tax. If you vote yes for this proposal, it has been stated that this will cost the average motorist in the State of Maine \$37.50. Whereas, if you vote no for this proposal tonight, you are going to wind up costing that same taxpayer close to \$100 down the road.

This is the appropriate time to pass this increase. I would urge you to oppose the motion before us and do this in a timely fashion and show the leadership that you were down here to give and think about the entire State of Maine in the process.

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

Representative MAYO: Mr. Speaker, I would like to pose a question through the Chair.

To Representative Bott of Orono, who did the study he is quoting from with the \$100 cost to Maine automobile drivers?

The SPEAKER: Representative Mayo of Thomaston has posed a question through the Chair to Representative Bott of Orono, who may respond if he so desires.

The Chair recognizes that Representative.

Representative BOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to defer to a member of the Transportation Committee who could answer that but I believe that those were figures that came from the Commissioner of Transportation of the state. They were figures that were widely reported and I have been following the issue since the public hearing, but I would like to defer to a member of that particular committee to give you an exact answer.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I probably live in one of the highest areas of this state to support a gas tax, coming from the New Hampshire border. In that area that I live, the unemployment rate is 2.2. In my hometown, there are 47 people unemployed out of 6,000 and I think that is pretty good.

I have also traveled to Aroostook County, down to Eastport and around, with the Economic Development Tour -- I have to admit, it was the first time in my life that I had ever been to northern Maine. I can remember back home when people used to say, "We don't know where the gas tax is going, it must be going up north where the big politicians come from because we certainly aren't getting it down south." Well, I went back home after that and I said, "Well, I don't know where it is going, but the big politicians up north haven't got it either."

I think we do have a problem in this state as far as roads are concerned. I believe in the future of the economic development of this state and I believe that the people in central Maine and northern Maine have the same rights that I have down in southern Maine and that is for jobs. We are not going to help these people unless we give them jobs. We cannot get jobs up there unless we have the roads for the trucks and for the people to travel on.

When they talk about trucks, I am no expert on trucks, but I paid a few bills because of trucks who had broken axles on roads. My husband had three on the road at one time and I always paid the checks for the broken axles. Believe me, if the roads aren't good and you break an axle on one of those 18 wheelers, you don't fix it for \$50. Therefore, I believe that we do need good roads in this state.

I also realize that most of us who have bought cars lately are getting better mileage so therefore the state is getting cheated on their gas tax there. This bill is necessary.

Last year, when they asked for a tax exemption for Bar Harbor Airlines, I stopped and thought about that and I thought well, that isn't going to help my people. When I came up here, I came up here to help my constituents. I also thought that the people up in Aroostook County had the right to have an airline go in there in case one of their children got sick and they had to fly them to a hospital or just for plain transportation to get out. If we had to subsidize that airline, so be it, it was the duty of

everybody in the State of Maine. I voted for that exemption.

When I came up here and even today, I have not been lobbied to support this bill. In fact, I told the Governor that I didn't believe I could support it. I have given it a lot of thought and I did talk with Dana Connors today because I thought maybe I might be able to bargain a little bit. Well, I didn't get too far. But anyway, I gave this bill a lot of thought and I came up here to help my constituents but I also came up here to help the State of Maine to make it a better place for everybody in the State of Maine to live, not just the people in Berwick and Lebanon.

I am also up for reelection as everyone else is here and if I cannot vote and go home and explain to my people why I voted to benefit every person in this state, and I don't get reelected, then so be it. I am going to support this gas tax because of everybody in this state, not for just one little area. I am not getting anything in my district, we aren't even getting a road tarred. So, it is not because I have been promised anything.

I believe that is our duty when we come up here to vote, not only for our constituents, but for the betterment of our whole state. The future economic development of the state depends on this gas tax.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: You know, there are only two reasons to vote for a tax exemption or for a tax increase as the gentlelady has just so eloquently pointed out, because they help people, either through a direct subsidy in the form of an exemption or because tax somehow benefits the overall well being of the state, which, of course, in turn benefits all of the people of the state.

A short time ago, you heard a speech which I guess I will refer to as a "what goes around, comes around" speech and I just want the Record to show that in 1983, on one of my rare occasions, I voted for a tax increase. I usually don't like tax increases because generally I don't think they are that healthy. But the gas tax, I thought, was healthy then; the gas tax, I think, is healthy now.

Representative Mayo says, you got to draw the line somewhere, how many taxes can we stand? Well, he must have drawn the line at noon today because he supported the real estate transfer tax yesterday.

