

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

In Senate Chamber
Monday
April 8, 2002

Senate called to order by President Richard A. Bennett of Oxford County.

Prayer by Senator Mary E. Small of Sagadahoc County.

SENATOR SMALL: Good morning. Father in heaven, strong is Your justice and great is Your mercy. Protect us from the burden and challenges of life. Shield our minds from the distortion of pride and enfold our desires with the beauty of truth. Help us to become more aware of Your loving designs so that we may more willingly give our lives in service to all. Help us to bring about a state full of truth and life, a state of holiness and grace, a state of justice, love, and peace. Amen.

Pledge of Allegiance led by Senator Edward M. Youngblood of Penobscot County.

Reading of the Journal of Friday, April 5, 2002.

COMMUNICATIONS

The Following Communication: H.C. 454

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

April 5, 2002

Honorable Pamela L. Cahill
Secretary of the Senate
120th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committees of Conference on the disagreeing action of the two branches of the Legislature on the following matters:

Bill "An Act to Control Internet 'Spam'"
(H.P. 1538) (L.D. 2041)

Representative GOODWIN of Pembroke
Representative LaVERDIERE of Wilton
Representative BERRY of Belmont

Bill "An Act to Create the Maine Rural Development Authority"
(H.P. 1724) (L.D. 2212)

Representative BRYANT of Dixfield
Representative RICHARDSON of Brunswick
Representative CLOUGH of Scarborough

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: H.C. 455

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

April 5, 2002

Honorable Pamela L. Cahill
Secretary of the Senate
120th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$19,300,000 to Construct and Upgrade Water Pollution Control Facilities, to Remove Discharges, to Clean up Tire Stockpiles, to Clean up Uncontrolled Hazardous Substance Sites, to Remediate Solid Waste Landfills, to Make Drinking Water System Improvements, to Address Household Hazardous Wastes and to Promote Standardization and Use of Public Geographic Data"
(S.P. 783) (L.D. 2120)

Representative BERRY of Livermore
Representative JONES of Greenville
Representative ROSEN of Bucksport

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing

H.P. 1595 L.D. 2098
(S "A" S-537 to C "A" H-887)

Senator **SMALL** of Sagadahoc requested a Division.

On motion by Senator **EDMONDS** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act"

S.P. 822 L.D. 2202
(C "B" S-575)

In Senate, April 5, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-575)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1101)**, in **NON-CONCURRENCE**.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Resolve

Resolve, to Promote the Interests of the People of Maine when Public Funds are Used to Acquire Conservation Easements

H.P. 1593 L.D. 2096
(S "B" S-586; H "A" H-1100 to C "A" H-990)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Create the Office of Program Evaluation and Government Accountability

H.P. 1695 L.D. 2193
(S "C" S-595 to C "A" H-1039)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

On motion by President Pro Tem **MICHAUD** of Penobscot, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Create the Maine Rural Development Authority"

H.P. 1724 L.D. 2212
(S "A" S-559)

Had the same under consideration, and asked leave to report:

That the Senate **RECEDE** from Passage to be Engrossed as Amended by Senate Amendment "A" (S-559) and **CONCUR** to Passage to be Engrossed as Amended by Senate Amendment "A" (S-559) and House Amendment "B" (H-1086).

On the Part of the Senate:

Senator SHOREY of Washington
Senator BROMLEY of Cumberland
Senator YOUNGBLOOD of Penobscot

On the Part of the House:

Representative BRYANT of Dixfield
Representative RICHARDSON of Brunswick
Representative CLOUGH of Scarborough

Comes from the House with the Report **READ** and **ACCEPTED**

Report **READ** and **ACCEPTED**, in concurrence.

The Senate **RECEDED** and **CONCURRED**.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Division.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1734

**JOINT RESOLUTION RECOGNIZING ALFRED R. PUGH,
ONE OF THE LAST SURVIVING WORLD WAR I VETERANS**

WHEREAS, in 1914 the assassination of Archduke Franz Ferdinand of Austria-Hungary touched off the Great War; and

WHEREAS, in 4 years of bloody slaughter, as many as one in 4 young men from Great Britain, Canada, France, Germany, Russia, Turkey, Austria-Hungary and other nations died in trench

warfare, and countless others perished on fronts as far apart as the Italian Alps, African savannahs and Chinese ports; and

WHEREAS, the United States entered the war in 1917, tipping the balance of power in favor of the Allies, resulting in the armistice signed on November 11, 1918, ending World War I; and

WHEREAS, 518 Maine men gave their lives during World War I and thousands more Maine men were injured and disabled in this war; and

WHEREAS, it has come to the attention of the 120th Legislature that Mr. Alfred R. Pugh, who at the time of his enrollment was a resident of Westbrook, Maine, is a surviving veteran of the Great War, having fought at the great battle of Meuse-Argonne, and is among the handful of surviving veterans of the original 2,000,000 American men who served; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature now assembled in the Second Regular Session, take this opportunity to express our sincere appreciation to Mr. Alfred R. Pugh for his dedicated service to the State of Maine and to the United States of America during World War I; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Mr. Alfred R. Pugh with our best wishes and appreciation.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Fund the Endowment Incentive Fund

H.P. 33 L.D. 42
(H "B" H-891 to C "B" H-782)

Tabled - March 19, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 13, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-782) AS AMENDED BY HOUSE AMENDMENT "B" (H-891)** thereto, in concurrence.)

(In House, March 18, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Promote Equity Among Health Care Clinics
S.P. 128 L.D. 404
(C "B" S-403)

Tabled - March 14, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, January 29, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-403).**)

(In House, March 14, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Enhance the Quality and Accessibility of HIV Services and Prevention Services

H.P. 779 L.D. 1023
(C "B" H-785)

Tabled - March 7, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, February 19, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-785)**, in concurrence.)

(In House, March 7, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Update the Property Tax Exemption for Pollution Control Facilities to Promote Clean Production through Pollution Prevention and Toxics Use Reduction

H.P. 1170 L.D. 1570
(C "A" H-1029)

Tabled - April 2, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 1, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1029)**, in concurrence.)

(In House, April 2, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Emergency

An Act to Promote the Health of Maine Women and Girls
H.P. 1510 L.D. 2013
(C "A" H-875)

Tabled - March 19, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 13, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-875)**, in concurrence.)

(In House, March 18, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Create the Adult Education Outreach Grant Program
H.P. 1530 L.D. 2033
(C "A" H-774)

Tabled - March 7, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, February 14, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)**, in concurrence.)

(In House, March 6, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Fairly Assess Sales Tax on Vehicles
H.P. 1620 L.D. 2122
(C "A" H-1013)

Tabled - March 27, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 26, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1013)**, in concurrence.)

(In House, March 26, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores
H.P. 1623 L.D. 2123
(C "A" H-1049)

Tabled - April 3, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 2, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**, in concurrence.)

(In House, April 3, 2002, **PASSED TO BE ENACTED.**)

Same Senator moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **GOLDTHWAIT** of Hancock to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Ensure Equality in Mental Health Coverage
H.P. 1205 L.D. 1627
(H "A" H-1077 to C "B" H-1052)

Tabled - April 4, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1052) AS AMENDED BY HOUSE AMENDMENT "A" (H-1077)** thereto, in concurrence.)

(In House, April 4, 2002, **PASSED TO BE ENACTED.**)

On motion by Senator **TURNER** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act to Support Family Farms

S.P. 463 L.D. 1516
(S "A" S-581 to C "A" S-424)

An Act to Amend the Motor Vehicle Laws

H.P. 1485 L.D. 2018
(S "A" S-593 to C "A" H-1032)

An Act Relating to the Treatment of Persons with Mental Illness
Who are Incarcerated

H.P. 1563 L.D. 2068
(S "A" S-579 to C "A" H-1020)

An Act to Implement the Recommendations of the Blue Ribbon
Commission on Postsecondary Educational Attainment

S.P. 767 L.D. 2102
(S "A" S-578 to C "A" S-460)

PASSED TO BE ENACTED and having been signed by the
President were presented by the Secretary to the Governor for his
approval.

Out of order and under suspension of the Rules, the Senate
considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly
engrossed the following:

Resolves

Resolve, Appropriating Funds for the Seeds of Peace
International Camp

H.P. 1434 L.D. 1931
(S "A" S-590 to C "A" H-859)

Resolve, to Reduce Pollution of Androscoggin Lake by Repairing
and Altering the Existing State-owned Barrier on Dead River in
Leeds

H.P. 1465 L.D. 1962
(S "A" S-580 to C "A" H-902)

Resolve, to Require Agencies to Provide a List of Certain
Paperwork Required of Maine Businesses

H.P. 1543 L.D. 2044
(S "A" S-592 to C "A" H-1016)

FINALLY PASSED and having been signed by the President
were presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate
considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Directing the Joint Standing Committee on Appropriations and
Financial Affairs to report out a Bill transferring the Maine
Learning Technology Endowment to the General Purpose Aid
Cushion

H.P. 1730

In House, April 2, 2002, **READ** and **REFERRED** to the Committee
on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

In Senate, April 5, 2002, **READ** and **INDEFINITELY
POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A
COMMITTEE OF CONFERENCE**.

The Senate **ADHERED**.

Out of order and under suspension of the Rules, the Senate
considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

JOINT STUDY ORDER - relative to establishing the Task Force
to Study a Universal Special Retirement Plan for All Levels of Law
Enforcement Officers

S.P. 821

In Senate, March 22, 2002, on motion by Senator **SAWYER** of
Penobscot **READ** and **PASSED**.

Comes from the House, **READ** and **REFERRED** to the
Committee on **LABOR**, in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

Under suspension of the Rules, all matters thus acted upon were
ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate
considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Supplement Maine's Academic Attainment and to
Retain Talent"

H.P. 1655 L.D. 2162
(S "A" S-558 to C "A" H-1055)

In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-1055) AS
AMENDED BY SENATE AMENDMENT "A" (S-558)** thereto, in
NON-CONCURRENCE.

