

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

STONE of Bangor, THOMPSON of Naples, TOWNSEND of Portland, TREAT of Gardiner, TRIPP of Topsham, TUFTS of Stockton Springs, TUTTLE of Sanford, TYLER of Windham, WATSON of Farmingdale, WHEELER of Bridgewater, WHITCOMB of Waldo, WINGLASS of Auburn, WINN of Glenburn, WINSOR of Norway, Senators: BERUBE of Androscoggin, BUTLAND of Cumberland, CIANCHETTE of Somerset, FERGUSON of Oxford, MICHAUD of Penobscot, PARADIS of Aroostook, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REPEAL FEDERAL LAWS AND RULES LINKING FOOD STAMP ELIGIBILITY WITH HEATING ASSISTANCE

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Special Session, most respectfully present and petition the members of Congress of the United States, as follows:

WHEREAS, the federal budget allocates less heating assistance for low-income homeowners than provided in previous years; and

WHEREAS, food stamp assistance under certain circumstances is linked to heating assistance; and

WHEREAS, the significant reduction in heating assistance to 54,000 households in Maine, 12,000 of which involve subsidized housing and 7,000 of this 12,000 involve elderly households, will have a severe impact on Maine people, especially those receiving food stamps; and

WHEREAS, cuts to the Low-Income Home Energy Assistance Program are concurrent with cutbacks in the prescription drug program, increases in Medicare premiums and the loss of food stamps. These cuts will be especially hard felt by Maine seniors and the disabled community who rely on these programs in their day-to-day existence; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to change current federal policy to allow persons who meet the eligibility requirements for food stamps but who do not receive heating assistance under the Low-Income Home Energy Assistance Program to receive food stamps in the same amount as they would have received had they received heating assistance; and be it further

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to restore heating assistance and weatherization funds that have been recently cut in order that states, such as Maine, which ranks 33rd in the nation with respect to median household income, do not have to make the choice whether people starve or freeze; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

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

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

Bill "An Act to Reduce the State Tax Valuation for the Town of Hope" (EMERGENCY) (H.P. 1164) (L.D. 1597)

which was tabled by Representative JACQUES of Waterville pending reference.

Subsequently, the Bill was referred to the Committee on Taxation, ordered printed and sent up for concurrence. Ordered sent forthwith.

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

**REPORTS OF COMMITTEES
Divided Report**

Eleven Members of the Committee on Transportation on Bill "An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Appropriations and Allocations for Fiscal Years 1995-96 and 1996-97" (EMERGENCY) (H.P. 1148) (L.D. 1587) (Governor's Bill) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-671)

Signed:

Senators:

STEVENS of Androscoggin
PARADIS of Aroostook
FARNUM of South Berwick
LINDAHL of Northport
DRISCOLL of Calais
O'GARA of Westbrook
STROUT of Corinth
BAILEY of Township 27
HEINO of Boothbay
BOUFFARD of Lewiston
RICKER of Lewiston

Representatives:

One Member of the same Committee on same Bill reports in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-672)

Signed:

Representative:

CHARTRAND of Rockland

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-673)

Signed:

Senator:

CASSIDY of Washington

Was read.

Representative O'GARA of Westbrook moved that the House accept Report "A" "Ought to Pass" as amended Report.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I know you have heard a lot about the facts and figures about this Majority Report, which has the 34 million from the Maine Turnpike Authority Bonds. I would just like to reiterate that this is more of a problem than a solution. It would be a great idea to support it, but I think we cannot afford, at this time, to be creating that much interest for the people of Maine without their having a chance to vote on it.

Most bond issues in the state for highway purposes are voted on by the voters as the one we just passed in November. This one would not be subject to their approval. If we pass the Majority Report, we will be essentially borrowing 34 million ahead of time from future revenues the department receives from the Maine Turnpike Authority. Part of that 10 years of borrowing would leave 13 million dollars in interest to help pay for the authority getting that money to us on time. I don't think it is about living within our means. I don't think it is about having

government be more efficient or any of the other things we came here to do this week.

In the case where there is unlimited federal dollars available to help us work on our highways and bridges, I think it is great for us to get as much as we can, but I think there comes a limit as to how much we can go after those federal dollars when we end up borrowing on top of borrowing to do that. I don't think that is a good fiscal policy for the state. I think we have to control that. In the past, the department has been overly optimistic in their projections of revenues available for state match to federal dollars and that is why we are in the position we are in now. We have heard some rosy forecasts about future savings and future changes in state police funding for the department, also, to help us feel OK about giving up this 4.7 million dollars a year for the next 10 years.

I would caution you against looking upon the future with too rosy a view. We don't know yet what is ahead and I think that is what has put us in the position we are in and we are creating a 34 million dollar borrowing that we didn't expect to do a few months ago. What we can do is carefully look at all the projects proposed under this proposal, as we have with other departments over the last days, and see what we really do need and what we can't live without and whether we are willing to obligate more borrowing for the citizens of Maine.

I think the Minority Report, should this not pass, I think there are other options available. You have heard about some of those today and there might be others offered. I would encourage you to vote against the Majority Report. Thank you.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I know this issue hasn't had much discussion and we are not really sure what we are voting on, so I thought I would stand up and explain it again.

First of all, let me congratulate and thank the Transportation Committee. About a week ago, they were ready to vote about the same number 11 to 2, predicted in the straw poll that they were going to vote for the plan that is now before you. It came before the Appropriations Committee on another subject and a few members of that committee said they had some problems and concerns about the plan. The gauntlet was thrown out. If you have a better idea, come up with it. Some members of the Legislature, including some members of the Transportation Committee were open to looking at other plans. I worked with some other legislators to put together a plan to bring to them. It may not be the best plan, it is not before us right now, so I won't discuss it. I am sure we will have plenty of time for that later.

As I started out to thank the Transportation Committee that they were open-minded about other ideas and they felt in their deliberations that this was the only solid alternative they thought they had before them. The point I want to make beyond that stands up for the cause that I am trying to advocate for voting no on this proposal now is that when we first got there, there were no other alternatives brought forward. What we heard was this is the only thing we have and there is too much at stake for us to just say no to the Governor's proposal. I agree

with that. That is why some of us worked on alternative plans.

