

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER PRO TEM: The Representative from Yarmouth, Representative Buck has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Penobscot, Representative Perkins.

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

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

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

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

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

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

Representative BUCK of Yarmouth requested a roll call on passage to be enacted.

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

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

ROLL CALL NO. 105

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

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

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

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

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

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

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

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

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

Representative KONTOS of Windham requested a roll call on the motion to table.

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

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

ROLL CALL NO. 106

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER PRO TEM: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the Representative from Standish, Representative Mack.

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

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

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

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

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

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

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

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

ROLL CALL NO. 107

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

Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, Mailhot, McAlevey, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL NO. 108

YEA - Ahearne, Bagley, Baker JL, Berry RL, Bolduc, Bouffard, Brooks, Bruno, Bull, Bunker, Cameron, Chick, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, McAlevey, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Paul,

Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright.

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

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

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

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

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

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

**ENACTORS
Emergency Measure**

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

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

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

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

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

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

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