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-1055) AS**

AMENDED BY HOUSE AMENDMENT "B" (H-1104) thereto, in **NON-CONCURRENCE**.

On motion by Senator **SMALL** of Sagadahoc, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

JOINT ORDER - relative to amending the Joint Rules to Establish the Government Oversight Committee

S.P. 833

In Senate, April 5, 2002, **READ** and **PASSED**.

Comes from the House, **READ** and **REFERRED** to the Committee on **JOINT RULES**, in **NON-CONCURRENCE**.

On motion by Senator **LAFOUNTAIN** of York, the Senate **RECEDED** and **CONCURRED**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by President Pro Tem **MICHAUD** of Penobscot, **RECESSED** until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act to Support a Continuum of Quality Long-term Care Services

S.P. 722 L.D. 1924
(H "B" H-1102 to C "A" S-523)

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, Regarding Legislative Review of Chapter 296: Patient Brochure and Poster on Dental Amalgam and Alternatives, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1637 L.D. 2140
(S "A" S-582 to C "A" H-1046)

In Senate, April 4, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "A" (S-582)** thereto, in **NON-CONCURRENCE**.

Comes from the House, Resolve and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

**Ought to Pass
Pursuant to Joint Order**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Resolve, to Establish and Fund the Task Force on Rail Transportation (EMERGENCY)

H.P. 1735 L.D. 2214

Reported that the same **Ought to Pass**, pursuant to Joint Order 2001 (H.P. 1727).

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

JOINT ORDER - relative to recalling LD 1439 from Legislative Files

S.P. 778

In Senate, February 19, 2002, **READ** and **PASSED**.

Comes from the House, Joint Order and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing

H.P. 1595 L.D. 2098
(S "A" S-537 to C "A" H-887)

Tabled - April 8, 2002, by Senator **EDMONDS** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, April 5, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887) AS AMENDED BY SENATE AMENDMENT "A" (S-537)** thereto, in **NON-CONCURRENCE**.)

(In House, April 5, 2002, **PASSED TO BE ENACTED**.)

At the request of Senator **SMALL** of Sagadahoc a Division was had. 18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Emergency Measure

An Act to Support a Continuum of Quality Long-term Care Services

S.P. 722 L.D. 1924
(H "B" H-1102 to C "A" S-523)

Tabled - April 8, 2002, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, April 5, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523) AS AMENDED BY HOUSE AMENDMENT "B" (H-1102)** thereto.)

(In House, April 8, 2002, **PASSED TO BE ENACTED**.)

Senator **GOLDTHWAIT** of Hancock moved the Bill and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

On motion by Senator **MARTIN** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#325)

YEAS: Senators: BRENNAN, CARPENTER, CATHCART, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: BROMLEY, DOUGLASS, EDMONDS, GAGNON, KILKELLY, MARTIN, MICHAUD, PENDLETON, RAND, ROTUNDO

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to place the Bill and accompanying papers on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act to Ensure Equality in Mental Health Coverage

H.P. 1205 L.D. 1627
(H "A" H-1077 to C "B" H-1052)

Tabled - April 8, 2002, by Senator **TURNER** of Cumberland

AUGUSTA, MAINE 04333-0002

Pending - **ENACTMENT**, in concurrence

April 8, 2002

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1052) AS AMENDED BY HOUSE AMENDMENT "A" (H-1077)** thereto, in concurrence.)

Honorable Pamela L. Cahill
Secretary of the Senate
120th Legislature
Augusta, Maine 04333

(In House, April 4, 2002, **PASSED TO BE ENACTED**.)

Dear Madam Secretary:

PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Supplement Maine's Academic Attainment and to Retain Talent"

(H.P. 1655) (L.D. 2162)

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

The Speaker appointed the following members of the House to the Committee

An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores
H.P. 1623 L.D. 2123
(C "A" H-1049)

Representative GREEN of Monmouth
Representative McLAUGHLIN of Cape Elizabeth
Representative MURPHY of Kennebunk

Sincerely,

Tabled - April 8, 2002, by Senator **DAGGETT** of Kennebec

S/Millicent M. MacFarland
Clerk of the House

Pending - motion by Senator **GOLDTHWAIT** of Hancock to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**

READ and ORDERED PLACED ON FILE.

(In Senate, April 2, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**, in concurrence.)

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

(In House, April 3, 2002, **PASSED TO BE ENACTED**.)

On motion by Senator **GOLDTHWAIT** of Hancock, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Senator **DAGGETT** of Kennebec was granted unanimous consent to address the Senate off the Record.

Sent down for concurrence.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by President Pro Tem **MICHAUD** of Penobscot, **RECESSED** until the sound of the bell.

Out of order and under suspension of the Rules, the Senate considered the following:

After Recess

Senate called to order by the President.

COMMUNICATIONS

The Following Communication: H.C. 456

Out of order and under suspension of the Rules, the Senate considered the following:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE
2 STATE HOUSE STATION**

COMMUNICATIONS

The Following Communication: S.C. 735

**120th LEGISLATURE
SENATE OF MAINE
OFFICE OF THE PRESIDENT**

April 8, 2002

Honorable Pamela L. Cahill
Secretary of the Senate
120th Legislature
Augusta, ME 04333

Dear Madam Secretary:

Please be advised that I have appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill, "An Act to Supplement Maine's Academic Attainment and to Retain Talent."

(H.P. 1655) (L.D. 2162)

Senator Bennett of Oxford
Senator Gagnon of Kennebec
Senator Mitchell of Penobscot

Sincerely,

S/Richard A. Bennett
President of the Senate

READ and ORDERED PLACED ON FILE.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1736

ORDERED, the Senate concurring, that Bill, "An Act to Authorize a General Fund Bond Issue in the Amount of \$43,000,000 to Improve Homeland Security in Maine, to Renovate a State Office Facility, to Build a New Correctional Facility in Machias and to Make Improvements to the Maine Correctional Center in South Windham," H.P. 1629, L.D. 2129, and all its accompanying papers, be recalled from the legislative files to the House.

Comes from the House, **READ and PASSED.**

READ. Pursuant to Joint Rule 404 a Division was had. 29 Members having voted in the affirmative and 1 Member having votes in the negative, with 29 being more than two-thirds of the members present and voting, the Joint Order was **PASSED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores
H.P. 1623 L.D. 2123
(C "A" H-1049)

In House, April 3, 2002, **PASSED TO BE ENACTED.**

In Senate, April 8, 2002, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION.**

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably

S.P. 133 L.D. 457
(C "B" S-412)

Tabled - March 5, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, February 27, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-412).**)

(In House, March 5, 2002, **PASSED TO BE ENACTED.**)

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-412).**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "B" (S-412).

On further motion by same Senator, Senate Amendment "A" (S-598) to Committee Amendment "B" (S-412) **READ.**

On motion by Senator **MILLS** of Somerset, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President, I rise and ask for a roll call for these reasons. The broadcasters came to us a year or so ago with a complaint that sales tax was being charged on their equipment and their broadcasting machinery. They were being mandated by the federal government to provide a digital signal, and that they had to buy special equipment for a certain period of time in order to meet the requirements of the federal law. They asked that we do what we could for them on a sales tax exemption, at least for some limited period of time. The bill that lays before you would grant a sales tax exemption for the purchase of all television and radio broadcasting equipment from July 1, 2003 onward, forever. It is cleverly crafted so that they have the benefit of a narrower exemption for digital equipment, only for just the last three months of this biennium in order to reduce the cost down to a targeted level of \$75,000 so that it could be squeezed into the table and thus possibly enacted. If we pass this bill, if we pass this committee amendment and pass this bill, it will cost, in addition to the \$75,000 in the coming year, \$1.2 million in the ensuing biennium and roughly \$700,000 in each biennium thereafter, ongoing forever and ever. It is a permanent, complete, plenary tax exemption for the purchase of equipment for this industry. It is being slipped into the table under the guise that it may only cost about \$75,000. I suggest that some people may be confused and think it's only to take into account their purchases of digital equipment, or that it may be in some fashion a response to a temporary phenomenon. It is not. It is a major piece of tax policy slid into the table that has no justification whatsoever. It is the worst kind of sales tax policy. It is exactly the kind of cancer that has eroded the sales tax over the last several decades to the point where no one has respect for this tax any longer. This is a tax that is largely paid by out-of-state owners. There are some in-state owners as well. But it is largely a tax paid by out-of-state owners of our broadcasting facilities. Why on earth we would give them \$1.2 million in the next biennium and then make it up by taxing clothing for school children and hamburgers at MacDonald's and all of the other things that we impose taxes on that effect everyday, ordinary people? I don't know. I don't understand the policy behind this bill. I don't understand the reason for it. I don't understand what compelled some members of both chambers to endorse it. I am totally lost by this proposal that lays before us. It is a complete mystery to me. For that reason, I urge that you vote against the pending motion to Adopt Committee Amendment "A" (S-598), and when the bill comes up, to oppose the bill as well. It doesn't make an sense from a tax policy perspective. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Mr. President, men and women of the Senate. I'm going to do my best to bring the good Senator from Somerset, Senator Mills, back to the Taxation Committee, where he served once upon a time. I would agree with the good Senator in that the tax code is riddled with exemptions and policies and precedence. What we are left to deal with, in the Taxation Committee, is trying to be equitable and make sure that the businesses are treated equally. There is a tax exemption for equipment used in manufacturing in this state. It's been around since the tax code has been in existence. That means that when you purchase a piece of equipment to produce your goods, whether it be on a farm or in a manufacturing facility, you do not pay sales tax on that piece of equipment. There is an exemption for that, a very specific exemption for that equipment used in manufacturing. We are a changing economy. Although we have not wanted to do dramatic changes to the tax code, as if evidenced by some previous bills, we have to move forward in interpreting the tax code for this new economy that we're in. The reality is that the new economy is in this type of service. The product that is being produced by the TV companies in this state is what you see on TV. That is the produce. So, how is that any different than someone who cranks out a widget? We're giving a tax exemption for the widget maker. In fact, we're giving much more than that. We're giving BETR reimbursement for that in the property tax. We're giving a number of other BTIF possibly, and maybe even a TIF. We're giving very beneficial tax benefits to that. Here we have an industry that is being forced to make changes in their industry, according to federal law, that is producing a product. So, it's the consistency between the two industries that I saw. In fact, there is nothing here that is being slipped in, Mr. President. This was something that we dealt with last session. The Appropriations Committee carried over the bill, and it received a unanimous committee report from the Taxation Committee. A unanimous committee report after a full hearing. Nothing is being slipped in here. That was the justification and the rationale behind why this exemption. If you don't like this one, then let's repeal the others. Let's stop giving exemptions for the paper machines and the widget makers, and all of those other pieces of equipment. But the rationale behind that original exemption was that we didn't want to, somehow, harm that productivity, those jobs that it creates. So that is the rationale. Until we do go through some type of comprehensive change that might change that, we have to be fair. So I would encourage you to support the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Goldthwait to Adopt Senate Amendment "A" (S-598) to Committee Amendment "B" (S-412). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#326)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, GAGNON, KILKELLY, KNEELAND, LONGLEY, MARTIN, MICHAUD, O'GARA, RAND, SMALL,