What else is going on here today, other than this vote and the other plan? Right now, we are in the classic confrontation between the Legislature and the Governor. We have heard when alternative plans were put forward that those dollars were already spoken for and spent. Last I checked in my government classes, the only ones who could authorize expenditures of public dollars was this body. I went back and checked to see if we had voted to send those 15 million dollars from the general fund that the Governor was referring to and we had not. It is a matter of priorities. I think we have set a lot of priorities around here. In the last year, we maybe funded some things we wanted really bad at smaller amounts. We may have put on the brakes on spending on some accounts that we thought were valuable. We collectively voted with more than a two-thirds majority for the budget that did set those spending priorities.

On October 17, there was a financial order put in place that froze some accounts. That freeze freed up some money and that was the money that some folks have been talking about. This place is a pressure cooker or so it has been described. Most things don't get cooked until they are under pressure. I look at this issue in front of us right now as a piece of raw meat in the pan. It is kind of cooked. It is still a little pink and I don't believe it is healthy to eat yet. I think if we apply some more pressure and we force a compromise, we may have a meal that is more palatable to the people of the State of Maine. I urge you to vote against the proposal in front of us so we can move on and cook that meat and allow the people of the State of Maine to eat without getting sick. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Men and Women of the House: Federal money does not lay around. An experience in South Berwick explains some of it. We had federal money to pay for a sewer. We needed 4 million dollars. What happened? The people said wait we will get all of it instead of just 80 percent of it. We waited and now we have a 4 million dollar bill that we have to pay ourselves.

Today we are not voting on anything. We are voting on this. We are voting to avoid a shutdown of dozens of construction companies. Two of those companies are in York County. We are voting to avoid a layoff of 1,000 construction workers, many of which are from York County. We are avoiding paying \$200,000 a week, that is a lot of money for unemployment. Are we saving money? We are going to prevent 4 million dollars per week in secondary economic activity and the Governor said nobody is buying cars, so we can't get money to pay our bills. We can't get money to put into our general fund. Here we are with some people saying throw it out, we don't need that money. We are going to build roads and bridges in the state of Maine that will bring in industry if we vote for this bill. You have a chance for you to vote for it or put Maine, not going out, but going down. Thank you.

Representative CHARTRAND of Rockland requested a roll call on the motion to accept Report "A" "Ought to Pass" as amended Report.

The SPEAKER PRO TEM: 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 members present and voting. All 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 Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I realize how important this money is. I realize how important it is for the bridges in this state. I heard the whole sob story. I just have to say this because it is the way I feel. I know it is important to the state to do these things. How many more times are we going to go to the cash cow to get money? Every time I have sat here, I think this is the third or fourth time, when the DOT is out of money, they go to the Maine Turnpike Authority. Well, they can stand here and tell you and me it doesn't cost anything, but I am sorry, I have heard this story before.

We were out of money so we tax the hospitals. We are in a sweet mess in York County because of taxing hospitals. We have a little hospital down there that they are trying to tax to death. I really am very skeptical and I would like to have someone here today promise me that in the next 10 years they are not going back to the Turnpike Authority to get anymore money, because I know come the 118th Legislature, DOT needs some money so they are going to say let's get another 4 million dollars from the Turnpike Authority.

Ladies and gentlemen, the first 30 miles of that turnpike is in dire need of widening. It is a safety hazard. It is very serious. When it comes time that we have to do that for safety, we are not going to be able to bond anything, because I am sure we are going to be bonded to death or we will have to raise the tolls. Remember one thing, that is the main highway into this state whether we like it or not. That is it. It is the main artery into Maine and every piece of goods that come north, most of it comes by truck, right up the Maine Turnpike. Don't tell me it can go through Route 1, we all know it can't. It would take forever.

Every time you up the tolls and every time you make more time for them to travel it, it is going to cost you money on your goods. Transportation is expensive today. Just remember when you are putting that on, one thing that really upsets me when I hear 50 percent of it is out-of-staters. Ladies and gentlemen, the other 50 percent is Maine people. I am a Mainer. I have never left the State of Maine. I am not from away and I never was from away. I am from the Town of Berwick for all of my life so far and probably for the rest of it, too. We are not from away down there. We are Mainers also. This is costing us money. Somebody has to pay. There is no free lunches in this state. Some of us think there are, but there aren't.

Promise me here today that they are not going after that Turnpike Authority for the next 10 years until this is paid off. They went after it for 16 million. Guess who is paying? The people in southern Maine who use the turnpike. It is 70 cents to drive 12 miles. We all complain about going to New Hampshire and paying \$1 for 17 miles. I can't see the difference. It is 70 cents from York to

Wells or Wells to York. That is what we pay to drive that turnpike. In the summer, we don't have a choice because you can't go Route 1, because you can't get by the Ogunquit Playhouse. It is bumper to bumper way out beyond that. I love it. I am not complaining. I love to have the people come in the summer because they enjoy the State of Maine and we enjoy their money they leave.

Nevertheless, there are problems. Don't keep going back to the cash cow. It is going dry. We have some problems on the first 30 miles of that turnpike that need taking care of, besides the bridges and things in the rest of the state. I just wish that you would stop and think today that what you are doing when you are putting that turnpike, in my opinion, in jeopardy of being able to bond to take care of themselves. That is a private authority. We have gone to it and one time, I think, it was 15 million dollars. Every time we need money, we go to the turnpike. Well, there has to be an end to it. I will probably vote for this today, but it is not because I want to. I think it is smoke and mirrors. It is the biggest gimmick we have done. I am a little fed up with smoke and mirrors and gimmicks.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I don't have any prepared speech. I stand here, I guess frustrated is the word. I am not opposed to the idea of these projects. In my mind it is not a question of it, it is a question of how. I think we should move toward compromise on this. I cannot believe that we can't use some general fund money. I just can't accept that. I am not going to talk about dollars and cents right now. I want to talk about image and what is bothering me.

The Appropriations Committee and this body, the other body and the executive branch have worked very, very hard to correct the accounting wizardry we had in this state, the pulls, the pushes and the gimmicks and whole thing. I believe we have collectively done it with the general fund. I listened to Commissioner Melrose talk downstairs the other day. I said to myself, good God, this is deja vu. It was the same thing in essence that we heard last January and February. We have a problem here and there. We have this problem and that problem. Well, why do we have these problems? We have these problems because of the accounting wizardry.