We have before us an opportunity to do something that we have been talking about for a very long time, whether you call it unifying the two Maine's or creating economic prosperity for Maine's underprivileged area -- and I say so in comparison to the areas that have enjoyed economic prosperity. One of the basic fundamentals, one of the only possible ways to encourage business to locate in an area or to expand where they currently are, is to create adequate good transportation means by which they can bring raw materials in and export finished products out.

Representative Bott earlier mentioned a study, someone came up with the figures that this tax would cost the average Maine driver around \$37 per year. But, if we don't pass the tax, they could pay as much as three times that through excessive fuel use, repairs that become necessary on that car because our roads aren't good enough.

Representative Cashman, a short time ago, talked about the federal government withholding the funds. This is not a new revelation, they have been doing so, according to Commissioner Connors, for some four

years now. Why didn't we try and do something about it a little while ago? The fact that they are withholding some \$20 million frankly is not enough to address the things that need to be done now for Maine's future. It is obvious what Congress is doing with the money, it simply shows up in some sort of account so the deficit does not look as excessive as it actually is because that money does belong to us. They are going to have to release it at some point.

I guess when you think of the gas tax, obviously a lot of people turn to their constituents to see what they think. I don't think it is any great surprise when you send out a question, however it is worded, but if it is in the basic form of, "Do you favor an increase in the gas tax, (whether it is three, four or five cents or whatever) - yes, or no?" Most people would say no.

I had an experience recently to talk with a number of constituents and found just that scenario, "Do you favor a tax increase in the gas tax?" They said no. Then I had an opportunity to discuss with them just what we have been discussing tonight and tell them about what it could mean to Maine economically in terms of development, what it could mean to us in additional costs later on if we don't do it and a lot of them changed their minds because they didn't realize all of those things that we realize.

I hope that all of you will take the broad picture into mind as we all did in 1983 and the majority, in its wisdom, went ahead and passed that tax increase. Now, whether or not it was the Governor's idea, I don't think really matters. If the Governor said he was reconsidering his support for the issue, then I think we would have something to talk about. But I don't think he has done that. I think he has merely admitted that it wasn't his idea. There are a lot of bills that come through this body that weren't the sponsor's idea. More often than not, that is probably the case. But, the Governor likes the idea, he knows the idea is important, he knows Maine people need it, he knows that the beginning of our economic future is partially dependent upon this action. Maine people need it and we have the opportunity to do it. I hope that we will.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. The Representative from Eliot has been quite clear as to the various needs that need to be met and that are proposed to be met through this tax increase. Those needs, I think we can all agree, very much need to be addressed. But, the question before us is how to address those needs and what form of taxation to use to raise the money to meet those expenses.

The bill before us is for a gas tax, a gas tax is an extremely regressive form of taxation. It is very difficult for me to vote against this bill which would be of great benefit to the constituents of my own district. But ultimately, I believe that if I am elected for anything, it is to stand for a certain set of principles and one of those principles that I hold most dear is the principle of progressive taxation. As a result, I will not be voting in support of this bill and hope that some other method of raising revenues will be proposed in this session or early in the next session so that we can meet the lengthy list of needs as set forth by previous speakers.

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

Representative COLES: Mr. Speaker, Men and Women of the House: The good Representative from Thomaston asked a question a while ago about where this number came from, I would be happy to answer that question. It came from a report prepared by the Road Information Program for Maine Better Transportation Association, which you all know is a group lobbying for the gas tax. The report says, on page 14, that the cost of driving on rough, uneven roads in Maine is \$92 million. It doesn't say where that number came from, it just says that is the number. There is no explanation whatsoever for the number. It then divides that number of 818,000 licensed Maine motorists and says as a result, it will cost \$113 per driver in this state. It doesn't break it down to cars, it doesn't break it down to trucks, it is a very vague report.

On page 8 of the same report, it says it recommends a program of additional spending of \$90 million a year. The gas tax, as proposed, will raise only \$35 million additional dollars a year. That \$90 million, incidentally, is only for primary road systems, not secondary or local roads.

In essence, what this report is saying is that this proposal before us today is a stopgap proposal which doesn't even deal with the problem. If we really have a need for \$90 million of additional spending each year, we ought to have a program that addresses that need, not a program that in a vague way proposes to spend \$35 million additional dollars, which only would put us deeper and deeper in the hole ever single year.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: Just to answer the question about the TRIP Road Information Program, let me quote to you from Commissioner Dana Connors' remarks before the committee at the time. "The Road Information Program (TRIP), a Washington based nationally recognized research group, has estimated the additional cost to motorists driving on our highways."