TREAT, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: CARPENTER, FERGUSON, GOLDTHWAIT, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, TURNER, WOODCOCK

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **ADOPT** Senate Amendment "A" (S-598) to Committee Amendment "B" (S-412), **PREVAILED**

Committee Amendment "B" (S-412) as Amended by Senate Amendment "A" (S-598) thereto **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-412) AS AMENDED BY SENATE AMENDMENT "A" (S-598) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Continue the Sales Tax Exemption on Vehicles Sold and Leased and Removed from the State

H.P. 916 L.D. 1230
(C "B" H-784)

Tabled - March 7, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, February 19, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-784)**, in concurrence.)

(In House, March 7, 2002, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-784)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "B" (H-784), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-599) to Committee Amendment "B" (H-784) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President. I'd like to pose a question through the chair?

THE PRESIDENT: The Senator may pose his question.

Senator **MARTIN:** There has been a suggestion that this bill no longer will cost any money, that there is no cost. I guess if that is true, I'd like to know why?

THE PRESIDENT: The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer.

On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "A" (S-599) to Committee Amendment "B" (H-784) **READ** and **ADOPTED**.

Committee Amendment "B" (H-784) as Amended by Senate Amendment "A" (S-599) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-784) AS AMENDED BY SENATE AMENDMENT "A" (S-599) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Stabilize the Funding of the Department of Inland Fisheries and Wildlife

H.P. 1432 L.D. 1929
(H "A" H-1061 to C "A" H-1021)

Tabled - April 4, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021) AS AMENDED BY HOUSE AMENDMENT "A" (H-1061)** thereto, in concurrence.)

(In House, April 4, 2002, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE**

ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021) AS AMENDED BY HOUSE AMENDMENT "A" (H-1061) thereto, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-1021) as Amended by House Amendment "A" (H-1061) thereto, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-600) to Committee Amendment "A" (H-1021) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. Despite being the signer of the amendment, as I am with all of the amendments or bills that come off the Appropriations Table, this is the bill, 'An Act to Stabilize the Funding of the Department of Inland Fisheries and Wildlife', which I raised some objections to when it went through, given that it requires the Chief Executive to put 18 percent of the cost of the Inland Fisheries and Wildlife budget into the budget and that bears a fiscal not of about \$4 million. I will be voting against this.

On further motion by same Senator, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. Noting the objection raised by the good Senator from Hancock, Senator Goldthwait, I would also remind you that in the previous debate we did discuss the fact that this would be the lowest percentage of funding for the major departments. What we are attempting to do in terms of the stabilization effort, is to balance the fact that this is no longer a fish and game department, but a fish and wildlife department. There are many people that benefit, and many businesses that benefit from the management of wildlife. There are municipalities that benefit when they need to call the department in order to get an evaluation for a site approval. DEP and many other departments use these services. So I would urge you to please vote in favor of this amendment. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Goldthwait to Adopt Senate Amendment "A" (S-600) to Committee Amendment "A" (H-1021). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#327)

YEAS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, EDMONDS, FERGUSON, GAGNON, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: DOUGLASS, GOLDTHWAIT, RAND

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **ADOPT** Senate Amendment "A" (S-600) to Committee Amendment "A" (H-1021), **PREVAILED**.

Committee Amendment "A" (H-1021) as Amended by Senate Amendment "A" (S-600) and House Amendment "A" (H-1061) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021) AS AMENDED BY SENATE AMENDMENT "A" (S-600) AND HOUSE AMENDMENT "A" (H-1061) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 126: Immunization Requirements for School Children, a Rule of the Department of Human Services, and Portions of Chapter 261: Immunization Requirements for School Children, a Rule of the Department of Education, Major Substantive Rules Jointly Adopted by the Department of Human Services and the Department of Education

H.P. 1624 L.D. 2124
(C "A" H-1026)

Tabled - April 1, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 27, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026)**, in concurrence.)

(In House, April 1, 2002, **FINALLY PASSED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-1026), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-601) to Committee Amendment "A" (H-1026) **READ** and **ADOPTED**.

Committee Amendment "A" (H-1026) as Amended by Senate Amendment "A" (S-601) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026) AS AMENDED BY SENATE AMENDMENT "A" (S-601) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend the County Jail Prisoner Support and Community Corrections Fund

S.P. 810 L.D. 2175

Tabled - March 21, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 18, 2002, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, March 20, 2002, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion by same Senator, Senate Amendment "A" (S-602) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-602), in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Implement the Recommendations of the Secretary of State and the University of Maine System to Develop a Comprehensive Plan for Preserving and Protecting Historical Records and Access to Those Records

H.P. 1721 L.D. 2209

Tabled - April 2, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 1, 2002, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, April 2, 2002, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-603) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-603), in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Reduce Medical Errors and Improve Patient Health
S.P. 419 L.D. 1363
(S "A" S-532 to C "A" S-527)

Tabled - April 3, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 2, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527) AS AMENDED BY SENATE AMENDMENT "A" (S-532)** thereto.)

(In House, April 3, 2002, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527) AS AMENDED BY SENATE AMENDMENT "A" (S-532)** thereto.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-527) as Amended by Senate Amendment "A" (S-532) thereto.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "A" (S-532) to Committee Amendment "A" (S-527) and **INDEFINITELY POSTPONED** same, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-604) to Committee Amendment "A" (S-527) **READ** and **ADOPTED**.

Committee Amendment "A" (S-527) as Amended by Senate Amendment "B" (S-604) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527) AS AMENDED BY SENATE AMENDMENT "B" (S-604) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Establish the Maine Consumer Choice Health Plan
S.P. 793 L.D. 2146
(S "A" S-548 to C "A" S-530)

Tabled - April 5, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 2, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-530) AS AMENDED BY SENATE AMENDMENT "A" (S-548)** thereto.)

(In House, April 5, 2002, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-530) AS AMENDED BY SENATE AMENDMENT "A" (S-548)** thereto.

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-530) as Amended by Senate Amendment "A" (S-548) thereto.

On further motion by same Senator, Senate Amendment "B" (S-606) to Committee Amendment "A" (S-530) **READ** and **ADOPTED.**

Committee Amendment "A" (S-530) as Amended by Senate Amendments "A" (S-548) and "B" (S-606) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-530) AS AMENDED BY SENATE AMENDMENTS "A" (S-548) AND "B" (S-606) thereto, in **NON-CONCURRENCE.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Resolve

Resolve, to Study the Impact of a Maine-based Casino on the Economy, Transportation Infrastructure, State Revenues and the Job Market

H.P. 1700 L.D. 2200
(S "B" S-560 to C "A" H-1035)

Tabled - April 4, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1035) AS AMENDED BY SENATE AMENDMENT "B" (S-560)** thereto, in concurrence.)

(In House, April 4, 2002, **FINALLY PASSED.**)

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1035) AS AMENDED BY SENATE AMENDMENT "B" (S-560)** thereto, in **NON-CONCURRENCE.**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-1035) as Amended by Senate Amendment "B" (S-560) thereto, in **NON-CONCURRENCE.**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "B" (S-560) to Committee Amendment "A" (H-1035) and **INDEFINITELY POSTPONED** the same, in **NON-CONCURRENCE.**

On further motion by same Senator, Senate Amendment "D" (S-605) to Committee Amendment "A" (H-1035) **READ** and **ADOPTED.**

Committee Amendment "A" (H-1035) as Amended by Senate Amendment "D" (S-605) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

The Chair ordered a Division.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I'd like to remind you that this is not a referendum of whether we should have a casino or not. It is merely whether we should study the issues and be apprised of all the information that is available to us. So I would urge you to vote yes. Thank you.

The Chair ordered a Division. 20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1035) AS AMENDED BY SENATE AMENDMENT "D" (S-605)** thereto, in **NON-CONCURRENCE.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Resolve

Resolve, to Allow Julie Harrington to Sue the State
H.P. 1659 L.D. 2165
(C "A" H-1045)

Tabled - April 4, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045)**, in concurrence.)

(In House, April 4, 2002, **FINALLY PASSED**.)