I was shocked to learn that I had been voting, this is my ignorance talking, for bond issues over the years thinking that those bond issues were dedicated for specific projects, but that is not so. This money has been spent and now it has caught up with us. What do we do? Do we suffer a little pain? That is what it is going to take. Do we step up and address this problem? Do we look it in the eye and say, look, we are not going to take the easy way out? That is going to take courage. We all have been talking it. The executive branch has been talking it. I suspect the people of Maine expect it. Here we are and maybe if we approve this, it may be legal.

In my profession for years, I have had with taxes a concept of form versus substance. What that means is this. You can put together the best tax plan in the world and it is really nice on paper and it is all legal, but what is the substance of what

you are doing? We are borrowing money that exceeds 2 million dollars. What bothers me is that the people who wrote our constitution, they had a reason for wanting debt of this nature to go out to the people. We are circumventing that, in my mind. We are circumventing that in substance. We may have to do some of that for very practical reasons. I am convinced that we don't have to do it for the whole piece of pie, no pun intended Representative Donnelly. I am not a gourmet cook.

The point of the matter is this, I think we owe it to the people of Maine. We owe it to ourselves to look to the alternatives and if it means a little bit of pain, then let's suffer it. We have an opportunity to look to this mess. When I say this mess, I don't mean this specific thing. I am convinced that we are going to have more of this coming out of this department before it is done. We saw that with the general fund account. Let's look to it and say that we have the courage to address the problem, correct the problem and suffer a little bit now, but in the long run we are all going to be better off for it. I suggest you defeat this motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: It was probably apparent to many of you that I had not really planned and I know you have heard that before from others, to get up to speak at this point. Some things have been said that I really should respond to.

I would like, first of all, to respond to, not only one of mine, but I am sure just about everybody in this room's favorite legislator, Representative Murphy. Number one, first and foremost, please Representative Murphy and everybody else, do not vote against this and maybe there are reasons you have decided you will or maybe you will hear reasons later to vote against this proposal, please do not vote against it because the turnpike was not widened. That was a choice of the public. They voted. Right or wrong they voted not to do that. It had nothing to do with the DOT. It had nothing to do with the turnpike. It had nothing to do with, in fact, with us. Please don't vote against it for that reason.

Again, there was sort of an implication about the people in the southern part of the state paying the tolls. Ladies and gentlemen of the House, there will be no toll increase in any way, shape or manner connected with this proposal, not now and not in the future. I can't tell you that some Legislature down the road or the Turnpike Authority down the road may make a decision to raise tolls for some other reason, but associated with this, I believe the authority. They have gone on record as saying that. The director has gone on record as saying that before our committee. There will be no toll increases.

Speaking of that, it brings to mind the word gimmick. It has been used a couple times already. It brings to mind, in fact, the purchase of that property down in the southern part of the state, as a result of which, in fact, those people who drive from York to South Portland do have to pay an extra quarter. That was a plan that did, in fact, cost the taxpayers money, the specific toll users. This one does not and will not.

In regard to it being a cash cow, I don't know if you were looking at me Representative Murphy, it is hard sometimes and you look across and you think

someone is looking at you and you act very silly waving to them and acknowledging them and they are not even looking at you at all, you may not have been looking at me when you referred to this as being a cash cow. It occurred to me if I were to tell you that I promise you, Representative Murphy, that in the next 10 years we will never do this again, I saw several Representatives smiling back at me. I can't promise you that even in an attempt to get your vote. I can't tell you what some Legislature will do. You know that even better than I. I can't tell you just as legislators who went before us may very well have promised that Legislatures after them, now including us, would never do that.

Circumstances come up, just like they come up in your home, your town and this state. Conditions change on a daily or monthly basis that make even the most adamant of us who said that you would never do that; I will never do that in my home; I will never do that in my business; I will never do that on the town council or the school commit; I will never do that as a legislator, but things happen; it forces you, whether you like it or not, to adjust your thinking. I can't tell you whether a Legislature down the road will see this and look back to 1995, if this should pass and I hope that it does, to say that is a good idea. That Legislature, whenever that comes up, 2 years or 10 years or 20 years from now, will have to make that decision in exactly the same form you and I are discussing it.

As far as borrowing and two different Representatives have now mentioned about borrowing and that somehow we are circumventing the public at large. I will say something to you what I have said on several occasions and I was quoted in the paper today. I hope it is not going to be misunderstood. I am a great believer and I have great, great faith in the ability of the public at large to make decisions for themselves. In my judgment, you were sent up here to make the best and most reasonable judgment you can make. I tell you now, should that judgment be different from what I am supporting, I will live with that, as I always have on other issues I have been on the other side of.

I say to you that the public at large doesn't really care. The people who have had paving projects put off for years. The towns who took the Legislature's and the DOT's word that if they built their sand and salt shed, they would be reimbursed and have yet to be reimbursed. The people around this state who are losing their jobs and having services reduced and other things are not worried about where you get the money, but it is that you do what you promised you would do. For whatever reason, going back to something Representative Simoneau sort of alluded to and was alluded to by another legislator about what happened in the past, I don't believe we should be voting this project up or down based on what might have been done or not done in the past, by whomever and for whatever reason. Those decisions were made and we subscribed to a lot of them ourselves and they are done and over.

This is a proposal now that says to you, ladies and gentlemen of this House, that if you pass this proposal, not only will you be doing all the other things that we have already talked about and you have had chances to ask questions about, but the bond package that you let out to the public and they approved this November, will, in fact, get underway. It will not be put off. The items that were listed,

that were promised would be done, that many of you as well as myself, he promised people as he went out asking for support of that bond issue that those products were going to be done. This proposal will allow those to be done. Whatever happened in the past, as Representative Simoneau has alluded to, will not happen with that bond package. The items that were in that bond package in November will get underway, if this proposal is accepted.

I will not vote for any plan that takes one more dollar out of the general fund. This plan does not. If there is any legislator in this room who doesn't have a story to tell about a citizen or an employee for the state at the Corrections Center or in Human Services, that doesn't have a town, councilman, alderman or selectman that has complained and complained about the fact that their paving projects just aren't getting done. If you can in good conscience, vote for any proposal that takes money out of the general fund, in spite of all the concern that we had when we voted last night on the productivity task force that cuts programs and cuts positions and some of which are very distasteful to a lot of us. I would find it hard for us, if I were you, to go back to some of the employees who live in and around your district and your towns.