In speaking with Commissioner Connors, up back, he said it is a nationally recognized, well recognized group, that does research work for the transportation industry.

I guess with that. I would also just ask the Representative from South Portland, Representative Anthony, one question -- the state's estimated share on that South Portland bridge is \$18 million. If something happens to that bridge tomorrow or within the next week or two, where do you get the \$18 million when we are already \$20 million short to start with?

The SPEAKER: Representative McPherson of Eliot has posed a question through the Chair to Representative Anthony of South Portland, who may respond if he so desires.

The Chair recognizes that Representative.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: In response to the question posed. I don't have it in my back pocket, alas. I am very aware of the need for that bridge to be replaced because I travel that bridge every day as do members of my family. I have a feeling sometimes I account for about 1,000 of those trips each day that are recorded.

It seems to me that it is up to the Transportation Committee and the Taxation Committee to come forth with either an income tax proposal or sales tax proposal or a bonding proposal, any of which would be a preferred form of taxation, more progressive in dealing with these matters. That

would be the way I believe these needs have to be addressed.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to take a moment of your time. First to clarify that that group from Washington D. C., it took me six questions to get the final answer during the joint committee meetings between Transportation and Taxation. I believe that everybody who was at that meeting will remember, it took six questions to get the answer.

Their primary funding is from people who build roads. I am not against being lobbied by anyone but it took a long time to get the answers. So, those figures on our needs for roads and how much this is going to save our automobiles, did come from somebody whose primarily funding source for that lobbying organization, that educational research organization, is people who build roads. It is a good business to be in.

What bothers me most is that nobody has talked in terms of a compromise. I believe that Bill Cohen and Ron Reagan may still support holding this money back and I think George Mitchell was absolved tonight for holding this money in hostage, as they say, but I believe that money accounts for only two cents. I think going back to Maine constituents with a five cent increase when we have a two cent federal shortfall is going to be awfully hard to explain.

I also happen to think that, at least in my district, what people complain about is property taxes and the burden of that. They don't complain as much about the roads, and I am not saying the roads are good but they don't complain as much about the roads as they complain about property taxes choking them. I think we haven't done enough to address that problem. I think we ought to address that with serious dollars before we address this problem with serious dollars.

Roads are a black hole we can throw money into. Education is a black hole we can throw money into. Social welfare is a black hole we can throw money into and property tax relief is a black hole we can throw money into. I happen to think those are just a few of the black holes we could be throwing money into. I hate to think that this one black hole is signaled out for this big chunk of money out of the taxpayers and then there won't be any ability to look and say what else do you want us to throw money at because we have used it all up on roads. I think it has been done very quickly. We had a two cent problem that we are solving with a five cent solution.

The SPEAKER: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Men and Women of the House: I couldn't help but think as I listened to the good Representative from Mt. Desert speak to us tonight that earlier the Representative from Kennebunkport had mentioned that we should try and have courage when we make this decision. I thought about that and I asked myself, in my own deliberations, is it courage that is preventing me from voting for this? Is it courage that is encouraging me to support this? It is not courage, it is kind of confusion.

I listened to the Governor when he was campaigning for office say that he would not support any tax increases. That was later qualified when this was proposed to be -- well that was just the board based taxes, sales and income tax.

We watched the television show about the Governor the other night and they presented him as a cautious person. So, I have to ask the question, is it

courage or is it caution that we are getting this tax increase in an election year for legislators but not for the Governor? I know that that is important because it was the good Representative from Mt. Desert who told us that we knew four years ago that Washington was withholding this money and that is what I have heard is one of the major issues here. So, is it courage that we are getting this proposal or is it caution? If this proposal is defeated, will we see it two years from now when I assume the Governor will be considering running for reelection?

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

Representative PARADIS: Mr. Speaker, Members of the House: Just very briefly, this has been a very extended debate. I would just like to remind the members of the House that our basic economy here is founded on our mills. The wood products are the basis of what our mills produce for us. Our roads carry the raw materials to those mills. The roads also carry the products from the mills to the markets and the roads further service our people in executing their jobs or carrying out their jobs or their recreations or such other pleasures they may derive from the roads. The primary purpose of our roads is the movement of raw materials into the mills and from there, the product into market.

I remind you of that tonight because regardless of where you live in this state, whether you live in my district where I have one bridge that carries over 300,000 cords of wood each year enroute to the mill, and I don't know how much material it carries to market, but that is a sizeable amount of raw materials. That is the purpose of the road. If the road is not there, it doesn't move and those jobs are affected.