Senator **GOLDTHWAIT** of Hancock moved the Resolve and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

At the request of Senator **DOUGLASS** of Androscoggin a Division was had. 9 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **INDEFINITELY POSTPONED** the Resolve and accompanying papers, in **NON-CONCURRENCE**, **FAILED**.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President. Since this bill has a fiscal note of \$30,000 and there is no funding provided, which would create an unbalanced budget, would it be appropriate to refer this bill to the Appropriations Table?

THE PRESIDENT: Is the Senator posing a rhetorical question or asking the Chair for a ruling?

Senator **GOLDTHWAIT:** I am asking if a motion is in order to placed this bill on the Special Appropriations Table?

THE PRESIDENT: The Chair would answer in the affirmative.

Senator **GOLDTHWAIT** of Hancock moved the Resolve and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Senator **TREAT** of Kennebec requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** I wish to pose a question through the chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SMALL:** The last time I dealt with a bill, that I actually paid attention to, that allowed someone to sue the state, I learned that there was a fund set up that would fund these if the person was successful in their suit against the state. I guess my question would be, would this be a situation where that fund would be

accessed or does there need to be money just to pursue it up to that point?

THE PRESIDENT: The Senator from Sagadahoc, Senator Small poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I am unaware of any such fund. I hope that one exists because, having considered this bill and having no one offer a funding source for it, it would seem to me that it's going to endlessly cycle back and forth between the table and the floor unless someone can suggest a way to fund it. I would be happy to investigate the existence of such a fund, in which case we might be able to send the bill up with a positive vote on it.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Mr. President, men and women of the Senate, I don't have an answer with regard to the fund, but I do have an answer with regard to the need for additional funding for separate outside counsel. I'd argue to you this. The issue in that case is not so much one about copyright law, as it is about the facts of what happened and what transpired. That is a matter that is certainly within the capability of the Attorney General to defend as they do every other lawsuit. I would argue that is what ought to happen here. The attachment of a fiscal note was not a legal necessity, but was part of the argument in the case.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President. I'm the last one in the world to get involved in a debate these days, but I believe the pending motion was to table on the Appropriations Table.

THE PRESIDENT: The Chair would stand corrected. The motion to table on the Appropriations Table is not a debatable motion.

At the request of Senator **TREAT** of Kennebec a Division was had. 14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to place the Resolve and accompanying papers on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence, **FAILED**.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores
H.P. 1623 L.D. 2123
(C "A" H-1049)

Tabled - April 8, 2002, by Senator **DAGGETT** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In House, April 3, 2002, **PASSED TO BE ENACTED**.)

(In Senate, April 8, 2002, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, April 8, 2002, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

Senator **DAGGETT** of Kennebec moved the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

On motion by Senator **MILLS** of Somerset, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#328)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MICHAUD, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT

NAYS: Senators: CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KNEELAND, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **DAGGETT** of Kennebec to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **PREVAILED**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Create the Maine Rural Development Authority
H.P. 1724 L.D. 2212
(S "A" S-559; H "B" H-1086)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES Senate

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$19,300,000 to Construct and Upgrade Water Pollution Control Facilities, to Remove Discharges, to Clean up Tire Stockpiles, to Clean up Uncontrolled Hazardous Substance Sites, to Remediate Solid Waste Landfills, to Make Drinking Water System Improvements, to Address Household Hazardous Wastes and to Promote Standardization and Use of Public Geographic Data"
S.P. 783 L.D. 2120
(C "C" S-566)

Had the same under consideration, and asked leave to report:

That the Senate **RECEDE** from Passage to be Engrossed as Amended by Committee Amendment "C" (S-566). That the Senate **RECEDE** from Adoption of Committee Amendment "C" (S-566) and **INDEFINITELY POSTPONE** same. That Committee of Conference Amendment "A" (S-607) be **READ** and **ADOPTED**, and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (S-607)**.

That the House **RECEDE** from Passage to be Engrossed as Amended by Committee Amendment "A" (S-564) and **CONCUR**.

On the Part of the Senate:

Senator SMALL of Sagadahoc
Senator DAGGETT of Kennebec
Senator DAVIS of Piscataquis

On the Part of the House:

Representative BERRY of Livermore
Representative JONES of Greenville
Representative ROSEN of Bucksport

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

The Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-566)**.

The Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "C" (S-566).

The Senate **INDEFINITELY POSTPONED** Committee Amendment "C" (S-566).

Committee of Conference Amendment "A" (S-607) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (S-607), in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act"

S.P. 822 L.D. 2202
(C "B" S-575)

Tabled - April 8, 2002, by Senator **TREAT** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, April 5, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-575)**.)

(In House, April 6, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1101)**, in **NON-CONCURRENCE**.)

Senator **EDMONDS** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you. Mr. President, men and women of the Senate. I hope that you will vote against the motion to Recede and Concur so that we can go on to discuss additional opportunities to hone this bill down and possibly make it something that some of us feel is more affordable. The cost associated with the amendment that is currently on the bill is in the tens of millions of dollars, depending on which facts we're looking at.

Senator **KILKELLY** of Lincoln moved the Senate **RECEDE**.

On motion by Senator **EDMONDS** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#329)

YEAS: Senators: CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LEMONT, MCALEVEY, MILLS, MITCHELL, NUTTING, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: BRENNAN, BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LAFOUNTAIN, LONGLEY, MARTIN, MICHAUD, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **RECEDE, PREVAILED**.

House Amendment "A" (H-1101) **READ**.

On motion by Senator **KILKELLY** of Lincoln, Senate Amendment "A" (S-609) to House Amendment "A" (H-1101) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you. Mr. President, men and women of the Senate. I'm presenting an amendment tonight that I believe is, in fact, a middle ground amendment in this rather contentious issue. In the years that I have been here, there are two obvious benefits in this place. The first is when in doubt, vote no. The second is when you want to kill a bill, confuse the issue and then go back to tenant one, which is when in doubt, vote no. I would urge you to try to follow what folks are saying, and be concerned about efforts to make this issue more confusing than it needs to be. Good people will disagree on the interpretation of the facts in this situation. Good people have different opinions about where we're starting this process, and ultimately where the process needs to end, at least in this point in time. That is fine. That is what this process is all about. But I hope that we can disagree and move on. In the situation that began this bill process, Mr. Kotch was denied durational benefits based on his workplace injury. The case was appealed, and in the Supreme Court, they said that the current injury could be added to any preexisting condition, previous injury, so that he reached the 11.8 percent and was eligible for durational benefits. When that case was determined, there was concern among the folks in the Workers' Comp arena, because it was going to mean a 15 percent increase in the cost of premiums based on new cases that would be eligible. L.D. 2202 was written to appeal the Kotch decision. Again, good people are going to disagree about whether it did or whether it didn't. I'm telling you what I

believe is the intention was. The bill was reported out of committee with a Majority Report and a Minority Report. The Minority Report was, in fact, the bill. It passed in this body and went down to the other body. There have been attempts to add amendments onto the bill that would, in fact, make the statement that two workplace injuries ought to be added together in order to reach that threshold. In order to reach the threshold to be eligible for durational benefits. Good people disagree on whether we are there or not. My amendment was created because I, in fact, don't believe that that is where we are. But in listening to the concerns that have been raised, in this body and in the other body, the amendment is drafted in a way that, prospectively, provides an opportunity to bring two workplace related injuries together. To add them together, so that a person could, in fact, be eligible for durational benefits if they had two unrelated workplace injuries after January 2004. Why do we need to go out to 2004? Based on my interpretation, that's not where we are now in terms of providing an opportunity for those two workplace injuries, unrelated, to be added together to get that benefit. If we're going to do that, we need to do it prospectively, so that there is an opportunity to gather the data necessary to determine if the 11.8 percent threshold is, in fact, the right place to be so that we maintain the 75-25 split between people who are eligible for durational benefits, and people who are not eligible for durational benefits. That allows this amendment to be cost neutral. I've heard a lot of concern about what it is that we really want to do. Do we want to maintain this as a cost neutral proposal or do we want to repeal Kotch? Frankly, I want to do both. I've heard a lot of concerns about the fact that people have already reserved for this, that this isn't really a problem. We don't really need to go this far. Well, it is a problem, and it is particularly a problem for self-insured people. We have spent a lot of time in this session looking at general purpose aide to education and trying to raise that so we could provide, in some schools, maybe one additional teacher or an ed tech or a new roof or something. Those schools are self-insured. When we increase their comp costs, dollar for dollar, and when we do it in the case of the amendment that was on this bill, retroactively, we take away that money, the money that we've fought so hard to get. We've had numerous debates in this body about property taxes and the concern about property taxes. In fact, municipalities are also self-insured. Municipalities would be paying as well. We've had concerns about health care costs. The health care costs can hit us twice. They can hit us once in terms of what that know part of Workers' Comp is, in fact, health care costs. But then the hospitals and the other providers are paying Workers' Comp, and many of them are self-insured. So as their costs go up, the health care costs go up, and you create an even bigger circle of cost increasing. So, this amendment is presented with every intention of it being middle of the road, based on my perception of how we need to approach this issue and where we are currently standing. I know that there are people who believe that we are standing and starting in a different place, and they will have a different opinion on that. What I'm concerned about is that when I talk to Maine School Management and Maine School Management says under the amendment that was previously on this bill their costs could increase by double digits. When I talk to the Maine Municipal Association and they tell me that their costs could increase by a tremendous amount. I've talked to businesses, small businesses and large businesses, who say their costs for

Workers' Comp would go up as well as their costs for security, based on all the things that are going on in the world right now. Their costs for other liability insurance. Their cost for health care. All the other things that we know are assaulting businesses at this point in time. They can't take it any more. So we need to find a way to, I think, address this issue of allowing people who have two legitimately-covered workplace injuries here in the State of Maine that are documented, that are covered under Title 39-A, and allow that to happen. But do it prospectively so that we are, in fact, dealing with the issues that workers are facing and dealing with the issues that employers are facing. I believe the Kotch decision asked employers to cover a general disability program for any person in the state who happened to get injured on the job, and came to that job with any kind of preexisting condition. That's our job. That's our job to make sure that there is a general disability program. It's our job, in conjunction with the Federal Government, to make sure that happens. That's not what Workers' Comp is about. It's not what we ought to be doing in Workers' Comp. So, I would urge you to adopt this amendment which does, in fact, provide for that prospective opportunity for the two unrelated workplace incidents and also repeals the Kotch decision. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you. Mr. President, men and women of the Senate. I'm just trying to read through this amendment at this point. We had a very extensive discussion about it in our caucus. It appears to me that some language that was in the earlier draft that we were working on in our caucus does not continue to be enforced in the amendment. That language referred to the fact that this amendment was intended to repeal the Kotch decision, but not to repeal the Churchill line of cases. A decision which, in my understanding, is currently being applied by hearing officers for the Workers' Compensation system, and has been for quite some time. So I'd like to pose a question through the chair, if I might.

