

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

In Senate Chamber
Monday
April 1, 2002

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

Prayer by Reverend Dr. Jesse James, Riverview Community Congregational Parish in Gardiner.

REVEREND JAMES: Let us pray. Heavenly Father, we come before You today, in this moment of prayer, to ask You to bless and guide these great leaders of our state, here assembled. Give them Your strength to meet the challenge of their ever-increasing responsibilities and grant them Your wisdom to discharge their duties. Most merciful God, give to the members of this body and their staff Your peace and comfort for now and always. We ask all these things in Your name. Amen.

Pledge of Allegiance led by Senator David L. Carpenter of York County.

Reading of the Journal of Wednesday, March 27, 2002.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Administration of Medicine in the School Setting, a Major Substantive Rule of the Department of Education (EMERGENCY)

H.P. 1608 L.D. 2106

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-923)** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-924)** (1 member)

In House, March 21, 2002, Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

In Senate, March 22, 2002, Reports **READ**. On motion by Senator **MITCHELL** of Penobscot, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

On motion by Senator **MITCHELL** of Penobscot, the Senate **ADHERED**.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Regarding Legislative Review of Chapter 3: Maine Clean Elections Act and Related Provision Amendments, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices (EMERGENCY)

H.P. 1684 L.D. 2183

Reported that the same **Ought to Pass**.

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.

Divided Report

Seven members of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Stabilize the Funding of the Department of Inland Fisheries and Wildlife"

H.P. 1432 L.D. 1929

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1021)**.

Signed:

Senators:

CARPENTER of York
KILKELLY of Lincoln
WOODCOCK of Franklin

Representatives:

DUNLAP of Old Town
TRAHAN of Waldoboro
USHER of Westbrook
BRYANT of Dixfield

Five members of the same Committee on the same subject reported in Report "B" that the same **Ought Not To Pass**.

Signed:

Representatives:

- CHICK of Lebanon
- CLARK of Millinocket
- HONEY of Boothbay
- TRACY of Rome
- McGLOCKLIN of Embden

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1022)**.

Signed:

Representatives:

- PERKINS of Penobscot

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**.

Reports **READ**.

Senator **CARPENTER** of York moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**, in concurrence.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **CARPENTER** of York to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**, in concurrence.

Senate

Ought to Pass As Amended

Senator LaFOUNTAIN for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Provide Maine State Retirement System Representation on the State Employee Health Commission"

S.P. 817 L.D. 2198

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-516)**.

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

READ ONCE.

Committee Amendment "A" (S-516) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-516)**.

Sent down for concurrence.

Senator YOUNGBLOOD for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Enhance Economic Development Capacity"

S.P. 337 L.D. 1144

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-517)**.

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

READ ONCE.

Committee Amendment "B" (S-517) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-517)**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

Off Record Remarks

Senator **KILKELLY** of Lincoln was granted unanimous consent to address the Senate on the Record.

Senator **KILKELLY**: Thank you, Mr. President, men and women of the Senate. Shortly we will, as papers pass back and forth, receive a sentiment from the other body that will be recognizing Roy Farmer of Wiscasset on receiving the 2001 Maine Businessman of the Year Award, presented by the National Republican Congressional Committee. That award is presented to someone who has really pulled together a life that is involved in the community as well as business and family and is an example for others to follow. I am delighted that Mr. Farmer is here today and is joined by family and members of his office. I understand that this is only the 2nd time in the history of the office that it has been closed and that we can all rest assured that there is a note pad by the door so if anyone shows up they will still be able to get

the kind of attention and service that they expect when they go to this business. When I present sentiments back home, one of the things that I generally talk about is the fact that the legislature spends a great deal of time dealing with the things that aren't going quite right; trying to correct things; trying to deal with various issues; trying to deal with various problems. The delight about doing sentiments is that it gives us an opportunity to recognize and celebrate things that are going very well, indeed, and is a way to hold up as an example of Maine, the way life should be, and the things that are going on in our state. Roy Farmer's life actually is a wonderful story of Maine. A lifelong Wiscasset resident, he graduated from Wiscasset Academy, served in the Army, came back from the Army and went to the University of Maine, and then came back to Wiscasset and started his business in 1953. He has been married for 50 years to his wonderful wife, Joanne, who is with him today, and they have a daughter, Kim, and 2 grandchildren. That's plenty to do. But instead of just saying, 'well that's enough and I'm just going to take care of my business and take care of my family,' he also served as a Selectman, a School Trustee, a Trustee of the Wiscasset Library, on the board of Bath Savings, for 30 years was the Bail Commissioner, was part of the Wiscasset Fire Society, a Mason, a member of the American Legion, and a member of St. Phillips's Church. He also took time, in the 98th legislature, to serve in the other body. I am delighted that he and his family and entire office staff are with us today and that we can take this opportunity to celebrate a wonderful person, a wonderful family, a wonderful business, and I would have to say, a wonderful part of Lincoln County. I hope you will join me in recognizing the honorable Roy Farmer and family and office.

Joint Resolution

The following Joint Resolution: H.P. 1715

THE PRESIDENT: The Chair is pleased to recognize with us today in the rear of the chamber Roy E. Farmer of Wiscasset, who is accompanied by his family and friends. Will they all please rise and receive the greetings of the Senate.

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **DAVIS** of Piscataquis,
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:

PAPERS FROM THE HOUSE

**JOINT RESOLUTION RECOGNIZING
DR. MERRILL S.F. GREENE
OF LEWISTON,
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 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, thus gaining the name for the conflict of the First World War; 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 Dr. Merrill S.F. Greene, of Lewiston, is a surviving veteran of the Great War 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 Dr. Merrill S.F. Greene 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 a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to Dr. Merrill S.F. Greene with our best wishes and appreciation.

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

READ and **ADOPTED**, in concurrence.

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. 1716

**JOINT RESOLUTION RECOGNIZING WILLIAM TYLER,
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 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, thus gaining the name for the conflict of the First World War; 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 William Tyler, now of Benton, Maine, who enlisted in Winslow, Maine, is a surviving veteran of the Great War 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. William Tyler 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 a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to Mr. William Tyler with our best wishes and appreciation.

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

READ and **ADOPTED**, in concurrence.

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. 1717

**JOINT RESOLUTION RECOGNIZING LEON DAVIS,
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 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, thus gaining the name for the conflict of the First World War; 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 Leon Davis, now of Barnard, Vermont, who enlisted in Berwick, Maine, is a surviving veteran of the Great War 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. Leon Davis 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 a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to Mr. Leon Davis with our best wishes and appreciation.

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

READ and **ADOPTED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act Regarding the Requirements for Documenting Pretest and Post-test Counseling for HIV Tests"

H.P. 1651 L.D. 2157

Reported that the same **Ought to Pass**.

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

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

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

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Adopt the Model Business Corporation Act in Maine"

H.P. 283 L.D. 361

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1037)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)**.

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

READ ONCE.

Committee Amendment "A" (H-1037) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1037)**, in concurrence.

The Committee on **TAXATION** on Bill "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

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1029)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1029)**.

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

READ ONCE.

Committee Amendment "A" (H-1029) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1029)**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Prohibit a Convicted Sexual Offender From Acquiring Custody or Obtaining Visitation Rights Without Adult Supervision"

H.P. 1468 L.D. 1969

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-1033)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1033)**.

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

READ ONCE.

Committee Amendment "C" (H-1033) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1033)**, in concurrence.

The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Commissioner of Administrative and Financial Services to Purchase Land in Machias, Maine

H.P. 1631 L.D. 2134

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1030)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1030)**.

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

READ ONCE.

Committee Amendment "A" (H-1030) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1033)**, in concurrence.

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Motor Vehicle Laws"

H.P. 1485 L.D. 2018

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1032)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)**.

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

READ ONCE.

Committee Amendment "A" (H-1032) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **NATURAL RESOURCES** on Resolve, to Establish the Task Force to Study the Effectiveness of Stormwater Management in Developed Watersheds (EMERGENCY)

H.P. 1687 L.D. 2186

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1034)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1034)**.

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

READ ONCE.

Committee Amendment "A" (H-1034) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1034)**, in concurrence.

The Committee on **TAXATION** on Bill "An Act to Provide Flexibility in the Rate of Interest Charged on Delinquent Taxes" (EMERGENCY)

H.P. 1661 L.D. 2166

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1028)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1028)**.

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

READ ONCE.

Committee Amendment "A" (H-1028) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1034)**, in 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 Measure

An Act to Restrict the Availability of Products with Excessive Levels of Arsenic
H.P. 1447 L.D. 1944
(C "A" H-937)

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

Emergency Measure

An Act to Improve Access to Prescription Drugs for Persons who are Elderly or Disabled
S.P. 777 L.D. 2113
(C "A" S-506)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **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:

ENACTORS

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

Emergency Measure

An Act Providing for the Supply of Water to the City of Brewer
S.P. 794 L.D. 2147
(S "A" S-510 to C "A" S-498)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Provide Funding for the Office of the State Fire Marshal and the Maine Fire Training and Education Program
H.P. 1704 L.D. 2201

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in 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, Establishing the Blue Ribbon Commission to Address the Financing of Long-term Care
H.P. 1436 L.D. 1933
(H "B" H-1019 to C "A" H-910)

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

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)

On motion by Senator **GOLDTHWAIT** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in 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:

**Pursuant to Constitution
Public Land**

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands
S.P. 805 L.D. 2168
(C "A" S-511; S "A" S-513)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 31 Senators having voted in the affirmative and 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:

REPORTS OF COMMITTEES

House

**Ought to Pass
Pursuant to Joint Order**

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Amend the Charter of the Winterport Water District" (EMERGENCY)

H.P. 1719 L.D. 2207

Reported that the same **Ought to Pass**, pursuant to Joint Order 2001, H. P. 1708.