Each and every one of us, regardless of our position in the state, whether it be downtown Portland or whether it be in Bangor, but each part of our product that is manufactured in the mills, pass through those towns, directly or indirectly. I remind you of that tonight that what we do here with this gas tax for the maintenance and the improvements of our infrastructure is there for us to use.

I would urge you not to vote for the motion which we have before us so that we can go on and accept the "Ought to Pass" Report.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here very patiently listening very attentively and trying to find some explanation and some reason why this bill is before us at this time. I have been concerned about this issue, not just this issue, but economic development for many, many years. I know that we need good transportation facilities, not just good highways, we need good airlines to service this state because of the nature of this state. We need good roads, we need good transportation on the sea and we need good railroads to take care of the bulk materials that we are so fortunate in having, specifically in the forest products.

The nature of our state is such that we don't have too many raw materials to rely on. Other than forest products, we have fisheries and wildlife and agriculture, anything else has to be imported into the state, manufactured at high energy costs, and transported back out to the markets. So it behooves us to be very careful in how we deal with our transportation facilities.

I am concerned about this, have been for many years. It is not very often that I get up and speak on highway issues or transportation issues but since

I have become involved on the Railroad Task Force, you might say I have become enlightened. Some of the questions that we raised on the task force have puzzled me and they still puzzle me. I have been listening here, attentively, and it has been mentioned on the floor, referred to as cost allocation studies. I believe the first one was done in 1982 and, while we were deliberating on the task force, we kept hearing that a report was due out. This was last August and here we are in the month of April and the cost allocation study is not done. Why should we have a cost allocation study? Well, if you are going to be fiscally responsible, fiscally prudent, you should know that any changes that you make in the transportation system is going to cost some dollars. You should know how many dollars it is going to take to build a certain amount of roads and how many dollars it is going to take to take care of the wear and tear of those roads, if you change the weight limit.

I have been trying diligently to find such an answer, especially in the last couple of weeks. I haven't been able to. I have had some research done for me on my behalf. There are other states in the union that have done cost allocation studies and they have come up with formulas, I am told, that could deal with this issue. Maryland and Kansas, for example, have had a system since 1985. Colorado and California came out with such a system in 1987. It makes me wonder -- you have heard me speak often against dedicated revenue. To me, dedicated revenue, whether it be the Highway Fund, Fisheries and Wildlife Fund, Alcohol Premium Fund, they are all the same and I try to be consistent in what I do and how I act and how I vote. I am concerned, very concerned, and my questions have not been answered yet.

The good gentleman from Mt. Desert, Representative Zirkilton, made reference to asking his constituents questions. I did poll my constituents and the question that was posed to them was quite clear. The question read, "Do you favor to help fund road improvements in several areas of the state, including construction of a second bridge between Winslow and Waterville, an increase in the gas tax from 14 to 19 cents per gallon being suggested by the Governor?" I received about a ten percent reply to my questionnaire and I am puzzled by the answers. The "no's" have it, not by many, but the "no's" have it.

It is difficult for me, even after all this debate that we have been hearing, to determine which way I am going to vote on this thing. I am very concerned, I want to see economic development but I want to see it done right. I think the questions that I have raised in the past week are serious questions, questions that should be answered, should be dealt with, and I am told that "Yes, they will come." The question is, when? I think that if we are going to vote on something, we should know definitely what we are voting on.

The cost allocation study that was mentioned should provide some answers but we don't have them yet.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: We have listened and we have debated this issue far longer than any of us care to be in our seats or even behind the glass. However, it seems to be boiling down to two clear choices. The arguments, and I have listened quite carefully to the arguments against this issue, because we did not have arguments in opposition to the issue before the

Taxation Committee this afternoon. The arguments that I hear tonight are: (1) we need to have belt tightening, (2) we need to wait and we need to study. Well, I would suggest to us that the federal government has applied belt tightening to our budget, \$20 million, the compound of that as we try to match monies to build our major and necessary bridges which adds up to \$44 million of belt tightening. That is why we are here tonight. That is the reason this issue is before us, the need is there.

We need to wait and we need to study. Yes, we can do that, we are quite famous for that, but the need is still there.

The other choice is to make a commitment now to the people of Maine to invest \$35 million into our infrastructure. Last night, we heard what I felt (and I heard many members of both parties agree) was a very educational speaker at the graduation exercise at the Institute of Maine Economy, the tours that many of us have taken around the state, those same tours that the Representative from Berwick referred to in her comments that showed those of us who had not visited all corners of the state that the need for better roads is in all corners of the state. That speaker said that we needed, all of us, to watch carefully the trend in both state and federal government away from investments in our infrastructure and toward the easier investments, the investments that we have calling on us every day. He warned us about the alarming trend that we are not committing ourselves to the long-term but more easily committing to the short-term needs of the state.