I will just give you one small example and several members have heard it already. I will be very brief. There is a lady who lives in my district, who works at the Maine Youth Center, she has been there 22 years and in a very key position. I can't stand here and tell you I have received hundreds of letters and lots of phone calls, but I have received a significant number from people who are very concerned that she is no longer going to be there. They consider her a very vital person in dealing with those young people in preparing them to go back from that youth center into their neighborhoods, cities, towns and schools. They have practically begged me, as I have told the committee, to do anything I could do save her position. I have not been able to save that position.

You will not have me vote for any item that is going to force me to go back and say to her, I am sorry I was not able to save your position, but I did support a bill that took some more general fund and paved the roads around the state. I can't do that ladies and gentlemen. There will be other issues that I want to address as we go along, I am sure. It may seem to you like we are circumventing the voters, but this is perfectly legitimate.

It has been approved and this is another comment that Representative Murphy made, this has been approved by the turnpike bond council, by the state, by the treasurer. The treasurer said he doesn't like it necessarily, but it is legal and it is proper. It is not going to tax the turnpike borrowing power. The 4.7 million dollars, ladies and gentlemen, will come to us all in one lump sum, is already budgeted by the turnpike in one way or another. They are either going to pay 4.7 million dollars a year to us or they are going to pay 4.7 million dollars to a financial institution, that is a given. It is already budgeted. It will not affect their ability to do anything on the turnpike that they are doing now, nor will it impact the DOT's ability to plow, sand, salt and maintain their roads as well.

I urge you, ladies and gentlemen of the House, to support the Majority Report and if you still have questions in your mind, I hope that you will get up

and raise them so, I or other members of the committee, speaking of the committee, then I will sit down. I want to say something about the Transportation Committee. It has been quoted in the paper that many of those who voted on the 11 to 2 Majority Report only voted for it to get it out of the committee. That is absolutely incorrect. I have a much higher regard for the members of the Transportation Committee. They listened and I am so pleased that Representative Donnelly acknowledged that. He is absolutely right.

We were prepared to vote because we felt we had the only and the best proposal. This committee decided absolutely not. We will and we have heard out everybody's presentation. I hope you will accept the fact that the 11 of us really believe, whether we like all aspects of it or not and we don't, that it is the best proposal for us at this point in time. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Hartnett.

Representative HARTNETT: Mr. Speaker, Men and Women of the House: Sometime early this morning I determined there was no easy solution and no good solution. Often, here in the Legislature, we have a feeling that a gun has been put to our head. I dare say that in this current situation, a gun has been put to each side of our head. We have to make a choice as to which one will fire.

The good Representative from Westbrook, Representative O'Gara is right, the public who voted for us and trusted us to make good decisions, decisions that are often hard. Some decisions are not reserved on trust alone, such as borrowing and borrowing more money. The general provisions of the Maine Constitution, section 14, states that we should not borrow more than 2 million dollars unless two-thirds of us in this body and in the other body agree and if the vote is by majority vote in the next general or special election agree with us. That is a power that is reserved for the people of Maine.

The only time that we can do this, borrow in excess, is to repel invasion in purposes of war and that sort of thing. I know a lot of people come into this state from away, but it is hardly an invasion of war. I was concerned that we were, in fact, at least breaking the intent of the Maine Constitution. Don't worry, I was told over and over. Sure, the good faith and credit of the State of Maine is not going to be behind these bonds. The more I dug, the more I find that this is probably true. The bond issuers, I am sure if the Maine Turnpike Authority defaults, would probably take possession of the Maine Turnpike and not come after the good faith and credit of the State of Maine.

This morning I asked the Law Library to do some research on the borrowing authority of the Maine Turnpike Authority. It is rather clear in Chapter 24 of Title 23 that the Maine Turnpike Authority may borrow money for the purpose of paying the cost of constructing, reconstructing or making extraordinary repairs to the turnpike and the location thereof. I am afraid that the current report before us does not pass the test of whether this falls within the borrowing power of the Maine Turnpike Authority.

To the Transportation Committee members, if I am wrong and you have a better answer to that, I will be happy to hear it. The way that I read this, I don't see how the Maine Turnpike Authority has the authority to borrow money just to give the State of

Maine a 10-year advance on its allowance. You may say that these bridges are connected and I would say to you that they are as the shin bone is connected to the knee bone is connected to the thigh bone and eventually you get to the elbow bone and it is all connected.

In that case, I guess the good Representative from Eagle Lake would probably like to have some improvements made up there. It all filters down. It all comes in and out of the State of Maine. Again, I guess I would pose it as a question and I also pose it as an argument, but I don't believe the turnpike has the authority to borrow this money to advance the State of Maine its allowance.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: In fact, Mr. Speaker, dated November 17, as a result of the questions raised by members of the committee, we sought an opinion from the Attorney General's Office. In fact, in writing, every member has it. There is absolutely nothing wrong, illegal or out of order at all. It is perfectly proper, both to the turnpike and to the DOT to work out this arrangement. It is perfectly legal and perfectly acceptable and, in fact, although he doesn't say here, but in talking with him and others it is done on a regular basis. This kind of borrowing by the state, using their turnpike authority, in other states is done on a far more regular basis than here. I would be glad to pass this across to you if you like, but it is the Attorney General's opinion that, in fact, this is perfectly legal.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I do rise with some reluctance because I do find it necessary to disagree with my good friend from Westbrook. I share the sentiment of the Representative from Thomaston earlier. I really would like to see us come up with something better than what we have before us. I do think we have the collective wit and wisdom to come up with that kind of compromise. I can't support this measure, because frankly, I do not think it is fiscally responsible. I think it has been well articulated by other people and I will not take your time with those arguments. It does not strike me as a fiscally responsible way to be doing the people's business.

Secondly, I still cannot get over the constitutional hurdle. I still have a real problem with this. It strikes me as an end run around the referendum bond process. I think we break an important bond with the people when we break that process. Those are my concerns. I understand and respect anybody else, but I cannot, myself, support the pending measure. We need to do more than just change our attitude in this House. I think we have to also change the way we do the people's business. We can start by rejecting the pending motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I will say this as calmly and as respectfully as I can. Perhaps the Representative was not in the room earlier. That, in fact, this does change the way that we are doing the citizen's business. He is not listening now either,

so it doesn't make any difference. This does change the way that the Legislature does the citizen's business.