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

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

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

**Ought to Pass
Pursuant to Resolve**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "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

Reported that the same **Ought to Pass**, pursuant to Resolve 2001, chapter 10.

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

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

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:

ENACTORS

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

Acts

An Act Regarding Child Care Facility Laws
H.P. 1523 L.D. 2027
(C "A" H-972)

An Act to Increase the Cap on Funds Available through the Regional Economic Development Revolving Loan Program
H.P. 1709 L.D. 2203

An Act to Implement Municipal Recommendations Regarding Surface Water Use on Great Ponds
H.P. 1712 L.D. 2204

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

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

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

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

An Act Relating to Subdivision Review and Title Search Procedures

S.P. 779 L.D. 2119
(S "A" S-487 to C "A" S-472)

On motion by Senator **TREAT** of Kennebec, **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:

ENACTORS

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

Resolves

Resolve, to Further Protect Endangered and Threatened Species Through Better Communication

H.P. 1603 L.D. 2104
(C "A" H-1018)

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

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

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

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

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/27/02) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Dissolve the Ministerial Accounts in the Town of Readfield's Trust Fund"

H.P. 1416 L.D. 1860

Majority - **Ought to Pass** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - February 27, 2002, by Senator **PENDLETON** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, February 26, 2002, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, February 27, 2002, Reports **READ**.)

Senator **TREAT** of Kennebec moved to **TABLE** until Later in Today's Session, pending the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

The Chair ordered a Division. 30 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **TABLE** until Later in Today's Session, pending the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/19/02) Assigned matter:

SENATE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act to Prevent Mercury Emissions when Recycling and Disposing of Motor Vehicles"

S.P. 719 L.D. 1921

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-476)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-477)** (6 members)

Tabled - March 19, 2002, by Senator **MARTIN** of Aroostook

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476)** Report

(In Senate, March 19, 2002, Reports **READ**.)

Senator **SMALL** of Sagadahoc moved to **TABLE** until Later in Today's Session, pending the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476)** Report.

The Chair ordered a Division. 30 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **SMALL** of Sagadahoc to **TABLE** until Later in Today's Session, pending the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS**

AMENDED BY COMMITTEE AMENDMENT "A" (S-476) Report, PREVAILED.

The Chair laid before the Senate the following Tabled and Later (3/25/02) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study"

S.P. 789 L.D. 2133

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-486)** (5 members)

Tabled - March 25, 2002, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, March 25, 2002, Reports **READ**.)

Senator **TREAT** of Kennebec moved to **TABLE** until Later in Today's Session, pending the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The Chair ordered a Division. 29 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator **TREAT** of Kennebec to **TABLE** until Later in Today's Session, pending the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/25/02) Assigned matter:

An Act to Control Internet "Spam"

H.P. 1538 L.D. 2041
(C "A" H-906)

Tabled - March 25, 2002, by Senator **SHOREY** of Washington

Pending - **ENACTMENT**, in concurrence

(In House, March 22, 2002, **PASSED TO BE ENACTED**.)

(In Senate, March 19, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906)**, in concurrence.)

On motion by Senator **SHOREY** of Washington, 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-906), 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-906), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-520) to Committee Amendment "A" (H-906) **READ**.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. All too often we have pieces of legislation that come in front of us and we pass it and then a year later we say, 'well, through unintended consequences, there is something wrong with this,' and we have to revisit it. The Utilities Committee came out with a unanimous report on this and worked very hard on it. However, there are some unintended consequences that we can deal with now. That is why I moved, at enactment, to table it and put forth an amendment which I feel will help serve some of the things that they want to do yet still protect the businesses in the State of Maine. What I am talking about, specifically, and what this amendment does and what this bill does. I'm sure my good friend will speak further on this. This bill calls for all e-mails that come through as an advertisement to have a ADV on it. It also calls for all x-rated e-mail to have an adult ADV. My amendment would leave the adult ADV in there because that definitely should be tagged. But where the problem comes is when you have an ADV on in the State of Maine, and this would be businesses within the State of Maine who the Attorney General would be prosecuting, they would have to put an ADV in front of anything they send out. If you know anything about computers or e-mail, there are filtering systems that can be put in place. Once these filtering systems are in place, you put the Maine advertisers and Maine businesses at a distinct disadvantage. This is not a federal law, this is a state law. This would target only Maine businesses. Peggy Schaffer had asked Harry Lanphear, our Chief Information Officer, what he thought about this bill. He didn't testify at the hearing because he didn't want to take a position before he could research the topic a little bit more so he could determine what was best for the State of Maine. It is his understanding that states have had very limited success with the enforcement of these internet laws. I know, myself, that I have never seen a ADV or an adult ADV on any mail that I've ever received. He also seemed to worry about the ADV label causing legitimate e-mails to be inadvertently disqualified and not seen. He summarized by saying that he would strongly urge Maine to wait for federal legislation in this area. While internet commerce issues will continue to be difficult to regulate because of the global reach of the internet, federal legislation would help ensure consistent regulation throughout the country while providing us with a more effective means of enforcement. What he is saying, basically, is that we should not even pass this at all. But if it's not possible, given the status of L.D. 2041, senate amendment "A" should be considered as it is more consistent with other states' efforts. Again, what I am trying to do is look out for the small businesses that have the opportunities to reach millions and millions of people

on the internet, but they will be shut out, just in the State of Maine, nowhere else, just in the State of Maine. So I would ask you to adopt senate amendment "A" and go forward with this legislation. 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 actually had hoped that the good Senator from Oxford, Senator Ferguson, would precede me, as the chair of the committee, but perhaps our lights got mixed up in the transmission here. But I will start off the presentation and I'm sure that the good Senator will correct any mistakes I make and fill in the blanks with anything I leave out. I would hope that you would vote against this proposed amendment. As was stated by the Senator from Washington, Senator Shorey, this is a unanimous committee report and it is not as if the committee did not have before it the proposal to take out from the Committee Amendment the letters 'ADV'. I have just had delivered to my desk about one minute ago the amendment that the Senator from Washington, Senator Shorey, wishes to put on, so I have not had the opportunity to actually read the additional things that this amendment does, which is change the definition of 'commercial speech', among other things. So I cannot speak to those parts of the amendment. I had heard that the amendment was going to include, that it would take out, the provision that requires ADV in the subject line of any advertisement sent over the internet as an e-mail. So it is to that part of the amendment that I will speak. The committee really worked hard on this bill and it was not as if those who are advancing this amendment, which in the committee was AOL, Time Warner, and other large internet providers. We did look at this as a possibility and rejected it, unanimously. In my opinion, we did so for a very good reason. That is that taking this provision out of the bill will, in many ways, destroy the effectiveness of the legislation. Let's keep in mind what the point of this legislation is, just to start with. Every morning I turn on my e-mail, as I'm sure you do either in the morning or at night, and download the messages awaiting me. For some reason, for the last 4 or 5 months, those messages on my home e-mail have included about 99% spam and 1% communications from my constituents and from other real people. That 99% is substantially junk e-mail, some of which is pornographic, and I have no desire to open up that e-mail and find out exactly what it is. Some of that e-mail is masquerading under other peoples' e-mail addresses when it arrives at my home e-mail address. It doesn't say where it is coming from. It actually pretends to be coming from someone who is in my address book, for example. Others are more obviously advertisement. Some of it actually does come with the heading ADV or ADV and than the adult, which this bill would require if enacted into law. This piece of legislation does several things that are very helpful, I think, to those of us who are offended by such e-mails and those of us who would like to keep our children from having to see such e-mails. It puts into place requirements or provisions that allow citizen suits if the law is violated. It requires a place where you can go to get your name off these lists. One of the really terrible things that we found out in the committee, and this may be why my e-mail now is largely spam, is that if you ever click on something that is sent to you and it says 'do you want to be removed from this e-mail list, click here' you are most likely signing up for a perpetual e-mail list in the future because you have merely confirmed that you are a real

address and now everybody will send all their spam to you. This bill provides for an alternative way for you to get off those lists. Then, very specifically, it provides for designation as to whether or not this is an advertisement. In those e-mails, I do somewhat frequently get e-mails from L.L. Beans telling me about sales that are going on at L.L. Beans, 50% off women's clothing. Those are things I would like to open up, and if it said ADV on it and than said L.L. Beans 50% sale, I guarantee you that I click on that e-mail to check out what those savings are. This bill does not prevent me from doing that, but it gives me more choice in the matter. We are not the only state to have this provision, if we were to adopt it. In fact, some very large states already have this provision, including the state of California and the state of Pennsylvania. In addition, Wisconsin, Colorado, and Tennessee all have this provision. It is very much a constitutional provision, as far as we can determine. We had our staff look at the legal issues around this and I know that in the committee part of the arguments against this particular provision was that it was not part of a Washington state law that has been upheld. I would just point out to you that just because one law has been upheld because it was the first one to be taken to court does not mean that any other law, with a different provision, would not also be upheld. The committee felt quite comfortable, on both policy and legal grounds, adopting this provision as part of our attempt to address what is a growing problem in our homes. I would just say further that, although I do understand the concerns of anyone that has differing regulations in the State of Maine versus some other place, this is one example of a situation where we think it is unlikely that the federal government will act unless a certain number of states take the lead and just do something about it. The testimony before our committee was quite compelling. They were parents that don't have their own lobbyist up here on a daily basis telling you how to vote on this bill. But I can just tell you that it was very compelling testimony and we did have testimony from businesses and others that did support the bill in its current form. We worked very hard to amend it in ways that made it work well and be a practical piece of legislation. I think that the committee really did balance the issues very well and did something that made a lot of sense. So for those reasons, I would encourage you to vote against the pending motion because this amendment will, in fact, really hurt the effectiveness of this legislation.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. Rather than being redundant. My colleague, the Senator from Kennebec, Senator Treat, has done a great job and I'm certainly not going to say the same things she did. This is a unanimous committee report. We did work the bill very hard. There is a provision in here for civil penalties and also for the Attorney General to take action. But we know that the Attorney General could be flooded with claims, so the individual could take civil action if they so chose. Your service provider and you could have an agreement that they could let commercial e-mails go through without this ADV designation, but that probably would only be in just a few cases. I would urge you to vote against the pending motion so we can go on and enact the bill. Thank you very much.