The choice is clear, I have been making two columns here -- yes, we can use the argument we need to tighten our belts. I think any one of us can agree with that at some point in time. Sure, we can take the wait and study approach or we can recognize the need before us tonight and make the commitment and move on. Maybe a vote against this issue, maybe a vote with the minority of the committee will not be a permanent setback to economic development but it will nonetheless be a setback. The roads, the bridges, will be built at some point in time but at a far greater cost. That is the legacy we pass on by not passing this. I urge you to vote no on the motion before us.

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

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: I stand confused. For three years, myself and Larry Connolly met on bridge committees to discuss the compromise that we forged at 55 feet. We had 11 public hearings, we met with the DOT at least 15 times. We had community meetings of small groups and large groups. We had discussions at the City Council level. Never once in the three years did we ever hear that we were dependent on a five cent gas tax. It surprises me now that that carrot is held out in front of us. I know myself, and I never missed one of the bridge meetings, that I can honestly stand here and say that we were never presented that and I kind of feel hostage to it tonight.

The fact that Bill Harris, a person whom I respect, a design engineer at DOT, has met privately with our group over a period of time and when we asked the question, will this bridge be funded? He said it will be funded. This was long before I ever heard of a five cent sales tax or five cent gas tax. They have a design team they have already selected. They have the go-ahead, basically, from both South Portland and Portland. All the citizens in our area expect this bridge to be built. It is obviously very needed. But, in no way in three years, has a gas tax

ever been mentioned. So, for someone to come to me in the hallway and mention, if you want the bridge going between South Portland and Portland, it might be a good idea to support the five cent tax. I am very surprised since we have negotiated and forged a very fine compromise over three years. I am wondering why in the hallway, five minutes before I come into this session, I am presented with a carrot when, for the last year, I have been told by DOT that this project has gone through and that they have a design team and that it is going to be built.

Off that subject for a minute -- maybe in the spirit of Larry Connolly, I would like to say that this is a very, very, very regressive tax. It will hurt the low and moderate income people of this state. I want to tell you that they travel, they travel to jobs, they don't travel for recreation, they don't travel because they want to go up the coast and see scenery, they travel because they need to travel. They travel in old cars which, unfortunately, usually need tune-ups and are not gas efficient. So this is a punishment tax. If we had a fair distribution of wealth in this country, then I say that flat base taxes are acceptable. But, if you pass this tax, you must know that it is absolutely discriminatory against those of low income.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: In line with all that you have heard here tonight, in 1983 in the Hall of this House, I was approached and told that it would be wise for me to vote for a gasoline tax if I wanted a Waterville-Winslow bridge. I wanted a Waterville-Winslow bridge, I still want a Waterville-Winslow bridge and probably five years from now I will still want a Waterville-Winslow bridge.

My question to the Representative from Eliot, for the Representative from Waldoboro or for anyone, what are the guarantees in this bill that the projects that are being proposed and talked about tonight are going to happen? Are those going to be forthcoming? Is there something I am not reading here in this bill?

I am very concerned that the Governor proposes a gasoline tax. The Governor denies in Dover-Foxcroft that he had proposed a gasoline tax. If the Governor has proposed a gasoline tax, is this taxation without allocation? Is this England, has the Queen of England proposed the gasoline tax?

I am very concerned when the Governor says or those persons in favor of this bill say that it is only going to cost \$37 for the least of these people who are going to have to pay five cents per gallon. It seems it was just recent history that we were talking about giving 35,000 persons in this state a pay raise and it was only \$40 a year. We compromised, we did give them a ten cent an hour raise.

I am very concerned about a bill that says that we are \$20 million short because the federal government is withholding that money. I am very concerned that there are no answers to the multitude of questions, so I urge you, don't pass this gasoline tax, it is a tax that we will soon regret because there is no end.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRKILTON: Mr. Speaker, I would like to pose a question through the Chair if I may to the Representative from Dover-Foxcroft, Representative Thistle.

While you were in the company of the Governor today, Representative Thistle, did the Governor at any time deny that he had proposed a gas tax or did the Governor at any time say that he was reconsidering his support for the gas tax or did the Governor at any time say that he now does not support the gas tax?

The SPEAKER: Representative Zirkilton of Mt. Desert has posed a series of questions to Representative Thistle of Dover-Foxcroft, who may respond if he so desires.

The Chair recognizes that Representative.