THE PRESIDENT: The Senator may pose her question.

Senator **TREAT:** The question would be whether this language has been taken out of the amendment, first of all. Secondly, if so, is that to reflect the fact that this amendment, in fact, does repeal much of what was in the Churchill decision as it has been applied over the years?

THE PRESIDENT: The Senator from Kennebec, Senator Treat poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. If you look at this amendment, S-609, on page 2, line 34 through 38, you have to remember that what the good Senator from Lincoln, Senator Kilkelly, is proposing to do with this amendment is to amend the amendment put on by the other body. The other amendment has that language in there. This just amends it in line 37 and 38. So, that is still part. I think what we saw in caucus was kind of a combination of what the other body put on, and this one. So I believe if you looked at what

we are amending and combined it with line 34 through 38, the same language would be between those, in the rough draft of the amendment that we looked at in caucus. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I first want to appreciate the efforts of the good Senator from Lincoln, Senator Kilkelly. She's been working very hard to try to find something that wends its way through this particular morass, and I appreciate that. I guess mostly what I want to do about this amendment, is raise a bunch of questions that are still in my mind that I don't feel have been sufficiently answered, and perhaps can't be. First of all, there is the question of how you collect the data. Everybody knows that the data collection has been challenging, shall we say. In fact, I'm not convinced that the amendment really will gather the data any more sufficiently than present. The next question that comes to my mind are questions about cost. When we had previous incarnations of the Majority Report that failed, there was a statement that that report would cost a huge amount of money. I can't even remember what it was, but I have a feeling it was \$200 million or something large. Yet we removed large portions of that amendment, and still it appears that the actuaries say that it's still going to cost tens of millions of dollars. That doesn't jive with me. Especially since, in digging around in the files that I've collected, I've found the statement that the lost cost filing of November 2, 2001, a few short months ago, when, in fact, Churchill was in effect and Kotch had not been heard from. It was what we were proceeding from given the lost cost filing, the rates were decreased 3.4 percent. Doesn't look to me like there was all that huge raise in anything. It's also interesting, further looking around, to have questioned the Comp Board and folks who work over there to find out that 7 of the 9 hearing officers already, in their deliberations, combine work-related injuries of all kinds. So, this has already been in effect. We've already been operating under these guidelines, these considerations. So, the notion that somehow the rates are going to skyrocket doesn't jive with me. I guess, and this is probably true of everybody in the building, although maybe not, I would prefer an approach that returned to us to February 6, 2002, the day before Kotch. I think everybody is in agreement that having non work-related injuries combined is not what we want or need. The difficulty remains in how we feel like removing that and what that leaves us with. To my mind, it leaves us clearly with what's been in effect since 1999, which was the combining of work-related injuries. Although I appreciate very much the good Senator's efforts to try to find a way through this, I feel like we are still going back in history farther, way farther, than February 6, 2002. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. Maybe I'm a bit of a contrarian, but I've been trying to figure out what happens if we don't pass this, as opposed to the good things that happen if we do pass this. Over the weekend, like I'm sure many of you did, I did some thinking, I didn't do a whole lot of sleeping, and did some phone calling. The three phone calls that I was able to follow-up, if we fail to pass this amendment, or something dang near identical to this amendment,

Oakhurst Dairy tells me that failure to pass this will mean \$100,000 a year to them. But of course, they are some of the folks with that vault with the bars of gold in it. So I made two other phone calls. I talked with the City of Bangor's city manager. The City of Bangor is self-insured, and I would encourage each of you to call either your city or the largest town in your district. Bangor indicates that our failure to pass this would cost them about \$85,000 a year. Now, I don't know about your town, but my town is very nervous about the, I think it's about, \$24 mills that we're now extracting from our landowners. I suspect, in fact, that rather than increasing the property tax, we may see lay-offs, which I don't think is good for my city or for the State of Maine. I have it on good word that Great Northern Paper Company with Kotch is looking at a half a million dollars a year increase. With the amendment, the person with whom I spoke thought that it would be pretty much revenue neutral. Finally, I've been stewing on the always intelligent thoughts and comments by the good Senator from Somerset, Senator Mills. Last week he said something that I can't disagree with the facts on, but I reach an entirely different conclusion on. He said that already in the session we've increased approximately \$8 million in unemployment insurance costs, annually, to Maine employers. Furthermore, that we've added approximately \$8 million in mental health parity to Maine employers, whether they are profit or non-profit. Frankly, I ask the question, isn't that enough? I ask the question, when do we stop piling on Maine's employers? I've gotten as many phone calls since the weekend from non-profits as I've gotten from for-profit operations in my district. I would sincerely ask your vote in favor of Senator Kilkelly's amendment. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. This issue is a very complicated one and it has taken us all, I think, a lot of time to work through the very difficult legal issues, whether we are lawyers or non-lawyers. I think that everyone would agree that this is an issue of great complexity, and there seem to be warring opinions out there on what the plain language of the various decisions out there mean. But it does seem clear, at least to this member of this body, after much review, that the amendment before us goes significantly beyond the stated goal of repealing Kotch, as did the Minority Report that it is now amending. I think that virtually everyone in this body, and I think also, at this point anyway, over in the other body, is committed to repealing that decision that said non work-related injuries should not be part of the work-related system, the Workers' Comp system, but that work-related injuries should be treated as work-related injuries. It's a pretty simple concept, and it's one that has been part of Maine law for quite some time and is enshrined in the Churchill decision, which this amendment says it does not seek to repeal. Yet, work-related injuries in this amendment, some of them would not be compensated until some future date, after some future action by a board which is currently deadlocked. Meanwhile, we're repealing it. Meanwhile, reversing existing law. Existing law that is being interpreted, as we have heard from the good Senator from Cumberland, Senator Edmonds, and has been for a number of years by hearing officers within the Workers' Compensation system, whose decisions have been part of the data available to actuaries who set the rates. Yet, as the good Senator from Cumberland, Senator Edmonds,

said, those rates were going down until very recently, when we had 9/11. All of a sudden, my constituents are sending e-mails to me saying, 'I'm concerned about Kotch, yes, but I also want you to start investigating what's going on with possible price gouging from my insurance agent who has suddenly quadrupled or increased dramatically my Workers' Comp and other lines of insurance based, supposedly, on 9/11.' The goal of this bill, as amended, should not be to maintain cost neutrality at any cost, even if that means doing away with current law and doing away with benefits that exist right now for our workers who may be injured on the job. That should not be the goal. It is not the goal as stated by our Governor. It is not the goal as stated in the statement of fact, and the legislative intent in this amendment. Yet, it is what this amendment does. I urge you to vote against the pending motion so that we can go on to pass the bill as amended. This is trying to amend the House Amendment which is on this piece of legislation which is narrowly crafted to only repeal Kotch. It is even narrower than the one presented in this body yesterday. It is a narrow repeal of Kotch. It is what everybody says they are trying to do here. It does it well and it is the appropriate thing to stick to. So I urge that you will oppose the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Mr. President and men and women of the Senate. The simplicity of this bill, at the outset when we heard from the Chief Executive what his objective was, which is to repeal Kotch, had me baffled about where we're at now. In trying to figure out why we can't just simply turn back the clock until, as the good Senator said, February 6th. The real reason is because it's not revenue neutral. Ah, there is more than one objective after all. The objective is to repeal Kotch and to be revenue neutral. Some people might say that is the same thing. But the reality of the situation is, as you've heard previously, that 7 of 9 hearing officers have already been interpreting the Churchill decision. In fact, the people who decide what rates should be have already taken that into consideration. In fact, there was a decrease in Workers' Comp. So, it was taken into consideration. The attempt now is this fear that maybe that was an error, and that we have to protect somebody, ratepayers, from a prospective rate increase that actually was the law prior to Kotch. A very interesting policy decision that we are now going to, in preparation for a potential rate increase, artificially go in and mess with the system. That didn't happen after the ice storm, when there was this huge worry that our homeowners insurance was going to skyrocket, because of all of those claims in the State of Maine because of the ice storm. We didn't see a bill that would somehow cap or artificially prevent any insurance increases because of that fear. In fact, the most significant increases that are real, not prospective, but real, are health insurance costs. Do we have a bill to artificially decrease health insurance costs because that's bad? There isn't a mechanism for that. The amendment that the good Senator has presented will do that. Two objectives; repeal Kotch, and make it revenue neutral. Those are the two objectives. The Chief Executive clearly stated time and time again that he wanted to repeal Kotch. We had an amendment to do that. There is an amendment from the other body that is currently on the bill that will do that. It's still a compromise for some of us. But if the intention was to repeal Kotch, go back to February 6th, let the free market run the way it