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

Senator **SHOREY**: Thank you, Mr. President, men and women of the Senate. I would just like to clarify a few things. My amendment would still show the pornographic site as being ADV. That does not change that one bit. Unfortunately, the good Senator from Kennebec, Senator Treat, may never get to see her L.L. Beans ad, giving her the advertisement saying there is 50% off, because if you have a filter on your system, you wouldn't get any ADVs. None at all. Also there are other states that do have this. California is one of them. There was an interesting article in the L.A. Times earlier this week that talked about this specific law. The A.G. from California has never pursued one case; not one case has been pursued in this area. I think it's something that is going to put Maine at a disadvantage for its businesses, particularly in the small business arena that view this as an opportunity to advertise. There are various other associations that are against this. It's not just the internet people, it's the Maine Bankers Association, the Motion Pictures Association, the Association of Realtors. There are a variety of businesses and business groups that feel this is not the right way to do it.

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 Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Mr. President, men and women of the Senate. I didn't have a whole lot of interest in this bill originally because I wasn't sure what it was. I thought it had something to do with selling of this meat product that comes in a little square can that I grew up on. But I learned later what it was all about and I'm quite concerned about what is going on over the internet these days. I have 3 young children at home. Our internet mail is on at all times. We've got one of those cable services. We're quite concerned about what is coming though, particularly the flood of information. One of the things that I find really disturbing is that your computer is your property. The hard disk, whatever you add to your machine is your property. It is just as if you bought a piece of land and you came and found out that businesses decided to put up billboards on your property without asking your permission. It's your job now to go and knock them down. This is your property and somebody is taking advantage of your property. They are consuming it in some way. My real job, outside of the legislature, is dealing with these issues. It costs our institution tens of thousands of dollars in terms of upgrades and various things that we want to make sure doesn't come and hit the college campuses. So this is a small step and I think it is a significant step. I want to make sure that some of this information is filtered. We try to have filters. Filtering does not mean come in and dump mail in the trash. You can set up your filters however you want. You can specifically have a filter that says put it in my L.L. Beans sales folder. You can have a filter that says if it says anything that has to do with pornography, you can dump that in the trash. What we would like to do is be able to put it in a folder so that my wife and I can go through it. My wife is a big internet shopper. She does pay the sales tax for those items coming in. Trust me. The companies are not doing a lot to help us in that area. Regardless of that, we review those items, or she reviews them, and determines whether or not she wants to make purchases. So it ends up being our choice on what we want to

do, just like it is your choice when you get it in the mailbox. You can sit there, as I often do, with my bundle of mail. Before I go into the house, I stand in my garage and I flip the things into the trashcan and hope that maybe that was a very expensive piece that I didn't ask for. But the internet, of course, is very inexpensive and it is the way of the future for businesses. We want to make sure that we preserve and reserve our equipment and our property the way we want to be able to use it. So I would encourage the Senate to defeat this pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER**: Thank you, Mr. President, men and women of the Senate. I am a member of the hard working Utilities Committee. At the time, obviously, I was busy in another committee and sometimes I would come in and get caught up. I did vote for this in committee. But since then I've put my own computer to the test. The only way you can really filter is by deleting. If it says this is an adult advertisement, obviously you are going to delete it. If it is just something I don't recognize, I've just been deleting. It is much simpler that way until we find out a way to filter it at the source or at your web site host. You still have to go through the same motions. You can delete them all, take a look at it, or just delete it. It's gone. You still have to take and push that mouse around and delete. It just seems that we're trying to kill an elephant with a fly swatter or something when you should be able to recognize what it is you're getting on your e-mail. If you recognize it and you want it, you can open it. Other than that, I would suggest just deleting it. I don't think we need a law that would restrict legal advertisements. I do open some of those and I can see where the banks, the credit unions, the realtors, and that type would be restricted for the use of the e-mail. I would certainly hope that you would vote for the amendment when the vote is taken. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Washington, Senator Shorey to Adopt Senate Amendment "A" (S-520) to Committee Amendment "A" (H-906). 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 (#274)

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

NAYS: Senators: BRENNAN, BROMLEY, CATHCART, DOUGLASS, EDMONDS, FERGUSON, GAGNON, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, RAND, ROTUNDO, TREAT, WOODCOCK

ABSENT: Senators: DAGGETT, PENDLETON

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **SHOREY** of Washington to **ADOPT** Senate Amendment "A" (S-520) to Committee Amendment "A" (H-906), **PREVAILED**.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-9069) as Amended by Senate Amendment "A" (S-520) thereto, in **NON-CONCURRENCE**.

The Chair laid before the Senate the following Tabled and Later (3/26/02) Assigned matter:

JOINT ORDER - Directing the Joint Standing Committee on Education and Cultural Affairs to Report Out Legislation to modify both the valuation portion and the student enrollment portion of the School Funding Formula

H.P. 1707

Tabled - March 26, 2002, by Senator **MITCHELL** of Penobscot

Pending - **PASSAGE**, in concurrence

(In House, March 25, 2002, **READ** and **PASSED**.)

(In Senate, March 26, 2002, **READ**.)

Senator **MITCHELL** of Penobscot moved the Joint Order be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

The same Senator moved to **TABLE 1** Legislative Day, pending the motion by same Senator to **INDEFINITELY POSTPONE**, in **NON-CONCURRENCE**.

The Chair ordered a Division. 29 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **MITCHELL** of Penobscot to **TABLE 1** Legislative Day, pending the motion by same Senator to **INDEFINITELY POSTPONE**, in **NON-CONCURRENCE**, **PREVAILED**.

Off Record Remarks

On motion by Senator **DAVIS** of Piscataquis, **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:

REPORTS OF COMMITTEES

Senate

Divided Report

Sixteen members of the Committees on **BUSINESS AND ECONOMIC DEVELOPMENT** and **JUDICIARY** on Bill "An Act to Develop a Controlled Substances Prescription Monitoring and Intervention Program"

S.P. 786 L.D. 2131

Reported in Report "A" that the same **Ought Not to Pass**.

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford
BROMLEY of Cumberland

Representatives:

LAVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn
MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston
RICHARDSON of Brunswick
DORR of Camden
BRYANT of Dixfield

Nine members of the same Committees on the same subject reported in Report "B" that the same **Ought To Pass as Amended by Committee Amendment "A" (S-518)**.

Signed:

Senators:

SHOREY of Washington
YOUNGBLOOD of Penobscot

Representatives:

DUPREY of Hampden
THOMAS of Orono
HATCH of Skowhegan
CLOUGH of Scarborough
MURPHY of Kennebunk
MICHAUD of Fort Kent
MUSE of South Portland

One member of the same Committees on the same subject reported in Report "C" that the same **Ought To Pass as Amended by Committee Amendment "B" (S-519)**.

Signed:

Representative:

MORRISON of Baileyville

Reports **READ**.

Senator **RAND** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT NOT TO PASS**.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I would ask you to vote against this pending motion. What we are trying to do is develop a program. We are trying to develop a program that is going to help people. Where I come from, Washington County, we have a tremendous problem. This problem will not end until there is a way that we can, first of all, identify the supplier, identify the users, and try to help them. What we are looking to do with this is conduct a study on how to implement a program. This program already is very successful in Nevada. There are questions about confidentiality. There are questions that need to be answered. But if we don't have anybody to answer these questions, if we totally dismiss this right out of hand, these questions are not going to get answered. So I would ask you, respectfully, to reject this motion and go with the Ought to Pass as Amended by Committee Amendment "A" Report. Thank you.

On motion by Senator **SHOREY** of Washington, 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 Cumberland, Senator Rand.

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. L.D. 2131 is, I think, a well meaning attempt to solve a problem that actually came to everyone's attention in a hard way, in a severe way, with the Oxycontin problem that exists predominantly in several of the counties in Maine. I think that this bill goes much too far. What it would basically entail is that all schedule 2, 3, and 4 drugs that are prescribed to Maine citizens would, through various means, end up in a database. This database could be accessed by health officials to see whether someone is doctor shopping. If you did have a problem with Oxycontin and you went to 5, 6, 8, or 10 different doctors around your community or around the state and somehow got prescriptions for this particular drug, because you had a problem, this would show up on the database. The question is, what would happen? We were told that this would not be a bill that involved punitive measures or law enforcement. It was supposed to be a guide for physicians to assist their patients who may have a drug problem or who may be acquiring these prescription drugs so that they can sell them. The committees listened to a lot of testimony. As you can see, the majority came down on the side that this really didn't seem to be the way to approach the problem. One of the questions that was raised, and to my knowledge not satisfactorily answered, was what to do about physicians who seem to be writing too many of these prescriptions? The other questions that were brought up were; why is it anybody's business if your child happens to be on Ritalin? Or if your wife

or your husband is on Zoloft or some other antidepressant-type drugs? One of the things that I requested at the public hearing was a list of all schedule 2, 3, and 4 drugs. It was given to us, but the generic names were not really written. If this bill were just limited to schedule 2 drugs, that would be one thing. But it is schedule 3 and 4 also. If somebody takes a sleeping pill, has a sleeping pill prescription, that would be a matter of record that different health officials could access. I'm still not clear where law enforcement comes in and whether law enforcement can access this or not. As I said when I started, I believe that the idea behind this bill was very well-meaning, but I think that the price that we will be paying here to possibly, possibly deal with this problem is a very high one. So I would ask you to stay with the majority and accept the Ought Not to Pass Report. If this is such a good idea, I think that maybe next session somebody could bring in a pared down version. I still have a real problem with having my medical drug history, and everyone else's, accessible on a computer to certain people. So again, I ask you to, please, accept the Ought Not to Pass Report.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator McAlevey.