Representative THISTLE: Mr. Speaker, Ladies and Gentlemen of the House: I am glad you asked that question, Representative Zirkilton. The Governor did not, and I am happy to clarify that for you, the Governor did not at any time this afternoon deny that he had proposed the gas tax increase. He did say, "The gas tax was not my idea, but I felt I had to support it."

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

Representative NICHOLSON: Mr. Speaker, Ladies and Gentlemen of the House: There are a couple of questions in my mind. Do we need it? Obviously, we need it. Do we want it? Obviously, many people in the leadership of this state and people that are using the roads or are in business want it if we are going to develop what we have been trying to do these last four or five years in the area of economic development. Many of us have seen the state and what the needs are and the first thing that comes back to us as an organization put together by the Speaker of this House, when the question is asked, what do we need most in the development of the Maine economy? It is roads, importing and exporting. There is a plan to pay for it. We cannot afford right now to do nothing about it. We have to.

You talk about, this is something new, this isn't something new. The City of South Portland and Portland, for years, have been talking about a bridge. We can have this bridge now and in many other areas of the state. We have to be positive. We have to be aggressive. We cannot afford to put politics or personalities into it. We must think about what is good and what is the best thing for the people of this state and what are we going to do about it now. We had better go along with this idea of better transportation throughout this state and forget about the politics and who is right or who is wrong. That is not the answer to anything. Let's do something and go for better roads.

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

Representative MURPHY: Mr. Speaker, permission to pose a question to the gentleman from Dover-Foxcroft?

It is my understanding, at the luncheon when introductions were made, the good Representative had not been introduced and the Governor, aware of that, introduced the Representative from Dover-Foxcroft and, during that introduction, had also asked that good Representative if he could do what? I hope he would respond back on that question.

The SPEAKER: Representative Murphy of Kennebec has posed a question through the Chair to Representative Thistle of Dover-Foxcroft (if he understands the question) and may respond if he so desires.

The Chair recognizes that Representative.

Representative THISTLE: Mr. Speaker, Men and Women of the House: I hope I do understand the question, Representative Murphy. You are correct,

the Governor did introduce me during his remarks. I believe it was toward the conclusion of his remarks. He introduced myself as well as Representative Hussey and Senator Pray and indicated at that time that, "In a spirit of bipartisanship," he said, "I would like to introduce the Representative from Dover-Foxcroft, the Representative from Milo and the Senator..." he said, "and further I would hope that when they go back to the Legislature this afternoon that they would support that gas tax increase."

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Cashman of Old Town that the House accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Athens, Representative Rotondi.

Representative ROTONDI: Mr. Speaker, I request permission to pair my vote with Representative Baker of Portland. If he were here and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, I wish to pair my vote with Representative Richard of Madison. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, I would like to pair my vote with Representative Pouliot of Lewiston. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Cashman of Old Town that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 240

YEA - Aliberti, Allen, Anthony, Bost, Boutilier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Crowley, Daggett, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farren, Garland, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hoglund, Holt, Jacques, Joseph, Kilkelly, Lacroix, LaPointe, Lisnik, Look, Mahany, Manning, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Nadeau, G. R.; Nutting, Oliver, Paradis, J.; Paradis, P.; Paul, Perry, Priest, Racine, Rand, Reeves, Ridley, Rolde, Ruhlin, Rydell, Sheltra, Simpson, Smith, Stevens, P.; Strout, B.; Swazey, Tardy, Thistle.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Callahan, Cote, Curran, Davis, Dellert, Dexter, Farnum, Foss, Glidden, Greenlaw, Harper, Hepburn, Higgins, Hillock, Holloway, Jackson, Jalbert, Lawrence, Lebowitz, Lord, MacBride, Macomber, Martin, H.; Matthews, K.; McPherson, Mills, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, O'Gara, Paradis, E.; Parent, Pines, Reed, Salsbury, Seavey, Sherburne, Soucy, Stanley, Stevens, A.; Strout, D.; Tamaro, Taylor, Telow, Tupper, Vose, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Brown, Foster, Hanley, Ketover, Kimball, Marsano, Rice, Scarpino, Small, Warren, The Speaker.

PAIRED - Baker, Hussey, Pouliot, Richard, Rotondi, Tracy.

Yes, 70; No, 63; Absent, 11; Vacant, 1; Paired, 6; Excused, 0.

70 having voted in the affirmative and 63 in the negative with 11 being absent, 1 vacant, and 6 paired, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Require Payment for Inland Fisheries and Wildlife Wardens Out of the General Fund" (H.P. 1664) (L.D. 2276) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Permit a Local Option Sales Tax" (H.P. 807) (L.D. 1081) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

ORDERS OF THE DAY

BILLS HELD

An Act Concerning the Regulation of Welders (H.P. 1910) (L.D. 2607)

- In House, Passed to be Enacted.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 2607 was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Wednesday, April 6, 1988.