In fact, it does say to them once and for all that we are going to respect commitments that were made to you by previous Legislatures and previous Departments of Transportation and commissioners and Governors and all that. Not only does it say that; not only will it send a message to those towns that I mentioned to you earlier, to those areas all over the state in your districts and out of them that have been waiting and waiting for a simple .23 miles of paving or 1 1/2 miles here or 1 1/4 there of crucial paving and road reconstructing or bridges that are dangerous as many of you know; not only will it do all of that and certainly that is doing the people's business differently, it will also starting with this bond package, as I said only a few minutes ago, initiate that bond package as it was voted on by the voters in November. I submit to you, ladies and gentlemen, that it is doing the people's business differently. Thank you.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Earlier during the joint caucus, I asked the commissioner if we had gone out to bond and asked the people of the State of Maine for them to give us the authority to use their credit for these projects. The commissioner's answer, I will try to sum it up, was that part of one of the projects, the million dollar bridge project, had been discussed in a proposal two bienniums ago. The other two have not. My question, with that premise to Representative O'Gara, is how is it that we are not end running around the voters and breaking faith with them by doing this proposal, if we never asked them to start with?

The SPEAKER PRO TEM: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to the Representative from Westbrook, Representative O'Gara.

The Chair recognizes that Representative.

Representative O'GARA: Mr. Speaker, Men and Women of the House: Representative Donnelly, I am not altogether sure I understand the question. I will attempt to answer it anyway and I am sure you will tell me whether I have answered it or not. I will be watching your face.

Although you mentioned the one specific, the so called million dollar bridge or the replacement in South Portland, in truth and in fact the other two projects have also been started. The public is fully aware of those two projects. We have approved those in the past and they are underway. They are about half done or whatever stage they are done. I don't think we are going around them and doing something about two projects that they are not fully aware of, especially the people who live in and around those communities. I am not sure who the legislators are who supported those. I am not sure if that answers your question, but I don't think we are doing something that the public isn't well aware of and wants completed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Donnelly. Having spoken twice now requests unanimous consent to address the House a third time. Is there

objection? Chair hears no objection, the Representative may proceed.

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: Thank you Representative O'Gara. Maybe I misunderstood the commissioner earlier, but the point I will make that I think he said pretty clearly was that two of the projects have never been discussed when it went out to a bond issue. Had they been started? Yes. Was it smart to start them when federal monies were available? Yes.

In my opinion, it would also be smart to go to the people who have a very good track record with approving bond issues for transportation projects. We have been told this is a one-time blip. We are not going to see this kind of money again. That sold me the vote for a bond issue and I rarely vote for them as you might know. I would vote for a bond issue to go through the people. That is not the issue before us. I just wanted to throw that last point out here before we vote. Thank you for your patience.

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

Representative DRISCOLL: Mr. Speaker, Men and Women of the House: I would like to concur with everything that Chairman O'Gara has stated. I would just like to pass on a few things that I have observed.

First of all, when this first came about, it was the only show in town, the Majority "Ought to Pass" Report. I signed onto it because the people in Portland have got to get to South Portland. The people in Waterville have got to get to Winslow. I think there is one more, oh, the Brunswick bypass. Where this was the only show in town, I signed on and it was explained to me that this would not interfere with my people. It would not interfere with your people. It was an in-house thing where they were going to raise money by a bond issue. There would be no taxes involved. I went home to my people and talked around. They had no problem with that. Even though it was in the southern part of the state, it was not going to hurt them. It was not going to hurt your constituents. We were going to raise the money that would allow the Department of Transportation to finish these projects and also to do the other projects so we would be able to go home and say that project in a certain area was going to be done.

I come back to the next meeting and I was told that people were talking about it in the Appropriations Committee that they didn't think it was right. We decided to listen and see what else was on the floor. We went to two or three meetings and we had Representative Donnelly come in and he did a tremendous job presenting his case. We had several on the Transportation Committee who stated their case where they thought they might be able to do something different. I didn't hear anything in those programs that I could go along with. I will tell you why.

First of all, raising the money through the Turnpike Authority, the money is there. You are going to pay 4.7 million dollars over 10 years. The money that you are paying, we are going to get into the Transportation Department anyway, it is coming into us every year. Granted you are going to have to pay some interest, but whenever you do make a loan, you have to pay interest.

The thing that I don't like is that these people who came in started talking about taking money out of the general fund. Ladies and gentlemen, there is no

money in the general fund. The state has no money. That is why we are downsizing. If I went home and told my people that we were going to take 30 or 40 million dollars out of that general fund after in the last biennium we told my school department and my towns and the economy down in that area, that we didn't have the money to support those programs. You are going to go in there and dig here and there. I asked them, where is this money coming out of the general fund? Well, some here and some there. We are going to dig more down the road.

We are going to find some here and find some there. Probably the first place they are going to find some is in education. I was talking to my superintendent the other day. He said, "In the last several years that our school department in Calais has lost \$500,000 in cuts." That is \$500,000. That 30 million dollars would help a lot toward bringing some of that back. He said, "If you think that is bad, you wait until next year." I was hoping that in some of these meetings where we were discussing compromise, that somebody would come in with a basket with 30 million dollars that would not take away from education and would not dig here and there to find \$1. It didn't happen. That is why I signed onto the Majority Report, because the money is there. It will take care of the problem. It will take care of all of the problems. I can go home with a straight face. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from East Millinocket, Representative Rosebush.

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I will be brief. I had a feeling that something along the lines of federal money was going to come along since it did back in June on the last day when we borrowed a half million dollars out of the rainy day fund to collect 1.3 million dollars of federal money available. Here we are looking for 40 million dollars plus to collect between 170 and 180 million dollars from the federal government.

Back in June we were looking for money to fund one project in one part of the state. Now we are looking for money for different parts of the state. There are three major projects going on right now. There are major projects going on elsewhere in the state if this passes. I think we have to take a look at what is going on. I don't like, in other words, going in debt for 10 years, putting the state in debt for 10 years. I don't think we have any other solution, which the good Representative from Calais mentioned earlier. His school is taking a beating and I won't dwell on my schools that have been taking a beating. This is the best case scenario.

We have projects in the works that have to be done. We have more projects in line. What are they going to be? I don't know maybe we can wait and decide in January when we come back. I urge you to vote for the pending motion and accept the report.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: When I came here today, I didn't anticipate speaking on this issue. I guess being a member of the committee for a number of years. I heard from Representative Simoneau today in regards to things that had happened in the past. I can't stand here today and blame any former administrators and commissioners any more than I can blame myself

and members of the Legislature. At those particular times, we all knew what we were faced with.