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I concur with both previous Senators. This is a major problem, Oxycontin, especially in Washington County. I don't want to cause a stir, but why are we doing this now? We passed a bill in the first session of this legislature, sponsored by the department and the MDEA, which authorized the Pharmacy Board to collect this data. They are doing it now. They have been doing it. There are some very strict guidelines. If they determine a person has 3 or more prescriptions throughout different parts of the state for a schedule 2 drug only, which is a narcotic, they have the authority, they are not mandated, to notify the Department of Health and law enforcement. This was part of a package where we instituted tamper-free prescription pads as well as trying to identify people who are doctor shopping for this reason. I would prefer that people seek treatment, but you have to remember that there is a certain segment of our society that doesn't use the stuff. They doctor shop for only one purpose, financial gain. That is their business. They are not users. So this is already happening. It is in the statutes. It has been working. How well it is working I have no idea. In fact, I think our committee might have even grandfathered it to come back and report back to us. I do know that there was a reporting factor to it. I'll be glad to see that you get information on that once the report comes back. So it's already being done. The bent of this was not solely to be prophylactic in terms of trying to help people who are addicted. It was to identify people who are abusing the system. It is permissive. It allows the Pharmacy Board to take that information. If a person has 3 or more doctors that they use to get these prescriptions, only schedule 2 drugs, they then have the authority to report it to the Department of Health or law enforcement or both. My recommendation would be to see how this is working out, take a look at what happens over the next year, and then perhaps fine tune that legislation to accomplish the laudable merits of what this bill is trying to get at as far as trying to help people. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I do agree with the Senator from Cumberland, Senator Rand, regarding her comments on the bill in front of you today and particularly the requirement that it track all schedule 2, 3, and 4 prescriptions. On that basis, I would also be voting against L.D. 2131. If there was a proposal that didn't address scheduled drugs in that manner, that left a greater latitude as to what was going to be tracked and how that was going to be followed, I think it would go a long way towards beginning to address some of the issues regarding abuse of prescription drugs, I would say in some areas of our state, but frankly, it is in all areas of our state. If you don't have the problem now, you're going to before long. For that reason, I would urge that you do defeat the pending motion so that we can go on to discuss the merits of the Minority Report, which actually solves all the problems raised by the good Senator and to me would be a good step forward in addressing this issue.

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

Senator **SHOREY:** Thank you, Mr. President. The good Senator from York, Senator McAlevey, had talked about the bill that passed previously with the Pharmacy Board. To give you an idea of what the Pharmacy Board does, it has 2 investigators that travel throughout the state and go to every pharmacy, by hand, collecting the information. So there is no real central data base. Also the good Senator from Cumberland, Senator Rand, had mentioned quite a few of the problems that we heard during the testimony. The Business and Economic Committee had weeks of testimony on this. We heard a lot of concerns and problems and that is why I request you reject the motion so that we can discuss the committee amendment, which I feel will satisfy a lot of questions you may have in your mind. There are some questions in need of answers. I feel we can do that. So I would request you to reject the pending motion and move on. Thank you.

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

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. In another part of my life, with a different hat on, I work for the Maine Hospice Council. I'm not speaking on behalf of the council, but I just wanted that to be known. One of the issues that folks who are dealing with end-of-life-care are very concerned about is this whole issue of pain medication and how pain medication is tracked. Anything that discourages doctors from adequately addressing the pain for folks, particularly at the end of their life, we need to be concerned about. Not to say that there are not obvious very, very serious issues in terms of prescriptions being abused and certainly the doctor shopping issue that the good Senator raised. That makes sense. If someone has 3 different physicians, all prescribing the same thing, that is definitely a very significant issue. But I just want us to make sure that, as we're doing this kind of monitoring, that we are doing it in a way that is not going to come back on physicians in a way that says, 'in your practice you are prescribing an inordinate amount of a particular drug or whatever' because it maybe that in that particular practice there are lots of folks who are dealing with very significant pain at the end of their life. The goal of end-of-life-care is to keep people as comfortable as

possible. One of the things that I just want us to always keep in mind as we're working on these issues is that these drugs are designed for a particular purpose, for a very important purpose, and we are walking a very fine line between monitoring folks who may, in fact, be abusing those prescription drugs and people who are, in fact, using them for very good reasons. So we need to just keep that in mind. I think the efforts of the previous bill are much more in line with that in terms of looking at if there are prescriptions from a number of physicians. It seems to me that we ought to let that go forward first. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Rand to Accept Report "A", Ought Not To Pass. 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 (#275)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DOUGLASS, EDMONDS, FERGUSON, GAGNON, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, NUTTING, O'GARA, RAND, ROTUNDO, TREAT, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: CARPENTER, DAVIS, GOLDTHWAIT, MICHAUD, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: DAGGETT, MILLS, PENDLETON

20 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **RAND** of Cumberland to **ACCEPT** Report "A", **OUGHT NOT TO PASS, PREVAILED.**

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator LONGLEY for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Support a Continuum of Quality Long-term Care Services" (EMERGENCY)

S.P. 722 L.D. 1924

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-523).**

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

READ ONCE.

Committee Amendment "A" (S-523) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523).**

Sent down for concurrence.

Senator EDMONDS for the Committee on **LABOR** on Bill "An Act to Address the Unfunded Liability of the Maine State Retirement System and the Equity of Retirement Benefits for State Employees and Teachers" (EMERGENCY)

S.P. 819 L.D. 2199

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-521).**

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

READ ONCE.

Committee Amendment "A" (S-521) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-521).**

Sent down for concurrence.

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:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator LONGLEY for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Reduce Medical Errors and Improve Patient Health"

S.P. 419 L.D. 1363

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-527).**

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

READ ONCE.

Committee Amendment "A" (S-527) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527)**.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce"

H.P. 944 L.D. 1258

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-839)**.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township

MATTHEWS of Winslow

HUTTON of Bowdoinham

NORTON of Bangor

SMITH of Van Buren

TARAZEWICH of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senators:

TURNER of Cumberland

SAWYER of Penobscot

Representatives:

TREADWELL of Carmel

MacDOUGALL of North Berwick

DAVIS of Falmouth

CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE**

AMENDMENT "C" (H-839) AS AMENDED BY HOUSE AMENDMENT "B" (H-1027) thereto.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Protect the Rights of Maine Citizens Under Collective Bargaining Agreements" (EMERGENCY)

H.P. 1595 L.D. 2098

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-887)**.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township

MATTHEWS of Winslow

HUTTON of Bowdoinham

NORTON of Bangor

SMITH of Van Buren

TARAZEWICH of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senators:

TURNER of Cumberland

SAWYER of Penobscot

Representatives:

TREADWELL of Carmel

MacDOUGALL of North Berwick

DAVIS of Falmouth

CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)**.

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Pending - **PASSAGE AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1008)**, in concurrence

(In House, March 25, 2002, **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1008)**.)

(In Senate, March 26, 2002, Report **READ** and **ACCEPTED**. Joint Study Order **READ**. Committee Amendment "A" (H-1008) **READ** and **ADOPTED**, in concurrence.)

On motion by President Pro Tem **MICHAUD** of Penobscot, Joint Study Order and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create the Office of Program Evaluation and Government Accountability"

H.P. 1695 L.D. 2193

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1039)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1039)**.

Report **READ**.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF REPORT**, in concurrence.

On motion by President Pro Tem **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT STUDY ORDER - Relative to establishing the Committee on Workforce Investment

H.P. 1682
(C "A" H-1015)

Tabled - March 27, 2002, by President Pro Tem **MICHAUD** of Penobscot

Pending - **PASSAGE AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1015)**, in concurrence

(In House, March 26, 2002, **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1015)**.)

(In Senate, March 27, 2002, Report **READ** and **ACCEPTED**. Joint Study Order **READ**. Committee Amendment "A" (H-1015) **READ** and **ADOPTED**, in concurrence.)

On motion by President Pro Tem **MICHAUD** of Penobscot, Joint Study Order and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

ORDERS OF THE DAY

On motion by President Pro Tem **MICHAUD** of Penobscot, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT STUDY ORDER - Relative to establishing the Task Force to Study the Creation of a Registry of Personal Care Attendants
H.P. 1671
(C "A" H-1008)

Tabled - March 26, 2002, by President Pro Tem **MICHAUD** of Penobscot

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:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Stabilize the Funding of the Department of Inland Fisheries and Wildlife"
H.P. 1432 L.D. 1929

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-1021)** (7 members)

Report "B" - **Ought Not To Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-1022)** (1 member)

Tabled - April 1, 2002, by Senator **TREAT** of Kennebec

Pending - motion by Senator **CARPENTER** of York to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**, in concurrence

(In House, March 26, 2002, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**.)

(In Senate, April 1, 2002, Reports **READ**.)