An Act to Make Certain Statutory Changes to Facilitate District Court Judicial Administration (H.P. 1555) (L.D. 2115) (C. "A" H-567)

- In House, Passed to be Enacted.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 2115 was passed to be enacted.

On motion of the same Representative, tabled pending passage to be enacted and specially assigned for Wednesday, April 6, 1988.

An Act to Strengthen Enforcement of Marine Resources and Boating Safety Laws (H.P. 1463) (L.D. 1974) (C. "A" H-571)

- In House, Passed to be Enacted.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 1974 was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Wednesday, April 6, 1988.

An Act to Ensure Local Participation on the Radiological Emergency Preparedness Committee (Emergency) (H.P. 1706) (L.D. 2343) (H. "A" H-566)

- In House, Passed to be Enacted.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 2343 was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Wednesday, April 6, 1988.

An Act to Require Legislative Confirmation of Members of the Maine Human Rights Commission (H.P. 1716) (L.D. 2355)

- In House, Passed to be Enacted.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 2355 was passed to be enacted.

The SPEAKER: The pending question before the House is passage to be enacted. Pursuant to Paragraph 3, Section 8, Part 1, Article V of the Constitution, a two-thirds vote of the members present and voting being required, a total was taken. 106 having voted in the affirmative and 10 in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

ORDERS OF THE DAY

BILL RECALLED FROM ENGROSSING DEPARTMENT

(Pursuant to Joint Order - House Paper 1918)

Bill "An Act to Ensure that a Certain Percentage of Public Housing is Handicapped Accessible" (H.P. 1869) (L.D. 2558)

- In House, Passed to be Engrossed as amended by House Amendment "A" (H-533) on March 28, 1988.

- In Senate, Passed to be Engrossed as amended by House Amendment "A" (H-533) and Senate Amendment "A" (S-388) in non-concurrence.

- In House, House Receded and Concurred.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby the House voted to concur.

On motion of the same Representative, the House voted to indefinitely postpone House Amendment "A" (H-533).

Subsequently, the Bill was passed to be engrossed as amended by Senate Amendment "A" (S-388) in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-624) on Bill

"An Act to Clarify the Definition of Earnable Compensation" (H.P. 1826) (L.D. 2502)

Signed:

Senator: BERUBE of Androscoggin
 Representatives: HICKEY of Augusta
 PERRY of Mexico
 DELLERT of Gardiner
 JALBERT of Lisbon
 DUTREMBLE of Biddeford
 McSWEENEY of Old Orchard Beach
 HARPER of Lincoln

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

Signed:

Senators: CLARK of Cumberland
 RANDALL of Washington
 Representatives: MATTHEWS of Caribou
 RICHARD of Madison

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought to Pass" Report.

The purpose of this legislation as the title indicates is to clarify the definition of the term "earnable compensation" as used in the Maine Retirement System's statutes. This legislation will codify the interpretation which the Board of Trustees of the Retirement System has consistently given to this term since it was amended in 1975.

During the past few years, the Board of Trustees has found that a different interpretation has been given to this term by one organization that represents the public school teachers in labor negotiations and by some administrators of local school administration units. Included in some of the contracts, which that organization has negotiated, have been provisions for allowing the teachers to receive cash in lieu of fringe benefits. In instances where they do not need to have the fringe benefits, some of the contracts have provided that a stipend or bonus will be paid during the year immediately preceding retirement. This organization, as I have mentioned, in contrast to the Board of Trustees of the Retirement System has interpreted the term "earnable compensation" to include these payments of cash in lieu of fringe benefits and a retirement bonus.

Some school administrators with group or individual contracts have included similar provisions in their contracts. Also contracts provided when employers paid premiums for tax shelters and annuities, the practice has been to include these premiums at "earnable compensation" as well. Again, the effect is identical to including cash in lieu of fringe benefits and "earnable compensation."

Accordingly, this practice should be prohibited should it be determined that the cash in lieu of fringe benefits are not to be included in "earnable compensation." To do otherwise would provide a significant opportunity to increase one's "earnable compensation" the last three years of service. The "earnable compensation" of a member of the retirement system during the three years when the earnings are the highest are usually their last three years and are used to determine his or her final average compensation, which is a major factor used in calculating his or her retirement benefits. Increasing "earnable compensation" during a member's last three years increases his or her final average compensation, which increases his or hers retirement benefits.