I can remember in the late 80s and the early 90s when we helped the general fund out of a dilemma with funds from the highway fund. If we hadn't done that, in my opinion, we wouldn't be in this problem today, but that is history. I don't think we want to look at the past. I will tell you today, just like I told the committee, I commend the present commissioner and I commend the present Governor for taking the initiative to put this proposal forward without a tax increase, without using money out of the general fund. Maybe going the bond route with the Maine Turnpike Authority is not the best way to go in the eyes of the public.

I agree with the Representative from Westbrook. I was sent down here to do a job and I was sent down here to represent my people and come out with a recommendation for you people that I feel is best for all. Two weeks ago today, we had a briefing on this with the commissioner and since that time we have had a proposal brought before us. One proposal that never was brought before us and some time ago you might have heard on public radio that I made a statement and I will make this statement again today. You are not very many years away, in my opinion, from passing a fuel tax increase in this state to take care of the roads and bridges that are going to have to be taken care in the next 20 years. If three to five years from now you do this, you can remember what I said on this day in 1995. The proposals that were given to us this week, if you move to take money out of the general fund, in my opinion, you open up a hornets nest.

Just recently as of the last month, I have been involved in Charleston Corrections Facility and believe me if there is 15 million dollars worth of surplus, Representative Simoneau in that general fund, I would like about 1.7 million of it. I am sure there are other people in this body that would like to have some of those funds for other purposes. You look at another proposal that does some bonding and it cuts back on some of the other programs. When you get into those proposals, you open up another hornets nest, because what you are saying is we will do the three major projects, but we are going to defer 11 million dollars in those other rogue programs that do affect some of us outside of the Augusta south area. I wouldn't buy it. I told the committee yesterday, being selfish, I really don't care about those three bridge projects, but I am not going to be that selfish.

I am going to vote for this proposal to take care of those projects as well as some of those other programs that are near and dear to my heart. The collect-a-road program and the resurfacing program, I can tell you that those programs have a large effect, especially the skinny-mix program. I question anybody in this House that has had resurfacing done that doesn't get positive reactions from the people. I have seen it and there is an additional 200 miles of paving to be done in addition to what we put in the budget when we start the 1996 program.

I have argued for years and I think many of you have seen in the last six to eight weeks paving going on in October and November. The former commissioners that I have served with, I have said every year and members that have been on the committee with me know this, every spring I always say get those bids out in April, don't wait until July. We have a short season

in the State of Maine to do paving. My understanding with the commissioner is that this proposal will help us free up the money that we can go out with bids early in the spring and start these programs as we should.

When I read in the paper a week or so ago about the big gimmick, you know, I don't know, maybe I'm wrong. I don't look at this as a gimmick. I look at it as a secured loan. There is no impact on the general obligation of this state. I have to tell you, if there had been a better program presented to us in the last three days, the majority of the Committee on Transportation would have supported it.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House: All three of these reports avoid the most important issue and that is that once again in transportation, as in the rest of state government, our revenues are not keeping pace with our expenses. Inflation exists. Expenses go up, personnel costs go up, material costs go up and yet our income isn't going up. Instead we are cutting, cutting and more cutting. We have a shell game and there is nothing left under the shells.

Our gas taxes are at only 19 cents a gallon. They were 4 cents a gallon in 1927. They were 7 cents a gallon in 1955. With inflation, gas taxes should be at 50 to 75 cents a gallon. We suffer from a credit card mentality or a gimmick mentality. We borrow or we shift funding from one inadequate source to another.

Ladies and gentlemen, we have a deteriorating system of road and bridges. We can't even afford basic maintenance. At the very minimum, we should have gas taxes that are at the average of the other five New England States, which is 23.2 cents a gallon. Anything less than this shows an incredible lack of willpower and vision. None of these proposals that we have address this issue, let's reject them all. Send this back to committee or to the Taxation Committee and look at our inadequate gas tax revenue. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I am a little hesitant to say what I am going to say, but I sat here and chewed on my tongue as long as I can.

Ladies and gentlemen, we have less than eight hours left to do our business. We came down here to address productivity task force issues. I don't believe and I apologize to anybody that I offend, but I don't believe anybody's vote is being changed at this point. I think that this debate has gone on as long as is necessary. We have a tremendous amount of business. Every 15 minutes we have another amendment coming across our desk. We are nowhere near done. We have sat here for two days and have done virtually nothing. I am not prepared to go home and be embarrassed by my constituents because we couldn't do our job.

Right now we are spinning our wheels as far as I am concerned. We have a tremendous amount of work to do and less than eight hours to get it done. A lot of us in this room have another life and we have some other things to do, to go home and get out of this place. It just seems to me that we have covered the territory. Nobody's votes is being changed and I apologize if this sounds like I am calling for the

vote, but it is time to get on with our work folks. We have got a tremendous load to carry out tonight and I am afraid we are not going to make it. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: At the risk of not changing anymore votes, I will add one more item. I would like to be able to have us go home with projects for everywhere in the state, as Representative Strout suggested. It would be great if we could pass something here today that had road projects for everybody. I just don't think we can afford it. If we are going to do any borrowing at all through this means, I think it has to be the absolute minimum necessary to continue projects that are already fully underway and contracted. I think if we would like to pass more and be more generous to all parts of the state, then this isn't the vehicle to do that. I would appreciate you joining me in voting against this report. Thank you.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I have listened very carefully to all your concerns and all of your concerns are legitimate. I hope that you will go away feeling more comfortable about this after I say a few things that were explained to me.

I, too, felt that this was not a prefect package. I support the Majority Report of the Transportation Committee although it is not a perfect plan. I do so after having long discussions with the Treasurer of the State of Maine, of whom I do have confidence. Our options as explained to me are that our bond rating, which has been enviable in the past, which continues to be enviable and at the highest level possible is secured by the work that we do here, as persuaded by Sam Shapiro to the bond houses, by the work we do.

If we accept the plan before us today, yes, we may pay one quarter of a percentage more interest on the borrowing of that money. However, it does not oblige the full faith and credit of this state, which is a good position to be in. Therefore, it will not jeopardize our bond rating with the bond houses. However, if we accept an alternative plan that would include general fund money, the bond houses would more than likely drop our bond rating and that would be more costly than the quarter of a percent greater interest rate that we would be paying.