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. This bill, for the most part, is a bill with which I agree. I know that this policy committee has struggled with a very difficult funding situation and has done nothing short of heroic work trying to come to terms with this. But it is the first provision in the committee amendment with which I disagree, and so strongly that it prevents me from being able to support the pending motion. That is the provision that beginning with the 2004-2005 biennial budget, and I'm reading from the amendment, 'and for each biennial budget thereafter, the biennial budget submitted by the Executive Branch must include a general fund appropriation of 18% of the department's requested biennial budget.' I've a couple of problems with that. One is that this certainly would be an arrangement that almost any department in the State of Maine would relish if we could direct the Executive to include a certain percentage of that agency's request, not only any evaluated request, but their request in the biennial budget. It limits the flexibility of both the Appropriations Committee and the legislature to act on a budget, and by preordaining how our general fund money is to be spent, it can make it extremely difficult to balance a budget. This is an agency that chose to have funding reserved for it through the Maine State Constitution. It is now looking to have funding reserved for it in the general fund, and frankly, although this is clearly an important policy issue, one which is an economic benefit to the State of Maine, I would confess that if someone were to ask me what I felt was the most important policy area in the state, it would probably not be this particular one. It might be education. That's the only other case that I know of where we attempt to reserve a certain amount of general fund money, and I think in the case of education it is appropriate. But for this particular agency, they are looking for a treatment that no other agency, with the exception of education, in the State of Maine gets. Other agencies charge fees that are put into the general fund and then they are funded out of the general fund. I am not sure what the justification is for this one agency being able to reserve some portion of the general fund. Frankly, the size doesn't matter. It's really the principle of this issue. I'm

looking at some testimony on L.D. 1929 from the Sportsman's Alliance of Maine. It says, 'although we share the disappointment of some committee members that this bill calls for an increase in some permit fees, we recognize the need...' Well, that intrigued me because it was a person who works for that alliance who came in when we were discussing a bond issue in the Appropriations Committee and referred to himself as the 'thousand dollar man'. He was quite well outfitted in fishing gear. He had lures and boxes of things and hooks and lines and poles and explained how much each one had cost and that when he bought a kayak for his family, they liked it so well that he had to buy one for each of them. So I'm surprised that this the person who is objecting to an increase in permit fees when apparently this is such an expensive hobby that one would think that wouldn't be that much of a problem. But I don't think that any of our agencies, or policy areas of general interest, should have to rely entirely on fees to cover their budgets. I don't think it's appropriate because, in one way or another, we are all users or enjoyers of many of those policy areas, whether we realize it or not. Sometimes it is direct. Sometimes it's indirect. I think that this agency should be funded adequately out of the general fund. I would certainly support doing so, but I would say that this agency should come in, as any other department does, and compete for funding against all the other issues facing our state and not be singled out for what I can only consider preferential treatment. So I am going to oppose the pending motion.

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

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. I am urging you to vote in favor of this legislation. It is legislation that was discussed at length. I think we had either 12 or 13 work session on this particular piece of legislation. I expect that this is certainly a record for our committee. I'm not sure about other committees. I have served on this committee for 6 years now and one of the things that I have really struggled with is this whole issue of a cost benefit analysis. Who pays, who benefits, and how do we bring this into balance? The fact is that everyone, whether they are a consumptive user or not; whether you go hunting and fishing and trapping, or whatever; or whether you don't do any of those things, you certainly do benefit from the work that the department does. As we looked into further, we found that there is also a tremendous amount of work that is being done for other departments. So when the Department of Environmental Protection is doing a site permit for a new store somewhere, or a new shopping mall, and they need to have an evaluation done on what the impact is going to be on the animal life, in this case, then they call on the Department of Inland Fish and Wildlife to do that. The department does not get reimbursed for their cost. The fee is assigned by the Department of Environmental Protection. The fee goes to them through whatever that mechanism is. But they ask the Department of Inland Fish and Wildlife to support that. When your municipality requests information about wildlife and wildlife habitat, maybe it's for a zoning program, maybe it's for a development of some sort, they call the department and the department responds to that. Frankly, there are lots of things the department responds to. We've been able to in the last 6 years to get some assistance with search and rescue because we able to document the number of cases in which the department is asked to go on a search and rescue situation that has nothing to do with somebody hunting,

fishing, or trapping. What we found is the number of small children that department looks for. The number of Alzheimer patients was really high because one of the symptoms of that disease is people needing to move a lot and so often they will go out the door and go off walking and not come back. There are lots of things that the department does that benefit everyone. The economics of having it housed in Inland Fish and Wildlife makes a great deal of sense. We could have a search and rescue part of the Department of Human Services. We could have a search and rescue part of many other departments, but we don't do that. It's cost effective for training, for staff and for equipment to have that all housed in one department. So when we looked at this issue of who should pay, we know that the people who purchase licenses have paid the majority of the cost of this department for years and years and it needs to be shared. So there were a couple of things that we added to this bill. One is the We Care Program, so that people who like to watch birds or take pictures of moose or do whatever they want to do can pay a fee and can know that their money is going to support non-game species. We have also been successful in getting some assistance on search and rescue. So we looked at it and said this 18% makes sense. Certainly a very conservative figure is 18% of the department's budget is, in fact, going outside of what we consider the traditional user group. 70% of the Marine Resources' budget comes from the general fund; 56% of the Department of Conservation's funds come from the general fund; 38% of the Department of Agriculture. Those departments are, again, providing services outside of the services for what we consider their natural group. So I would urge you to pass this so that we can go on and create a budget that in the next 2 years will look at who is benefiting, who is paying, and pull that piece into balance without having all of the burden of paying for this department fall on license holders. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Mr. President, men and women of the Senate. I feel particularly honored today, on this the first day of open water fishing season, to be debating the funding of the Department of Inland Fisheries and Wildlife while my fellow fishermen are out there using the resource to its full advantage. I'll put forth my best effort today to make this brief because the waters await. For years this department has been borne on the backs of those who are the, so called, a consumptive user group, those who participate in the activities regulated by the Department of Inland Fisheries and Wildlife. Our committee met 12 times, sometimes with great, contentious issues about them, to try to find a reasonable compromise for the user fee portion of this bill. I think we've arrived at that in the limited permitting arrangements and fee increases as well as the We Care Program, so ably highlighted by the good Senator from Lincoln, Senator Kilkelly. We have arrived at a bill that I feel addresses the needs of the department as well as the most important group coming into focus by those who are carefully monitoring the outdoor usage of this resource, the non-consumptive user group. The non-consumptive user group has come into play in the Department of Inland Fisheries and Wildlife to an extent far greater, at this moment in history, than any time previously. I would only comment that, for the coffers of the State of Maine, the Department of Inland Fisheries and Wildlife users and non-consumptive users contribute nearly \$1 billion to our

state's coffers annually through their activities. I'm urging support of this motion. I think it's a valid compromise. I do appreciate the concerns of the good Senator from Hancock, Senator Goldthwait. This department, for years, has operated on 13% of the general fund budget. I feel that 18% is a very adequate request for us. Thank you, Mr. President.

The Chair ordered a Division. 26 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **CARPENTER** of York to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-1021) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1021)**, in concurrence.

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:

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Increase the Supply of Medical Services to Consumers"

S.P. 481 L.D. 1545

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

LONGLEY of Waldo
MARTIN of Aroostook

Representatives:

KANE of Saco
FULLER of Manchester
BROOKS of Winterport
LAVERRIERE-BOUCHER of Biddeford
DUDLEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-528)**.

Signed:

Senator:
TURNER of Cumberland

Representatives:
DUGAY of Cherryfield
O'BRIEN of Augusta
LOVETT of Scarborough
NUTTING of Oakland
SHIELDS of Auburn

Reports **READ**.

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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 Implement the Minority Recommendations of the Committee to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands"

H.P. 1600 L.D. 2101
(C "A" H-973)

In Senate, March 26, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-973)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-973) AS AMENDED BY HOUSE AMENDMENT "A" (H-1041)** thereto, in **NON-CONCURRENCE**.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/26/02) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act Regarding the Payment of Severance Pay"

H.P. 1551 L.D. 2054

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-929)** (8 members)

Report "B" - **Ought Not to Pass** (4 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-930)** (1 member)

Tabled - March 26, 2002, by Senator **EDMONDS** of Cumberland

Pending - motion by Senator **TURNER** of Cumberland to **INSIST**

(In House, March 19, 2002, Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929)**.)

(In Senate, March 22, 2002, Report "**B**", **OUGHT NOT TO PASS READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, March 26, 2002, that Body **ADHERED**.)

Senator **TREAT** of Kennebec moved to **TABLE** until Later in Today's Session, pending the motion by Senator **TURNER** of Cumberland to **INSIST**.

The Chair ordered a Division. 19 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **TABLE** until Later in Today's Session, pending the motion by Senator **TURNER** of Cumberland to **INSIST**, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/26/02) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Safeguard Volunteer Firefighters' Regular Employment"
H.P. 1449 L.D. 1946

Majority - **Ought to Pass as Amended by Committee Amendment "B" (H-947)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - March 26, 2002, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, March 26, 2002, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-947)**.)

(In Senate, March 26, 2002, Reports **READ**.)

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask that you vote against the pending motion. The origins of this bill was a constituent matter brought before the Labor Committee. I categorized it, perhaps unfairly, nonetheless as a solution looking for a problem. We had a long and distinguished tradition of volunteer fire departments working with their volunteers, businesses, and sole practitioners

who provide volunteers to our fire departments. We had fire chief after fire chief come before our committee and ask us not to pass the bill. There is a Fire Chief's Association which further took the position on the bill of asking us not to pass it. From my vantage point, if you are seeking to chill the recruiting capability of municipalities for volunteer fire departments, you should vote for this bill. I don't think we want to do that and I would ask that you vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you, Mr. President, ladies and gentlemen of the Senate. While I agree totally with the remarks of the good Senator from Cumberland, Senator Turner, I do want you to know that I am presently having an amendment drafted that will refer this to the Fire Safety Commission, which I have been requested to do so we could study it further there. I would appreciate it being put on the table until that time.

Senator **TREAT** of Kennebec moved to **TABLE** until Later in Today's Session, pending the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

The Chair ordered a Division. 31 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **TABLE** until Later in Today's Session, pending the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/26/02) Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Eliminate Department of Professional and Financial Regulation, Bureau of Insurance Travel Restrictions for Obtaining Health Care"
H.P. 1462 L.D. 1959

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-965)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-966)** (6 members)

Tabled - March 26, 2002, by Senator **RAND** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 26, 2002, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, March 26, 2002, Reports **READ**.)