The funding requirements of the Retirement System are based upon the assumption that salaries will increase in average over the working career of member's of the system of approximately the same percentage rate each year. A member of the system is permitted to use cash in lieu of fringe benefits and a retirement bonus as part of his or her basic for calculation of retirement benefits and the percentage increases in "earnable compensation" during the last three years of employment will be greatly in excess of the average of previous years. This would increase retirement benefits above the amount projected by the system's actuary and cause an increase of the unfunded liability of the Retirement System.

The last two cases ruled upon by the Board of Trustees of the Retirement System have been appealed to the Superior Court. If cash in lieu of fringe benefits and a retirement bonus has been allowed as "earnable compensation" in cases that have been appealed to the Board of Trustees, the retirement benefits paid by the Retirement System would have been as much as 10 percent higher.

The Maine Retirement System's actuaries have estimated that if the system were to lose this case and assuming that teachers who are members of the Retirement System are able to increase their retirement benefits by 10 percent by use of cash in lieu of fringe benefits, a retirement bonus or premiums paid by the employers towards the tax sheltered annuities, the unfunded liability of the State Retirement System would increase by approximately \$130 million dollars. The same increase in unfunded liability will occur if the legislature decides that cash in lieu of fringe benefits, tax shelters, annuities, and a retirement bonus should be part of "earnable compensation." As teachers negotiate their collective bargaining contracts with local school administrators who are not responsible for the payment of the employer's portion of the teachers retirement benefits, there is not a great deal of reluctance to increase retirement benefits by this means.

If the local school administrative unit officials were responsible for the funding of retirement benefits, they would be much more concerned. Most of you are undoubtedly aware that the State's Retirement System's benefits for teachers are by appropriations from the General Fund. The Retirement System is not, in any way, attempting to influence the right of teachers to collectively bargain for benefits such as cash in lieu of fringe benefits. Premium payments for tax sheltered annuities are retirement bonuses. However, under the present interpretation of the "earnable compensation" such amounts may not be used to increase the teachers' retirement benefits.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Men and Women of the House: I will not repeat the words of Representative Hickey but I support him 100 percent.

I would like to read into the Record the fiscal note on the amendment that goes with this bill. It says as follows: "If this bill is not enacted and the State loses its pending court case on "earnable compensation" the contribution rates of teachers will increase. The actuary of the Maine State Retirement System estimates that the increase will be in excess of 2 percent of the teachers' salaries resulting in an additional General Fund appropriation of approximately \$8,500,000 annually.

This amendment removes the 10 percent cap on increases in "earnable compensation" in computing the

average final compensation of a member and adds a fiscal note."

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

Committee Amendment "A" (H-624) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
April 5, 1988

Senate called to Order by the President.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

An Act to Provide for Payment of Contributions by Employers Under the Maine State Retirement System (S.P. 977) (L.D. 2595)

TABLED - April 4, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Wednesday, April 6, 1988.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act to Establish Greater Communication in the Rule-Making Process and to Provide Better Standards for the Adoption of Rules" (H.P. 1912) (L.D. 2611)

TABLED - April 4, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Armstrong of Wilton, Adjourned until Wednesday, April 6, 1988, at nine o'clock in the morning.

Prayer by Reverend Victor Stanley of the First Baptist Church in Gardiner.

REVEREND STANLEY: Let's join in prayer. Our gracious God, we pray that the light of Your love will guide us through the fogs of our lives. Some of us have driven through a fog of questions, help us to gain answers to our questions without losing our desire to learn more. Some of us have driven through fogs of tears, may Your spirit wipe away our tears without taking away our ability to cry. Some of us have driven through a fog of concerns, help us to make our way through the concerns without losing our compassion for the people. We pray that Your spirit will help us in this day and as Your light dispels darkness in our lives, may we use that same light to overcome the darkness in the lives of others. As we desire to make this state a great neighborhood of people who do care about each other and a place where Your love abounds. We pray these things in that powerful love that You give to us daily. Amen.

Reading of the Journal of Yesterday.

COMMITTEE REPORTS
House

Leave to Withdraw

The following Leave to Withdraw Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Establish a System of Corporate Governance to Protect Employees and the Public from Corporate Lawbreakers and to Improve Compliance with Existing Civil and Criminal Laws"

H.P. 1790 L.D. 2451

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Increase Funding of Elderly Legal Services"

H.P. 1552 L.D. 2112

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-581).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-581).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-581) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Protect Lake Water from Phosphorous Pollution"

H.P. 1784 L.D. 2445

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-580).