should, and not try to artificially prevent things from happening, that may or may not be happening, we don't know, and continue to protect our workers in this state, let's repeal Kotch. I'm fine. I'm there. I'm with you guys, but let's not do two objectives. Let's do this stated objective. Repeal Kotch. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. I'm for both repealing Kotch, and I'm for striving for cost neutrality. But not this way. I think the problem that the administration is running into is that, as has been said before, the whole reason for this end of session bill was to repeal Kotch. As we all became better versed in Kotch, and then actually read the 1999 case, Churchill, we were realizing that the attempts of the administration wasn't just to reverse Kotch, it was to reverse Churchill. The reason that we wanted to reverse Churchill, too, is that Churchill was adding together workplace injuries. If the 25 percent was covered by the 1992 reform have to have multiple injuries they cost more, ergo higher costs for the insurance company and for the employer. I think the stated objective was to reverse Kotch. We're all there now. We're ready. In terms of the more complicated objective of reversing Churchill, it could be. The fact of the matter is that this was an end of session bill, in the last days, because we had an emergency presented by Kotch which, basically, exploded the case law beyond the workplace injuries to the non-workplace injuries. Many of us came to understand that, no, that wasn't the purpose of Workers' Comp. I favor, although I appreciate the genuine efforts of the Senator from Lincoln, Senator Kilkelly, to try to find some common ground. I think there is better common ground that can be found. The very helpful piece of information I got my hands on came out of the Bangor Daily News editorial. It said, basically, because of the issue of what is known as stacking, accounting for accumulative effective injuries is complicated and cannot be solved by quick legislative votes in the next couple of days. They go on to represent that it includes a sunset provision, a time-out of sorts, to get to what are the actual costs related to Churchill and how might we say to the insurance companies, 'wait a minute, the data disputes what you're saying in terms of cost increases and you shouldn't be able to pass those costs on to the employers.' I appreciate the attempt to find a common ground. I think the stated objective, as it was billed and as you who supported the Kotch reversal have successfully persuaded us, was to reverse Kotch. The problem that you are running into now is that we now realize you were trying to reverse both Kotch and Churchill. I'm open to that too, but not at the end of session, in the last few days. I'm for calling a time-out, calling a sunset, having a legislative stay of sorts where we gather the data, along the lines of what the Senator from Kennebec, Senator Treat, was saying. We're relying on speculation, and it's dangerous speculation. It's speculation that employers may have to pay more. That's not okay. If you can believe some of us, we are concerned about cost increases. But we want them only when they are warranted. We have nothing before us that suggests that these are warranted. We have no data. We only were told to reverse Kotch. Then, we realized it was both Kotch and Churchill. Now, we're legitimately worried about cost neutrality without any data. Why not call a legislative stay of sorts. A time-out to gather the data, not let recovery happen related to Churchill for the next year, and not in the last hours of the session? Preferably, after

some rested minds have had a chance to figure out how many Churchill-type cases are out there. What are the costs going to be? How can you document that those will translate into increases, and exactly what are the increases? Is it 15 percent or is it 8 percent? Is it 2 percent? Is it 1 percent? I think this discussion is a precursor for what we're going to have in the whole health care debate, to be honest, when we suddenly realize that the most expensive cases are the sickest people. What do we do? Do we ditch them? Or do we have another policy discussion on how we reach out to the people who need us most? Again, I appreciate the efforts to find a common ground. I would have gone in a different direction, and I'm going to reserve my vote for a better compromise. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** Thank you, Mr. President, ladies and gentlemen of the Senate. I expect that, if the truth be known, there are very few people sitting in these 35 seats that understand the real depth of this issue any better than I do. It's easy to have dialogue, rhetoric, that's difficult to understand when you're talking about a difficult subject. It seems to me that when you have that situation you look to go to an impartial source. As I've chatted with a good many people in this chamber and in the hallway, it seems to me that the one direction they all point to as that independent source is NCCI, the National Council on Compensation Insurance. You have two letters in front of you. Both that repeal Kotch, presumably. Both letters created the same day, today, by the same senior divisional executive. One of them repeals Kotch, and increases expenses to businesses of the State of Maine by somewhere between \$140 million and \$240 million. The other letter apparently repeals Kotch as well, and doesn't cost Maine businesses anything. What could be more simple? Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. Quite a while ago I realized that, yes, Workers' Comp is actually worse than the school funding formula. I think maybe after tonight and a few more nights, maybe everybody will feel that. Seriously, I want to add my thoughts here, briefly, to this debate. I think it's far from cut and dry that all hearing officers were ruling that you can combine two non-related work injuries. There have been hearing officers that have not combined two workplace injuries. So, that's really up in the air. The Churchill decision says that two workplace injuries can be combined if they effect the same body part. It's very clear. The Churchill decision was about a 1995 back injury on top of a 1985 back injury. The same body part. The Kotch decision struck new ground in proposing to combine two workplace injuries to different body parts, and to also combine non injuries with work injuries. We've heard a lot about revenue neutrality here, but I believe on February 5th, the day before the Kotch decision, it was revenue neutral. I'm hearing today, tonight, from other speakers in this body that we want to repeal Kotch, but we don't want it to be revenue neutral. That, to me, is not the case at all. We need to repeal Kotch. If we want things as they were before Kotch, then we need to also make this revenue neutral. That's what the case was. I think this cloudy area that the good Senator from

Somerset, Senator Mills, pointed out last night between Churchill and Kotch is just so ripe for litigation and uncertainty. I had a business owner, a small business owner, come visit me Sunday who's decided not to sign his loan to expand his business because he's just not sure about the whole Workers' Comp system. He was going to be operating on a tight margin. He's not sure now what that margin is going to be. I hate to think about the number of people in this same exact situation all across Maine right now who are debating whether or not they are going to hire more people to work at their business just because they are not sure. I'm extremely concerned with the bill in its current form. I know that this amendment is very well intentioned, and when that amendment was put on they were told it was revenue neutral. We now all know that not to be the case. The bill in its current amended form would allow any and all alleged Workers' Comp injuries to be combined with any related work injuries after January 1, 1993. It would make employees eligible for lifetime partial benefits. This possibility, I've always felt and I believe it's true with what information we've had distributed to us tonight, will result in a huge cost increase to the state and to the employers. As a small business owner myself, I still feel that a huge increase in Workers' Comp costs is going to mean fewer people hired, less wages paid, and less health care offered. I believe this amendment offered this evening by the good Senator from Lincoln, Senator Kilkelly, bridges the gap, and clears up the water. It allows unrelated work injuries to be combined, meeting the policy goal, I believe, of the amendment on the bill currently, but it does so on a basis that will not impose unanticipated costs on Maine employers. Thus, avoiding slowing down the Maine economy. We are here to set policy. I believe we need to adopt this amendment. I don't think we need to take no action and have court case, after court case, after court case coming over and over again until we finally do set policy. Until we finally do establish the criteria that business owners know they are going to have to operate under. I'm very proud that in Maine we have some of the longest and most generous benefits for injured workers in the country. We're one of the very few states that have the benefit level that we do. I think that's great. But adding \$140 to \$200 million of costs to that, that has consequences. So I'm going to be voting to support this amendment and I want to compliment the good Senator from Lincoln, Senator Kilkelly, on her work. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. That's the trouble with these crises, they don't come along when it's convenient for us. It's regrettable, but that's the fact of life. There has been some talk about Kotch and Churchill, and whether one is effective or both. It's my judgment that the amendment before us does not change the ruling of the Churchill case, because it allows injuries that are aggravated by the work injury to be included in the permanent impairment rating. Churchill is unaffected by this amendment. But starting in 2004, if you approve this amendment, a new category of stacking will be permitted. That is work on work injuries, even if unrelated. There has been a lot of talk, so if you get to the chase of all of this, you have to deal with the information provided to us on cost from NCCI. Whether you like them or not, they have a long and excellent record of providing service to this state and to others. We are bound to deal with

these cost increases, whether we like them or not. So, when they say there are cost increases, that, in fact, will be reflected in bills that go out to employers. Not just Maine businesses, but employers. That's all your school districts. That's all your municipalities. That's all your not-for-profits, in addition to those who make profit, or try to make profit, in your various districts. Now the amendment that came back to us from the House suggests that its costs on a go forward basis is something in the neighborhood of \$35 million a year to Maine's employers. The retroactive costs are somewhere between \$110 and \$200 million. This is real money to be sucked out of Maine's economy. The amendment provided to you by the good Senator from Lincoln, Senator Kilkelly, on the other hand, says that NCCI says it is cost neutral. So, if we approve this amendment, those bills do not go up. I would ask you to think back to the early part of this session, when if you were in Appropriations, or if you were in Health and Human Services, or anywhere near those two committees, when the Governor's proposal to cut Medicare and Medicaid funding. We had the not-for-profits lined up around the corner and down the street to testify against those changes and those cuts. Those same agencies are going to be impacted by your action if you don't approve the amendment that is before us. The cost of them, I suggest to you, will be equal to or greater than the cost cuts that they started at before we had the revenue adjustment that allowed the Governor to change his budget proposition before us. So, I would ask that you approve the amendment that has been presented to us this evening, and that we can move on and encourage our colleagues in the other chamber to do the same. Thank you very much.

The President requested the Sergeant-At-Arms escort the Senator from Penobscot, Senator **MITCHELL** to the rostrum where she assumed the duties as President Pro Tem.

The President retired from the Chamber.