Let's talk about what that means to you at home. At home in your towns and your municipalities that means if the bond rating of the state drops, when your town or your city wishes to borrow money then, in fact, it will cost you at least a half a percent more than what the state's bond rate borrowing ability is. That is a very important issue because whether you are going to be buying a grater or a ladder truck or whatever the cost that you are going to need to incur in your towns and you must borrow money, if our bond rating would drop because of decisions that we make here today, then, in fact, it will cost your towns more money.

It is also my understanding that the money that we are talking about here today since 1983, this money has always been used to be matched with federal funds for certain projects. Quoting Sam Shapiro, why would

our bond rating drop. According to the treasurer of the state on June 30 when we passed the budget, the cash flow shortfall of this state was 45 million dollars. At the end of this fiscal year, it will probably be 77 million dollars. That means that our checkbook does not balance. If you, in fact, would dig into the general fund money that is already earmarked for obligations and expenses of the state, then, in fact, you will be jeopardizing the bond rating and you will also affect this balance that we do not talk about very often.

I urge you, as unpalatable as it may seem to you, to support the Majority Report and if you believe that all of your concerns have not been talked about by those persons who have brought this to us today, be it the commissioner, be it the department, be it the Governor's Office and be it their economic advisors, then I think that, in fact, you are not looking at the broad picture. More people have agonized over making this decision then, in fact, we probably even know about today. I think it is critical that we accept this package and move forward. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to respond to my good friend from Waterville's remarks about the bond issue and about surplus. Treasurer Shapiro did speak to us the other day. He said flat out that the budget was out of balance at the end of the year. At the time, we didn't pick up on it. What is happening here is you are getting the budget and the surplus is getting mixed in with a tax balance and this is altogether two different things.

I have in my hand a copy of the comparative balance sheet of the general fund as of June 30, 1995, that is last June and June 30, 1994. In the asset part of that balance sheet, quick accounting 101, the balance sheet, assets, liabilities and equity, what you own plus what you have is what you have left. In the asset account you have the equity in the treasury cash pool. It is overdrawn by a little over 48 million dollars. It was about 39 million dollars the prior year. It is about a 10 million dollar increase. That is a far cry from 77 million. When you drop down to the equity, the unappropriated equity for the State of Maine on June 30 was a plus 4.4 million dollars. It was not a negative figure, it was a plus 4.4 million dollars.

Just looking at, quickly looking at this, I can pull 10 million dollars out of here. The rainy day fund 6.4 million dollars. Equity surplus 4.4 million dollars. That is your balance sheet. We talk about the bond ratings. I don't pretend to be an expert on bond ratings. I question whether they are going to assess an impact on the municipalities, but I do know this, we are borrowing money and we keep our rating up, we sure do.

I was shocked to learn that most our bonds are noncallable bonds. That means that we are issuing bonds with the good faith and credit of the State of Maine and if the interest rates drop, you can't go out and refinance. Think about that. If my memory serves me correctly when I ask for a schedule of the bonds that we are presently paying in the State of Maine as of last year, I could be dead wrong on this, I think some of them were as high as 11 percent. What could you bond for today? You know something, I

would just as soon see our rating change a little bit if we could issue callable bonds.

If we are going to go out and borrow money from the Turnpike Authority the same way, but that is going to cost you. This plan that is before us, we can talk about simply a shift of 4.7 million dollars from either the general fund or giving it some financial house. That is right, that is exactly what it is. You are giving 13 million dollars to the financial houses. That is 13 million dollars that is not going into your roads. It is as simple as that. Let's not get caught up on these bond ratings and a few other things. Let's look at what we are doing from a common sense point of view. Does it make sense from an economic point of view? Does it make sense to tie up that kind of money? Representative Kerr in committee has used the expression that he doesn't want to see us pull back 47 million dollars worth of revenues coming into the general fund.

We are going to spend it on capital improvements anyway. Well, yes, maybe we are. At least we are going to have a whole 47 million dollars. You are not giving 13 million dollars to somebody else in a form of interest. I urge you to reject this plan and I urge you to give it this, the time to look into alternatives. I don't care, we have eight hours left tonight that we can extend it if we have to. Let's look into this and do it right. That is what we are here for.

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

ROLL CALL NO. 283

YEA - Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carr, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, Lane, Lemaire, Lindahl, Look, Luther, Marshall, Martin, Mayo, McAleve, McElroy, Meres, Mitchell EH; Morrison, Nadeau, O'Gara, O'Neal, Paul, Peavey, Pardon, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Stone, Strout, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Whitcomb, The Speaker.

NAY - Adams, Ahearne, Aikman, Ault, Birney, Buck, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Donnelly, Dunn, Gates, Gerry, Gieringer, Green, Guerrette, Hartnett, Heeschen, Jones, S.; Joy, Joyce, Joyner, Kerr, Labrecque, LaFountain, Layton, Lemke, Lemont, Libby JD; Libby JL; Lovett, Lumbr, Madore, Marvin, Murphy, Nass, Nickerson, Ott, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Rice, Robichaud, Savage, Shiah, Simoneau, Stedman, Taylor, Thompson, Townsend, Treat, Tuttle, Underwood, Volenik, Waterhouse, Watson, Winglass, Winn, Winsor.

ABSENT - Mitchell JE; Poulin, Truman.

Yes, 84; No, 64; Absent, 3; Excused, 0.

84 having voted in the affirmative and 64 voted in the negative, with 3 being absent, the Majority Report "A" "Ought to Pass" Report was accepted.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The Bill was read once. Committee Amendment "A" (H-671) was read.

On motion of Representative JACQUES of Waterville, tabled pending adoption of Committee Amendment "A" (H-671) and later today assigned.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the State Soil and Water Conservation Commission" (EMERGENCY) (H.P. 1163) (L.D. 1596) on which the Unanimous Refer to the Committee on Agriculture, Conservation and Forestry Report of the Committee on Appropriations and Financial Affairs was read and accepted and the Bill referred to the Committee on Agriculture, Conservation and Forestry in the House on November 29, 1995.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

Representative KILKELLY of Wiscasset moved that the House Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: The nonconcurrent matter that is before us today deals with the Soil and Water Conservation Commission that is being abolished in the productivity task force report. The language in that is now in the report because an amendment has been put on in the Senate, which eliminates the independent board of soil and water conservation and transfers all of its authority to the commissioner of Agriculture and then creates an advisory committee on soil and water conservation.