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-965)** Report, in **NON-CONCURRENCE**.

Senator **KILKELLY** of Lincoln moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

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

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. This bill is an interesting effort that takes a look at the cost of healthcare and tries to find a solution to it. Around my desk at home I have lots of sayings that sort of help me keep centered. One of them is, 'within every solution is the seed of another problem.' Frankly, I think in this one we could look at a pomegranate and see that there are really a number of problems within this particular situation. My biggest concern has to do with rural folk. Much of the work that I do focuses on the needs of the rural people of this state. If we allow this project to go forward, even as a pilot project, I am convinced that there will be savings to insurance companies and there will be savings for a very good reason, for the same reasons that we can see savings in the Medicaid program or savings in the Medicare program, because they are not paying all their costs. They cost shift. What this particular bill does is to cost shift to rural people, because they would be required to travel enormous distances for care. If you are a person who lives in rural Penobscot County and you need a heart catheterization and someone has determined that the cheapest heart catheterization programs are in Portland, you could be required to go to Portland for that service. They will also say that it is also based on quality, that it is based on cost, and all these other great factors. But what is not being factored into that is the case notes. For example, in the hospital, in Miles Memorial Hospital, which is in my district, one of the real issues that we have with case mix is that we have a number of Medicare and Medicaid people who use the services which means that those people are not paying the full cost for their service so the cost goes up, in general, with cost shifting. So let's go back to this person from rural Penobscot County who needs to go to Portland. In my situation, and this is what I used when I went before the committee, if I needed to go to Portland in order to have some particular medical service, I would jump in my truck with its 232,000 miles on it and I would run down to Portland. It's not a big deal. If my mother, who has macular degeneration and can't drive, needed to go to Portland for services, my sister or I would have to take a day off from work and take her. Which is fine. We do that all the time to get her to medical appointments. I have a couple of elderly neighbors. If you ask them to go to Portland for a service, this is a big deal. These are folks who don't go to Portland. They don't like driving in the city. The bill, as it was originally proposed, would have them possibly going to Boston for services. I can tell you that they'd never go to Boston for services. But how far away a service is should be less about the number of miles you travel to get there than the culture, the experience, and the availability of you to be able to take advantage of those services. So will the cost of that insurance go down? Absolutely. It's going to go down because people are going to not get the services they need or they are going to have to pick up those costs themselves. Right now, if the insurance company says you must travel 50 miles or 60 miles in order to get a service, which they can do, they have to pay some of your expenses. If you are somebody who is working hourly and you are being asked to travel, as you would under this bill, 50 or 60 miles, you would be taking a whole day off from work, you would

lose a days pay, you might need to get child care, you might need to get somebody to take you there, and it's going to be an enormous problem. There is also a business problem associated with the smaller, rural hospitals. That has to do with screening, because what we are talking about are people who have insurance, who tend to be younger, who are employed, and those people tend to be more healthy than others. So those are the folks that are going to be moved around the state to these centers where the costs are lower and centers of excellence, so called but not defined yet, and they are going to be getting their services there. When they do that, the fixed costs in the small rural hospitals are going to increase because the services that they currently perform there are still going to have to be performed there for the frail elderly, the folks on Medicaid, the folks on Medicare, the folks who can't afford to drive far away in order to get those services, and their costs are going to go up. That's just plain business. That's absolute business. What amazes me is that the business interest who are promoting this legislation have not been able to apply the same business principles to this decision as, in fact, they've applied to their own businesses or they wouldn't be in business any more. That really concerns me. They haven't been able to look at that aspect of it. So I think it really is important for us to defeat this bill and to find a way to bring together the various warring factions, if you will, and have them talk about how we can look at it. We know that there are two places where spend most of our medical dollars. The first place is end-of-life-care. As I said earlier today, I work for the Maine Hospice Counsel and do a lot of work in terms of end-of-life-care. We know we can do it better. We know there are ways to reduce the cost of end-of-life and most of the money spent on health care is at end-of-life. The other place is at the beginning of life. If we do a better job getting prenatal care for women, getting women to stop smoking while they are pregnant, getting them to take care of themselves, providing them with adequate nutrition during their pregnancy, we're going to see fewer babies in the neonatal intensive care units. We're going to see fewer problems associated with low birth weight babies. So those are two places where it's very obvious that we can save money in health care. But we aren't talking about that. This bill talks about sending rural people far away from their home communities to get services and increasing the cost. So I would urge you to vote with me to indefinitely postpone this bill and allow some further discussion to take place before we say to the rural people of this state that it's okay to be a pawn in this experiment and that they are going to have to travel a long way to get the services they need. Thank you.

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

Senator **DOUGLASS:** Mr. President, women and men of the Senate, I rise to support the pending motion. This bill had good intentions. Initially it was about getting some information as to what kind of health care delivery actually occurred in our many health delivery facilities. I supported that. But as it is currently configured, this bill is about non-choice. It's about forcing consumers to accept what their health insurer requires as the distance that they must travel to get care. I urge your support of the pending motion. This is not good for the health of Maine's citizens.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Mr. President, men and women of the Senate. For every member of this chamber who walked the streets of their district in the summer of 2000 and told their constituents that they were concerned about the rising cost of health care and the rising cost of insurance premiums and that they were going to Augusta to do something about it, well this is probably the only bill you will see from the Joint Standing Committee on Banking and Insurance that will actually address insurance premiums in the near future. We have 2 other bills. One has gone through this chamber already, the other will be coming shortly. But they will do nothing that will have any sort of impact on insurance premiums within the next 2 or 3 years. The good Senator from Lincoln, Senator Kilkelly, made a good argument about the issue of rural hospitals and the effect on rural hospitals. However, the warring factions did come together in the Banking and Insurance Committee several times to discuss this bill. The Maine Hospital Association was well represented. They initially came in opposed to the bill and signed on with the proponents of the bill in support of what you have before you now, which is the Majority amendment. They did not raise the issue of concern for their rural versus the metropolitan hospitals. They had some other concerns, but in the end, at the end of the day, they were satisfied. If you take note of the handout that was just distributed to you earlier by the good Senator from Lincoln, Senator Kilkelly, and the good Senator from Androscoggin, Senator Douglass, you will note the numerous people who want you to vote against the Majority Report. You will not see the Maine Hospital Association listed on that document. This bill was brought before us as a result of roughly 50 businesses coming together who formed a collaborative known as the Maine Health Care Purchasing Collaborative, who are the ones primarily paying the insurance premiums today. What they are asking for is a mechanism which would be a pilot project and a pilot project only. It has not been designed yet, so we don't know if people will be asked to travel from Damariscotta to Portland or be asked to travel from Ft. Kent to Bangor. It's a pilot project only. It needs the permission of the superintendent to move forward. The superintendent is well aware of the issues and concerns of committee members, that people should not have to travel too far, and specifically that people should not have to travel too far for services that are required on a regular basis. As you will note in the Majority Amendment, anyone who has a service that is an ongoing service in a less than 30 day period is not asked to go out of the geographic region. In other words, people who might receive chiropractic care on a weekly basis won't be effected by this. People who have physical therapy or occupational therapy on a weekly basis won't be effected by this. People who undergo chemotherapy on a daily, weekly, twice a week basis, every other week basis, won't be asked to go beyond their geographic region. So we have put a number of safeguards in place. The ultimate goal is to try to adjust the issue of premiums, which is something I'm well aware of and I'm sure all of you are too.

On motion by Senator **LAFOUNTAIN** of York, 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 Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, members of this Senate. I appreciate what the Senator from York, Senator LaFountain, has to say about the rising cost of health care and I looked at this bill and thought instantly great. We've got to start taking steps. Then I carefully read the bill and thought okay, it's a pilot and I appreciate what the Senator just said in terms of how the department needs permission to get going, that there are people who need continual care on one issue won't have to travel every single week. I was shocked though to see that this pilot sunsets in 2008. The Senator from York, Senator LaFountain, is exactly right. I would hope all of us are the leaders we profess to be in terms of acknowledging health care is the most important issue out there, that costs are out of control, and sometimes we're going to have to brave very unpopular decisions. I'd love to support this. I would have loved to have seen the pilot not last 6 more years. That's a very long time to have a pilot. So I'm tempted not to go down this road just because it's giving too much ability to go someplace we don't know for a longer time than I want to see have happen. Thank you.

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

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. One of the issues about the pilot project is that it is not outlined. So the entire state could be the pilot project. That is of grave concern because we could, in fact, because we don't know, we could be talking about people from Damariscotta going to Bangor or people from Aroostook County needing to go to Portland for a particular service. We don't know and when we don't know we need to be particularly careful. There are areas in the state in which there is a high level of competition within the health care providers. It's certainly acceptable now, given the rule that is currently in place about the mileage, for the HMO, for the insurer, to require that a person go to a particular place in order to get a service because the cost is less. It has nothing to do with mileage because there are places that have that kind of competition. I'm wondering if, just posing a question through the chair, if there are insurers that are currently within their own service area doing a pilot project to look at how they can be referring people to various, competing hospitals or other services now?

THE PRESIDENT: The Senator from Lincoln, Senator Kilkelly poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would ask that you not vote in favor of the pending motion to indefinitely postpone. I think the good Senator from York, Senator LaFountain, has it exactly right. Further, if you talk with Alexander Iuppa, he will tell you that this is one of the few things that would have a dramatic, positive impact on the cost of health insurance and that is to deal with so called rule 850. So I would encourage you to support the Senator from York, Senator LaFountain's, motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN**: Thank you, Mr. President, men and women of the Senate. The good Senator from Lincoln, Senator Kilkelly, made a good point. We don't know where this pilot project will go. However, there are only 3 certainties in life and those are death, taxes, and that health insurance premiums will rise.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Kilkelly, to Indefinitely Postpone the Bill and all accompanying papers. 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 (#276)

YEAS: Senators: BRENNAN, BROMLEY, DOUGLASS, EDMONDS, GAGNON, KILKELLY, LONGLEY, MARTIN, MICHAUD, NUTTING, RAND, TREAT

NAYS: Senators: CARPENTER, CATHCART, DAVIS, FERGUSON, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MILLS, MITCHELL, O'GARA, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: DAGGETT, PENDLETON

12 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **KILKELLY** of Lincoln to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence, **FAILED**.