The Senate called to order by President Pro Tem **BETTY LOU MITCHELL** of Penobscot County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Madame President, ladies and gentlemen of the Senate. In the course of the last week, maybe, I've learned a whole new vocabulary. I can now throw terms around with the best of them. Kotch, Churchill, phantom cases, thresholds, the pool, stacking, work on work. The problem is it's like learning a hundred words of French, and then getting on a plane for Paris. When you get off, you find that you're not all that functional. That's how I felt after my education on this issue, and frankly, I started out saying, 'Oh, please, oh, please, don't make me have to figure out Workers' Comp.' But by the end of the week, I realized that not only was this an enormous issue for the state, and not only was it very complicated, but everyone of us had to make the supreme efforts to figure out what this was all about. I want to sincerely thank members of both this and the other body for doing a tremendous job educating me about these issues. On Sunday, I called every name that had been

recommended to me as some kind of an expert on Workers' Comp. I called attorneys representing both labor and management. I called colleagues. I called the chief administrator. And had many, many long conversations. You can't have a conversation about this subject that lasts less than an hour. I discovered, for one thing, that you can't find an objective opinion. Everybody cares about this issue and everybody cares a lot. So, my theory was to take the two polar extremes and mix them up and find some middle ground. So, I did talk to representatives of those two extremes, and I learned a tremendous amount about how this very complex system works. But, frankly, the mixture of those people from those two ends of this debate didn't really lead me to a resolution. In fact, the longer I talked, the more and more layers we go into, the more confusing it became, and the more I realized that I was never going to learn enough about Workers' Comp to cast an intelligent vote on any of these bills or any of these amendments in the span of time that was available to us in the time frame of this dwindling session. So, at some point today, I reached the point where I finally found a test that worked for me. It had to do with cost neutrality. There were two fairly simple pieces of information that helped me to make up my mind. First of all, when we talk about cost, who do we trust on costs? These poor people at 5 Marine View Plaza in Hoboken, New Jersey, must be reeling tonight because all day long they have been getting e-mails and frantic phone calls from Maine saying, 'Here's another amendment, it's got all of these factors and considerations and implementation dates and retroactivity. How much does this one cost?' Sure enough, within an hour or so, we'd get another set of numbers. Then we'd look at the numbers and say, 'These can't be the right numbers, these numbers don't make any sense at all.' So, I still wasn't making a lot of progress in that direction until I found these two pieces of information. One was a chart that showed Maine Workers' Comp costs relative to all the other states in the country. We're number 6. The states behind those 6 top states are not just a little behind in cost, they are way behind. Their Workers' Comp costs are a lot lower than the top 6 states. The second chart was one that showed imports of foreign paper sold in the United States. It was huge. It had a bar graph and each bar was broken out by colors about which country that paper came from. But the bars were enormous and growing hugely. So to me, the combination of an economic challenge, or threat if you will, of something as basic to our economy as paper pouring into this state from other countries who do not have Workers' Compensation costs compared to the State of Maine with the 6th highest cost in the United States, was finally an answer that I could rest on and say cost neutrality is an essential ingredient of this debate and this decision. For me, because of my own inability to encompass that much information about the Workers' Comp system in a week, it will have to be my litmus test. I will be supporting the pending motion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. The good Senator from Hancock, Senator Goldthwait, is absolutely right. Depending on who you talk to, you can get any set of numbers you want. I want to be clear, because I didn't think it was clear to some of the members of the body, I want cost neutrality. The difference is, I think, before the Kotch decision we had cost neutrality. We had 7 out of 9 hearing officers using work-related injuries in a combined fashion. Out of

5 decisions, one was denied and 4 were approved. In November, as I've stated before, we had a decrease of 3.4 percent in the rates. I guess it troubles me a great deal to hear the suggestion that perhaps because of forces like NAFTA, forces that have nothing to do with the injured workers of Maine, that those injured workers are going to bear the brunt of decisions made far away. The one thing I'm confident of is that something will be decided and things will move forward. I guess I go back to my statement of last Thursday, Arthur Kotch is my constituent. I will fight for the rights that he put forward in his 8 year endeavor to be heard by the Workers' Comp Board, which, in fact, agreed with him that he had two injuries that needed to be put together. I understand that we can't keep the non work-related injuries combined. But I guess I still stand that when I go to look at the injured workers that I will undoubtedly run across in the next months, I'm going to be able to look them in the eye and say we did our level best to try to figure this out. I hope you all will have the same chance. I had a woman from outside of my district call me on Saturday night. She heard my voice and she said, 'You said something in the paper about the fact that we had a moral obligation to the injured workers of Maine.' She said, 'I've been crying ever since because you are the first person who has listened to me.' You know, this isn't simple. Everybody has got to figure out who comes higher up on their radar screen. But I guess I'm happy that the injured workers will be the highest on mine. I hope they will be the highest on yours.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. We've heard a lot tonight, both here and in our caucuses, about the sky. Someone said in our caucus that it's just a distinction between whether you think the sky is blue or whether you think the sky is green. That is how we're going to have to vote, because we have different perspectives. Clearly with the rhetoric that's been going on since this bill was first introduced, the sky is falling. We're here to try to do something about that. So the proposal here is to create a system, not just repealing Kotch, but to create a system of some type of price control to prevent businesses from having what might prospectively may be a cost increase on Workers' Compensation insurance. You know, I wish we had price controls on shirts, on dress shirts, in this country. Because if we had price controls on shirts in this country, we'd have 300 people employed past June in my city. But we're a free enterprise system. We should be very careful when we tinker with that, we know that. We've been tinkering with it for a long time. Millions upon millions of dollars in BETR reimbursements. Millions of dollars in ETIF. Millions of dollars in TIF. Now this handful of money which seems to be for these price controls for Workers' Compensation insurance. It's fine to head in that direction. Keep heading in that direction. But somewhere along the way free enterprise will just be gone. All of those controls will have to pick up the slack, I guess. So, Madame President, I hope you're here next year when we put in a bill for cost controls for shirts. That will do more to preserve jobs in this state than these price controls. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President, members of the Senate. Let me first begin by apologizing to Commissioner Landry, in my zeal the other night referring to the Department of Labor. Obviously that was incorrect. I was referring to the Department of Professional and Financial Regulation. I will say that, as we continue into the next administration, if the same approach occurs with that department that has this year, that perhaps it ought to be called the Department of Professional and Financial Un-regulation. My concern stems a long way. I find it interesting that we are debating Workers' Comp and hear really nothing, or very little, in this body and elsewhere on the other end of the hall, the second floor, and other locations, about the 700 percent increase that is occurring right now to facilities in this state because of liability insurance, the 25 percent yearly increase in some dealing with health care. We hear a lot of talk about that, but I don't hear anything about cost neutrality. This as an aside, I just thought I'd mention it for good measure. Then, I guess today in the Senate Democratic caucus, to hear that in effect the proposals that have come forth do more than simply deal with cost, because I thought that was what we were asked to do. In my opinion, we've been misled. Finally, I just want to close with something because I've heard it in this body and outside in the halls all day about the horrible benefits and the cost of the system and how high these benefits are that the injured workers are getting. I thought, just for the record, I'd go out and look. The maximum weekly rate under the Maine law is \$458.83. Our neighbor, those horrible liberals or conservatives, depending on which way you're looking at next door to us, is at \$923 for a maximum weekly rate. Looks like just about double what an injured worker can expect in New Hampshire, the state we always complain about having never given anything to its people. Then I've heard tonight over and over again how generous we are in partial benefit duration. We're at 364 weeks. Connecticut is at 520. Massachusetts is 520. Vermont has 330, but their benefits are actually higher than ours. So, I guess it depends on what figures you want to use and how you want to use them. Then the other thing you ought to remember is that there are people in this state who don't pay Workers' Comp, because they are exempt under the law. Farmers with less than a certain number of employees are exempt, and they can get a disability policy to cover their employees under the state law. Many of them in my area do that, of course, because they may have one employee or two, so they can benefit under the law. They use it. They are not covered at all by the Workers' Comp law. Then finally, let me just say, in jest perhaps, but maybe a little serious, that if we're really concerned about the cost of Workers' Comp, let's just abolish it. Abolish the entire chapter. Imagine all of the people we can get rid of in state government who deal with Comp. Let's go back to the old method prior to 1900 and let the employees be able to sue. That could be a starting point all over again and that certainly would be a place where people could learn to bargain, where, obviously, we're not getting there tonight. I think it's unfortunate, because whatever happens in this process, I think both sides are losing. I don't think it's a win-win here for either the employers or the employees of the business community or the labor movement. In the final analysis, it will be one more example, as it was in 1991, of the inability of the state to sit down, find a solution, and write the law. I'm convinced that if we were not under these terms right now, and under the conditions we're in now, that 5, 6, or 10 people could go into a room. We know what we want. It's finding someone to write it so that the courts will interpret it the way we want it. I don't think any one of us are