I met this morning at 7:30 in Bangor with some members of the association. After a lengthy discussion last evening, the group voted 11 to 5 to accept the commissioner's proposal. The opposing groups were from Franklin, Oxford, Androscoggin, Sagadahoc, Waldo and Hancock counties. I am pleased that they were given an opportunity for this discussion especially in light of the fact that the proposal was presented to them in September and October as a done deal and one that could not be amended, adjusted or changed in any way. That was obviously not accurate.

There are several points that I wish to include in the record to express my concern as I accept the desire of the association to agree to this plan. First, the state Soil and Water Conservation Commission will be out of business upon this bill becoming law. The new advisory commission will need to be in place very soon. I hope that the process to create the new committee will be thoughtful and open for debate and discussion.

The advisory committee will consist of 18 voting members. One from each of the 16 districts, the president and vice president of the Maine Association of Conservation Districts and one nonvoting member being the state conservationist of the U.S.D.A. and the Natural Resource Services. That is an increase of seven members over the current board. It also

creates the potential of one county having three members on the board or in the case of Aroostook County, which has three distinct districts, there could be five members on the board. One from each of the districts and the president and vice president of the Maine Association of Conservation Districts potentially.

The current language also stipulates that local representatives to the state board are elected by their groups to serve and while the new statute is silent on selection, I would hope that representatives would be duly elected at an appropriate meeting of their local districts. Another power that is granted to the Commissioner of Agriculture is the power to appoint two members to each local board.

Before the Agriculture Committee yesterday, I asked the commissioner his plans for this process. He said he had talked to some districts about it and that he was willing to let local groups appoint their own folks or work this out in some way. I hope that we will see a bill early in this next session to clarify this process as it will need to be defined in statute. The current board includes ex officio members, the Commissioners of DEP, Inland Fish and Wildlife, Conservation, Marine Resources, Agriculture and a researcher from the University of Maine.

The new structure moves the Commissioner of Agriculture to the final decision maker up from an ex officio member and deletes all other commissioners and the University of Maine representative. I am not aware of their part in this decision. However, according to the annual report of 1994, the DEP policy on the mining of top soil was written by the Commission of Soil Scientists. I would hope that this new advisory board and the Maine Association of Conservation Districts would review this change and determine how information beyond that of an agricultural nature would get into their decision making process and be adequately heard.

The commission currently has responsibility to develop a budget, which includes an operating budget, salary and the distribution of funds to local districts. Under the new plan, the Commissioner of Agriculture reserves that power. The commissioner only needs to solicit advise on, I am quoting from the bill, "Formulation of that part of the department's budget that pertains to the operations of the Soil and Water Conservation Districts." It is unclear to me what that means in relation to the cost of operating the advisory committee, associated staffing, overhead, STACAP and DICAP and because that advise is not binding, I would suggest that the committee and the commissioner develop a system to assure that any disagreements about the distribution of funds can be resolved in a reasonable manner and that the advisory committee will have knowledge and the ability to consult on the remainder of the operating costs. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House: This commission has served a vital function and it is unfortunate that it is being eliminated. It gave grassroots or local farmer input to policy making at the state level. I served as an ex officio member during the 1980s. While change sometimes is good, I have reservations about this change. Thank you.

On motion of Representative KILKELLY of Wiscasset, the House voted to Recede and Concur.

ENACTORS

Emergency Measure

An Act to Clarify the Referendum Recount Process (H.P. 1149) (L.D. 1588) (C. "A" H-669)

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. 112 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Amend Provisions of the Androscoggin County Budget Process (S.P. 606) (L.D. 1598)

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. 125 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

By unanimous consent, L.D. 1588 and L.D. 1598, having been acted upon were ordered sent forthwith.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Temporarily Reestablish Eligibility Standards for Low-Income Home Energy Assistance" (EMERGENCY) (H.P. 1166) (L.D. 1599) (Presented by Representative GERRY of Auburn) (Cosponsored by Representative WHITCOMB of Waldo and Representatives: ADAMS of Portland, AHEARNE of Madawaska, BARTH of Bethel, BENEDIKT of Brunswick, BERRY of Livermore, BIRNEY of Paris, BRENNAN of Portland, CARLETON of Wells, CARR of Hermon, CHASE of China, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DAGGETT of Augusta, DAMREN of Belgrade, DAVIDSON of Brunswick, DESMOND of Mapleton, DiPIETRO of South Portland, DORE of Auburn, DUNN of Gray, ETNIER of Harpswell, FARNUM of South Berwick, FISHER of Brewer, FITZPATRICK of Durham, GIERINGER of Portland, GWADOSKY of Fairfield, HARTNETT of Freeport, KEANE of Old Town, LAYTON of Cherryfield, LEMAIRE of Lewiston, LOVETT of Scarborough, LUMBRA of Bangor, LUTHER of Mexico, MARVIN of Cape Elizabeth, MERES of Norridgewock, MITCHELL of Vassalboro, MITCHELL of Portland, MORRISON of Bangor, MURPHY of Berwick, NASS of Acton, NICKERSON of Turner, O'NEAL of Limestone, OTT of York, PEAVEY of Woolwich, PINKHAM of Lamoine, POVICH of Ellsworth, ROBICHAUD of Caribou, ROSEBUSH of East Millinocket, SAMSON of Jay, SAVAGE of Union, SAXL of Bangor, SAXL of Portland, SIROIS of Caribou, STONE of Bangor, STROUT of Corinth, TAYLOR of Cumberland, TOWNSEND of Portland, TREAT of Gardiner, TRUE of Fryeburg, TUTTLE of Sanford, UNDERWOOD of Oxford, VOLENIK of Sedgwick, WATERHOUSE of Bridgton, WHEELER of Bridgewater, WINGLASS of Auburn, WINN of Glenburn, Senators: BUSTIN of Kennebec, CIANCHETTE of Somerset, CLEVELAND of Androscoggin, ESTY of Cumberland, FAIRCLOTH of Penobscot, FERGUSON of Oxford, GOLDTHWAIT of Hancock, KIEFFER of Aroostook, LAWRENCE of York, McCORMICK of Kennebec, MICHAUD of