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

Senator **DOUGLASS**: Mr. President, I rise in opposition to the pending motion and urge you to vote against it for the reason that the Majority Report is not qualified in so far as the distances that it will ultimately require some patients to travel while the Minority Report increases those distances by 50%, so that there is some flexibility on the part of the Commissioner of the Bureau of Insurance. Further, there are other limiting factors here. This bill has a length or duration until 2005. That is certainly long enough for a pilot project to get through to the goals of the project. I would urge you to defeat the pending motion so that we can go on and accept the Minority Report.

The Chair ordered a Division.

On motion by Senator **KILKELLY** of Lincoln, 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 (#277)

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

NAYS: Senators: BRENNAN, BROMLEY, DOUGLASS, EDMONDS, GAGNON, KILKELLY, LONGLEY, MARTIN, MICHAUD, NUTTING, RAND, TREAT

ABSENT: Senators: DAGGETT, PENDLETON

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-965)** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-965) **READ**.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I now understand that we are going to create a pilot project under this bill with this amendment. Is it going to be possible, under this process, under this requirement that someone could be sent from Ft. Kent or Presque Isle to Portland and that would be okay? Is this what is being proposed? That possibility could exist under this amendment? As I read it, it seems that this is what could be required. If this is what we are going to do, it seems a little strange, at least in my case, and it would seem to me that if you want to create a pilot, create this pilot where it is going to be Bath to Portland, for example, or Brunswick to Portland or Biddeford to Portland or Orono to Bangor. But I find it difficult to say that it is going to be okay to go from Aroostook County to Portland. I would ask someone to answer the question, if the answer is available.

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

Senator **LAFOUNTAIN:** Thank you, Mr. President, men and women of the Senate. In response to the question posed, we're not creating a pilot project. What we are doing is we are giving the authority to the Superintendent of Insurance to create pilot projects based upon proposals made by various insurance carriers to the superintendent, himself. If you take a look at the Majority Report, which is the amendment. You will note some of the criteria that he needs to follow. He needs to take into consideration quality standards. He also can seek input, and will seek input, from those who may be effected by it. It also requires him to keep the legislature fully advised as to what pilot projects

are under consideration and what may or may not have been approved. There is nothing in the Majority Report as far as specific geographic distance. But there are a number of other standards contained in that amendment. Thank you.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. Based on the response to the question, I'm even more concerned now since not only is it not going to be by the Bureau of Insurance, it's going to be by the insurance companies. Keeping in mind that none of the insurance companies that provide health insurance are located in Aroostook County, you can rest assured that they will make sure that it is close to their base and it certainly won't be a hospital in Presque Isle.

The Chair ordered a Division.

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

On further motion by same Senator, Senate Amendment "A" (S-505) to Committee Amendment "A" (H-965) **READ**.

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

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. The purpose of this amendment is to define an area in which a pilot project would be acceptable. The pilot project area that is defined in the amendment is Sagadahoc County and northeast Cumberland County. The reason for this is that there are 2 hospitals in Brunswick that are in close proximity, where you could determine if one of them provided various services or both provided various services and you wanted to refer people to one or the other. Obviously, that area is closer and has a direct line to Portland or Lewiston. There is opportunity for that level of tertiary care to also have some competition. It seems to me that if we're going to develop a pilot project, we ought to develop it in an area where there is competition, where there is an opportunity for people to travel to get to that point, and than take a look at how that works. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Mr. President, men and women of the Senate. I rise to encourage you to defeat the present motion. While I appreciate the effort the good Senator from Lincoln, Senator Kilkelly, has made in defining a specific geographic area, I'm not quite sure if the amendment takes into consideration some of the standards that we put in place in the Majority Report, which are the quality considerations. Therefore, I ask you to vote against the amendment and leave the discretion to the Bureau of Insurance, specifically the superintendent, to determine what would not be and what would be appropriate for a pilot project. Thank you.

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

Senator **DOUGLASS**: Mr. President, men and women of the Senate, in the committee, this bill was long debated and there were many discussions about how to limit the authority of the Superintendent of the Bureau of Insurance. I rise to urge you to vote in favor of the pending motion because I believe it will at least define, in some way, the authority of the Bureau of Insurance in this matter. Without this amendment, statewide, all employees of the State of Maine could become the pilot project. There are other large groups that could become part of the pilot project. I think if we really want to talk about this as a pilot project, we need to define the area in which this project occurs and circumscribe the power of the Bureau of Insurance. That's what the amendment does and I urge you to vote in favor of it.

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

Senator **MILLS**: Mr. President, men and women of the Senate, maybe I'm losing track of something, but as I understand this committee work, all that is happening here is that we are authorizing the Bureau of Insurance to issue a product that employers or group insurers are free to purchase, or not purchase, as they may choose. We're certainly not changing all of the insurance products currently on the market. We're just authorizing a pilot project to create a new product for a temporary period of time, within a defined area, that the bureau may, in its own wisdom, choose. I'm aware of certain areas in this state where certain medical care institutions have a virtual strangle hold on the market. They are able to charge just about what they please because of this rule. That means that they have a captured monopoly over health care within a certain driving range of the institution. To authorize the bureau to issue a product, or have a product authorized, that would break up 1 or 2 of these monopolies on an experimental basis, I think, would be a refreshing thing to have happen to our medical care market. For that reason, I will be opposing the amendment and supporting the bill.

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

Senator **DOUGLASS**: Mr. President, men and women of the Senate, I rise because of the arguments of the Senator from Somerset, Senator Mills, on the issue of competition, which I certainly favor. This is not a bill about competition in the health insurance market. In fact, it's about the scope of the power of the superintendent. It's also complicated by the fact that the insurers, themselves, are part of this pilot project. Under rule 850, the superintendent currently has power to provide limited waivers for those areas where there might, as the good Senator from Somerset, Senator Mills, says, be a choke hold or strangle hold on particular medical procedures. Under rule 850, the Bureau of Insurance currently has the power to identify those areas and to permit exceptions to the travel rules that we currently have in place under rule 850. So this bill, without the amendment, does not in any way limit the authority of the superintendent, rather this bill, with its amendment, will simply limit the area and the scope in which this pilot project could operate.

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

Senator **KILKELLY**: Thank you, Mr. President, men and women of the Senate. It concerns me to hear a statement about 'all we are doing', because my concern about this particular bill is that it is 'all we are doing'. What we are doing is allowing the Superintendent of the Bureau of Insurance to create a program that could require people to travel up to hundreds of miles to get the services they need. One of the things you will hear from the proponents of this bill is that this will give the patients more options and more information. In fact, it won't because if you work for XYZ and XYZ decides they are going to purchase this particular package, you don't get any more choices. You get less choice than you had before. You, basically, are told that if you want to get your service paid for, you will travel those several hundred miles in order to get that service. If you can't afford to do that, then you have a choice, not to get the service at all or to pay it out of pocket. That's where the savings will be found. You are cost shifting to people who need to travel for services or people who will choose not to get services they need because they aren't going to be able to afford that out of pocket expense. That's all that we are doing here. That's is all we are doing. What is interesting is the analogy that keeps coming in my head is the Wal-Mart analogy. The Wal-Mart analogy is when you have the Wal-Mart, and in the case of the towns in my district, I know of at least 2 hardware stores that have gone out of business because the folks who could afford to travel to Augusta, to Brunswick, or where ever, went there to buy a can of paint or they went there to buy other kinds of hardware goods that they needed. Finally it got to the point where the small stores back home just couldn't afford to stay open because their fixed costs remain the same and people that could afford to were leaving town in order to make purchases. So the people, who stayed in town, because they didn't have a car or they didn't have a way to get away, were paying higher and higher prices for things until they couldn't afford it any more and the business went out of business. If that is what we want to do to our health care system, vote for this bill. That is what this could potentially do. It could completely destroy a system. Now I'm not saying the system is in great shape right now, because it is not. But this is not the answer because, in fact, we will end up with 2 or 3 of those Wal-Mart health care providers and a whole lot of people in rural parts of the state not being able to afford to get there and get the services they need. We're going to have to find a way, through other means and other mechanisms, to provide them with the services they need or we're just going to say to people either move into an area that has got health care or die. Those are the choices. This is not about paint and wallpaper. This is about people's lives, their family's lives, and their children's lives. That's what we are voting on today. So I would urge you, if we are going to go forward with this, at least limit to an area of the state where there can be some effort of competition, not a part of the state where that isn't even an option. Thank you.

The Chair ordered a Division. 13 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **ADOPT** Senate Amendment "A" (S-505) to Committee Amendment "A" (H-965), **FAILED**.

THE PRESIDENT: The pending question before the Senate is adoption of Committee Amendment "A" (H-965). 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 (#278)

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

NAYS: Senators: BRENNAN, BROMLEY, DOUGLASS, EDMONDS, KILKELLY, LONGLEY, MARTIN, MICHAUD, NUTTING, RAND, TREAT

ABSENT: Senators: DAGGETT, PENDLETON

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being absent, Committee Amendment "A" (H-965) **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME**.