saying that we ought to let sport injuries be covered. I'm not. But on the other hand, I'm not saying, I don't think we're saying anyway, that if someone becomes totally and permanently disabled from injury at my place of business, partially, goes to another, and finally is totally incapacitated that that person shouldn't be covered. I don't think we're saying that. Somewhere in between there has to be an answer. But I know for sure tonight that we're not finding it.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Madame President. One Senator from Cumberland mentioned a moral obligation and I believe we have a moral obligation to both the employer and the employee. I feel as though the vote we're being asked to take today is, out of very sincere, good, well-reasoned respect for the workers and respect for the employers with the 6th in the nation costs, that we should ditch, leave behind, workers with multiple injuries. So, yes, we're honoring a moral obligation to employers. Where is the balance in trying to strike a balance between honoring our obligation to our employer and our employee? I don't see it. Also, I don't understand how the Churchill decision could have been on the books since 1999, but it's only in the last days of the session that we find out they are trying to change it because it has cost neutrality concerns. May be so. But then again we get back to how we were arguably misled. We need to reverse Kotch. We need to not include non-workplace injuries. You were successfully persuasive on that point. The only problem is, as we learn more about what was in the bill, we realized that it wasn't just that. It was more. Again, I come back to my opening point, which is, it's great that we're trying to find a compromise. Without much time, and totally relying on one source, which I think probably is a good source. I don't mean to condemn them as a source, but based on quick faxes back and forth today in the last minutes of our session, we're making a huge policy decision that wasn't even included in how the bill was originally billed. Again, it was billed as non-workplace injuries. Suddenly we're in the throws of a major policy discussion about our moral obligation to both workers and employers. We're all, as the Senator from Hancock, Senator Goldthwait, has said spending the time reading the case law, trying to figure out permanent, 25 percent, all the figures related to Workers' Comp. To read the case law is to become really dizzy, really fast, and go back and read it 10 times and try to understand it. What are we doing? Why are we doing it this way? The case has been on the books since 1999. If, in fact, it isn't cost neutral, why don't we already know that? I think it's probably not cost neutral. I think we probably have to address limited worker recovery because of our costs. We're trying to find a balance. We have to honor obligations to both the employer and the employee. Here, in the last seconds of this session, we're being asked to simply decide to forget all pre-2004 multiple workplace injuries. Maybe that is where we should go. Maybe there is a way in the interim to get the data or insert a sunset. Somehow call some sort of time-out that honors our goals of cost neutrality pending our gathering data, rather than just deciding okay in the last seconds on a very complicated issue that was billed as simply non-workplace injuries. We're going to add workplace injuries and decide that our moral obligation to the workers is for not. For those multiply injured workers, sorry. It's as though we're on a hike and suddenly some of us are really hurt. We've got to decide do we

go on? Do we try to help that person? These are ethical decisions. Reasonable people can decide both ways, but after a full discussion of the facts. I am simply asking, that rather than go on quick faxes from Hoboken, that we do what we need to do to reverse Kotch. We do what we need to do to make sure that Churchill remains cost neutral pending our gathering of data. How many of these workers are there? What are their expected costs? What would be the price increase for the employer? After full discourse, civil discourse, where do we have to find some common ground based on the facts rather than quick faxes from Hoboken? It's really what we're doing, making incredibly important ethical decisions. It's a good one to help the employer, but I don't think it's a complete one because there are employers and there are employees and we're all in this state together. That's where I'm coming from and I appreciate your listening. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Madame President, men and women of the Senate. I want to take us back, I guess, to where we started this discussion and I want to address this issue of being misled. It is not my intention to mislead anyone in terms of what this amendment does. But it does matter, if you believe the sky is blue or the sky is green, where you begin in this process. If you begin in this process where I am, which is that Kotch said that non work-related injuries and work-related injuries can be combined to equal an opportunity for durational benefits, than this amendment added to the amendment from the other body reverses that. If you believe, as I do, that if we are going to provide an opportunity for two unrelated, as a result of work, compensated injuries to be added together to, in fact, hit that threshold. We need to do that prospectively in order to allow businesses to look at what the costs are going to be. To allow the cost to increase gradually, and at this point, be cost neutral, then you will vote in support of this amendment. If you are concerned that schools, towns, hospitals, and other non-profits that do not receive BETR. That do not receive TIF, but are living on the hard earned property tax dollars and other dollars that are available to them. They are, in fact, self-insured and they are paying for dollar for dollar on these increases, and you're concerned about them, then you will vote in favor of this amendment. We have heard examples of if a person works in my business and has an injury and has worked in another business and has an injury and is disabled, of course we're going to cover that. Well, that's not as simple as it seems. Was that other injury, in fact, a compensable injury? Was it someplace else? Was it self-employed? All those other issues that we've brought up. We need to gather the data. We need to know what it means. We need to know what the costs are going to be and we need to do this prospectively. Again, good people will disagree. There are other people who believe in their heart of hearts, and I accept that and respect that, that what this proposal that is before you does is to pull back the benefits from workers. I suggest to you that it, in fact, based on my position and the position that I have taken, it moves workers forward in a gradual way that does not harm businesses. I would urge you to support this amendment. Thank you.

The President Pro Tem requested the Sergeant-At-Arms escort President **BENNETT** of Oxford where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Penobscot, Senator **MITCHELL** to her seat on the floor.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#330)

YEAS: Senators: BROMLEY, CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MCALEVEY, MILLS, MITCHELL, NUTTING, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: BRENNAN, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, MARTIN, MICHAUD, O'GARA, RAND, TREAT

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **ADOPT** Senate Amendment "A" (S-609) to House Amendment "A" (H-1101), **PREVAILED**.

House Amendment "A" (H-1101) as Amended by Senate Amendment "A" (S-609) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-572) AND HOUSE AMENDMENT "A" (H-1101) AS AMENDED BY SENATE AMENDMENT "A" (S-609) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Resolve, Regarding Legislative Review of Chapter 296: Patient Brochure and Poster on Dental Amalgam and Alternatives, a

Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1637 L.D. 2140
(S "A" S-582 to C "A" H-1046)

Tabled - April 8, 2002, by Senator **MARTIN** of Aroostook

Pending - **FURTHER CONSIDERATION**

(In Senate, April 4, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "A" (S-582)** thereto, in **NON-CONCURRENCE**.)

(In House, April 8, 2002, Resolve and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** from whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "A" (S-582)** thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (H-1046) as Amended by Senate Amendment "A" (S-582) thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Senate Amendment "A" (S-582) to Committee Amendment "A" (H-1046).

On further motion by same Senator, Senate Amendment "A" (S-582) to Committee Amendment "A" (H-1046) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "B" (S-608) to Committee Amendment "A" (H-1046) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I don't think I'm going to go through everything we've tried to do with amendments on this particular bill because we tried to take away all the objections that someone had along the way and how we're going to pay for the brochure. What this amendment does is bring it back to the original position that the bill left the committee. So we're going back to the original posture of the committee, which was unanimous. The only thing we're doing now is removing the emergency from it. Otherwise, it remains as is. So I would urge you to adopt Senate Amendment "B" (S-608).

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. May I pose a question through the chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SMALL:** Since we've gone through many transformations of this bill, could the good Senator from Aroostook, Senator Martin, refresh our memories as to which funding source he is going to take the money from now and is the money a direct appropriations or will the dentists have to pay this back?

THE PRESIDENT: The Senator from Sagadahoc, Senator Small poses a question through the Chair to anyone who may wish to

answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. Let me just try to give you a little scenario. This is the funding for the brochure that is required under the rules adopted by the committee last year. The funding mechanism will be as it was when it left the committee. The money will be borrowed from the Rainy Day Fund, and will be returned in its entirety to that fund by the sale of the brochure and that money will come from the dentists themselves. That was what was originally agreed to by the Dental Association. I suspect there are dentists that are not very happy about it, but that is how it will be paid. In final analysis, you and I will all pay for it when we have our teeth fixed. But this is the funding mechanism and how it came out of the committee.

The Chair ordered a Division. 21 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **ADOPT** Senate Amendment "B" (S-608) to Committee Amendment "A" (H-1046), **PREVAILED**.

Committee Amendment "A" (H-1046) as Amended by Senate Amendment "B" (S-608) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "B" (S-608) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Resolve

Resolve, to Establish and Fund the Task Force on Rail Transportation

H.P. 1735 L.D. 2214

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce
H.P. 944 L.D. 1258
(H "B" H-1027 to C "C" H-839)

Tabled - April, 4, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-839) AS AMENDED BY HOUSE AMENDMENT "B" (H-1027)** thereto, in concurrence.)

(In House, April 4, 2002, **PASSED TO BE ENACTED.**)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Protect Retirement Income
H.P. 1503 L.D. 2006
(C "A" H-873)

Tabled - March 15, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 12, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-873)**, in concurrence.)

(In House, March 15, 2002, **PASSED TO BE ENACTED.**)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act to Amend Maine State Retirement System Statutes
H.P. 1686 L.D. 2185

Tabled - March 25, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 20, 2002, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, March 25, 2002, **PASSED TO BE ENACTED.**)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act Concerning Disability Retirement Benefits under the Maine State Retirement System
S.P. 816 L.D. 2197

Tabled - March 26, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 21, 2002, **PASSED TO BE ENGROSSED.**)

(In House, March 25, 2002, **PASSED TO BE ENACTED.**)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Resolve

Resolve, to Allow Julie Harrington to Sue the State
H.P. 1659 L.D. 2165
(C "A" H-1045)

Tabled - April 8, 2002, by Senator **DAGGETT** of Kennebec

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, April 3, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045)**, in concurrence.)

(In House, April 4, 2002, **FINALLY PASSED.**)

On motion by Senator **DOUGLASS** of Androscoggin, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **WOODCOCK** of Franklin, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMUNICATIONS

The Following Communication: S.C. 736

**120TH LEGISLATURE
SENATE OF MAINE
OFFICE OF THE PRESIDENT**

April 8, 2002

Honorable Pamela L. Cahill
Secretary of the Senate
120th Legislature
Augusta, ME 04333

Dear Madam Secretary:

Please be advised that I have appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill, " An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores." (H.P. 1623) (L.D. 2123)

Senator Goldthwait of Hancock
Senator Daggett of Kennebec
Senator Mills of Somerset

Sincerely,

S/Richard A. Bennett
President of the Senate

READ and ORDERED PLACED ON FILE.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Control Internet 'Spam'"

H.P. 1538 L.D. 2041

Had the same under consideration, and asked leave to report:

That they are **UNABLE TO AGREE.**

On the Part of the Senate:

Senator SHOREY of Washington
Senator TREAT of Kennebec
Senator SMALL of Sagadahoc

On the Part of the House:

Representative GOODWIN of Pembroke
Representative LaVERDIERE of Wilton
Representative BERRY of Belmont

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED**

Report **READ** and **ACCEPTED**, in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Senator **TURNER** of Cumberland was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **DAGGETT** of Kennebec, **ADJOURNED** to Tuesday, April 9, 2002, at 9:00 in the morning.