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

Senator **MARTIN:** Thank you, Mr. President. For the record, I just want to put something on the record so there will be no misunderstanding from those of us from rural Maine as to what will happen when this becomes reality, if it does. Under the present rules that the department promulgates, there is a requirement that insurance carriers provide certain kinds of care. For example, primary care has to be provided within a certain amount of miles and that insurance carrier has to pay for it. There is also a rule that requires, in terms of specialty care, can be provided at a further distance. Let me illustrate. Right now in Aroostook County a lot of the specialty care is given by Presque Isle, at the Presque Isle Hospital. Under this proposal, if Presque Isle is chosen as part of this plan by the bureau, it could well be that they are going to say that all hospitals in Aroostook County must, for specialty purposes, use Bangor or Portland. So if that is what you support, remember that you are, in fact, creating the possibility, under this system, that Presque Isle will simply become a primary care facility and will not be able to have specialties. If that is what people want, and the same thing is true for all the rest of you throughout this state. Just remember that if the bureau comes out with that plan, it is allowed under what is now coming out of the committee.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-965), in NON-CONCURRENCE.

The Chair laid before the Senate the following Tabled and Later (3/26/02) Assigned matter:

Bill "An Act to Amend the Motor Vehicle Laws"
H.P. 1406 L.D. 1844
(C "A" H-941)

Tabled - March 26, 2002, by Senator **DAVIS** of Piscataquis

Pending - **FURTHER CONSIDERATION**

(In Senate, March 20, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941)**, in concurrence.)

(In House, March 26, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941) AND HOUSE AMENDMENT "A" (H-1009)**, in **NON-CONCURRENCE**.)

On motion by Senator **SAVAGE** of Knox, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941)**, in concurrence.

House Amendment "A" (H-1009) **READ**.

On motion by Senator **SAVAGE** of Knox, House Amendment "A" (H-1009) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (H-941)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-524) to Committee Amendment "A" (H-941) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Mr. President. This amendment is merely to eliminate from L.D. 1844 that amendment that had to do with school buses. That has been taken care of in the Errors and Omissions Bill. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-524) to Committee Amendment "A" (H-941) **ADOPTED**.

Committee Amendment "A" (H-941) as Amended by Senate Amendment "A" (S-524) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941) AS AMENDED BY SENATE AMENDMENT "A" (S-524) 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 Specially (3/27/02) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Strengthen the Certificate of Need Law"

S.P. 619 L.D. 1799

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-507)** (9 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - March 26, 2002, by Senator **TURNER** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In Senate, March 26, 2002, Reports **READ**.)

Senator **MARTIN** of Aroostook moved to **TABLE** until Later in Today's Session, pending the motion by Senator **TURNER** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS AS AMENDED** Report.

The Chair ordered a Division. 25 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **TABLE** until Later in Today's Session, pending the motion by Senator **TURNER** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/27/02) Assigned matter:

An Act to Update the Department of Defense, Veterans and Emergency Management Laws

H.P. 1288 L.D. 1752
(C "A" H-837; H "C" H-946)

Tabled - March 27, 2002, by Senator **DAGGETT** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, February 28, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AND HOUSE AMENDMENT "C" (H-946)**, in concurrence.

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

On motion by Senator **DOUGLASS** of Androscoggin, 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-837) AND HOUSE AMENDMENT "C" (H-946)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-526) **READ**.

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

Senator **DOUGLASS:** Mr. President, women and men of the Senate, this amendment simply clarifies that when a war orphan has tuition waived at our universities, the amount that will be utilized is the amount of the tuition and that any other funds would be used by the university, if there are any. Currently, tuition at the university is somewhat less than the amount that a war orphan receives. In fact, some of that can be used to lower the amount of tuition that is the university could actually receive some money. The money is not really supposed to go to the individual who is having the tuition waived. The amendment permits the university to recover some of the fees that are waived.

On further motion by same Senator, Senate Amendment "A" (S-526) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837); HOUSE AMENDMENT "C" (H-946) AND SENATE AMENDMENT "A" (S-526), 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 (3/27/02) Assigned matter:

JOINT ORDER - relative to establishing the Joint Select Committee on Research and Development
H.P. 1711

Tabled - March 27, 2002, by Senator **TREAT** of Kennebec

Pending - **REFERENCE**

(In House, March 26, 2002, **READ** and **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.)

(In Senate, March 27, 2002, **READ**.)

On motion by Senator **LAFOUNTAIN** of York, **REFERRED** to the Joint Select Committee on **JOINT RULES**, 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 (3/27/02) Assigned matter:

Emergency Measure

Sent down for concurrence.

Bill "An Act to Make the Use of Tokens or Tickets for Games of Chance at Agricultural Fairs Optional"

H.P. 1552 L.D. 2055
(C "A" H-853)

Tabled - March 27, 2002, by Senator **KILKELLY** of Lincoln

Pending - motion by Senator **MILLS** of Somerset to **ADOPT SENATE AMENDMENT "A" (S-512) TO COMMITTEE AMENDMENT "A" (H-853)**

(In House, March 11, 2002, **PASSED TO BE ENACTED.**)

(In Senate, March 27, 2002, on motion by Senator **MILLS** of Somerset, **RULES SUSPENDED. RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853). RECONSIDERED ADOPTION** of Committee Amendment "A" (H-853). Senate Amendment "A" to Committee Amendment "A" (H-853) **READ.**)

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-512) to Committee Amendment "A" (H-853) **ADOPTED.**

Committee Amendment "A" (H-853) as Amended by Senate Amendment "A" (S-512) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853) AS AMENDED BY SENATE AMENDMENT "A" (S-512) 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:

REPORTS OF COMMITTEES

Senate

**Ought to Pass
Pursuant to Resolve**

Senator GAGNON for the Committee on the Committee on **TAXATION** on Bill "An Act Relating to Tax Expenditure Review and Other Tax Reporting Requirements"

S.P. 828 L.D. 2210

Reported that the same **Ought to Pass**, pursuant to Resolve 2001, chapter 17, section 2.

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

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

ORDERS OF THE DAY

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

Bill "An Act to Implement the Minority Recommendations of the Committee to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands"

H.P. 1600 L.D. 2101
(C "A" H-973)

Tabled - April 1, 2002, by Senator **TREAT** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, March 26, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-973)**, in **NON-CONCURRENCE.**)

(In House, April 1, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-973) AS AMENDED BY HOUSE AMENDMENT "A" (H-1041)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED.**

Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for 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:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Dissolve the Ministerial Accounts in the Town of Readfield's Trust Fund"

H.P. 1416 L.D. 1860

Majority - **Ought to Pass** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - April 1, 2002, by Senator **TREAT** of Kennebec

Pending - motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, February 26, 2002, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, February 27, 2002, Reports **READ**.)

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

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

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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Resolve, Regarding Legislative Review of Chapter 4: Installation Standards, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY)

H.P. 1627 L.D. 2127

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1031)**.

Signed:

Representatives:

- RICHARDSON of Brunswick
- BRYANT of Dixfield
- DORR of Camden
- HATCH of Skowhegan
- MICHAUD of Fort Kent
- THOMAS of Orono
- MURPHY of Kennebunk
- MORRISON of Baileyville

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senators:

- SHOREY of Washington
- BROMLEY of Cumberland
- YOUNGBLOOD of Penobscot

Representatives:

DUPREY of Hampden
CLOUGH of Scarborough

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1031)**.

Reports **READ**.

Senator **SHOREY** of Washington moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **DAGGETT** of Kennebec, **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:

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1718

JOINT RESOLUTION RECOGNIZING APRIL 2002 AS AUTISM AWARENESS MONTH AND APRIL 27, 2002 AS AUTISM AWARENESS DAY

WHEREAS, autism is a complex developmental disability that usually appears during the first 3 years of life and results in a neurological disorder that affects the functioning of the brain; and

WHEREAS, autism affects social interaction and communication skills, and over 500,000 people in the United States have autism or some form of pervasive developmental disorder; and

WHEREAS, autism knows no racial, ethnic or social boundaries and neither income, lifestyle nor education affects the occurrence; and

WHEREAS, most of the public, including many professionals in the medical, educational and vocational fields, are still unaware how autism affects people; and

WHEREAS, a single specific cause of autism is not known, but current research links it to biological or neurological differences in the brain, and outdated theories and myths have been proven to be false, such as autism being a mental illness; and

WHEREAS, autism affects people everywhere, including our own state, where doctors, teachers, parents, siblings, friends and neighbors are doing all they can to help those affected by autism; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature of the State of Maine, now assembled in the Second Regular Session, pause in our deliberations to acknowledge that the month of April 2002 is Autism Awareness Month and that April 27, 2002 is Autism Awareness Day and to pledge our support and encouragement to the assistance of all those affected by autism; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine representatives of Unlocking Autism as a token of our respect and support.

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

READ and **ADOPTED**, in concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator LaFOUNTAIN for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Establish the Maine Consumer Choice Health Plan"
S.P. 793 L.D. 2146

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-530)**.

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

READ ONCE.

Committee Amendment "A" (S-530) **READ**.

On motion by Senator **SMALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-530).

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, to Allow Julie Harrington to Sue the State
H.P. 1659 L.D. 2165

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1045)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045)**.

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

READ ONCE.

Committee Amendment "A" (H-1045) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **MILLS** of Somerset, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045)**, in concurrence.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Michelle Booker to Sue the State
H.P. 1672 L.D. 2174

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1044)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1044)**.

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

READ ONCE.

Committee Amendment "A" (H-1044) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **MILLS** of Somerset, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1044)**, in concurrence.

The Committee on **NATURAL RESOURCES** on Bill "An Act to Include all State-supported Institutions of Higher Education in the Clean Government Initiative"

H.P. 1642 L.D. 2145

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1047)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1047)**.

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

READ ONCE.

Committee Amendment "A" (H-1047) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1047)**, in 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 Implement the Recommendations of the Commission to Study Domestic Violence

H.P. 1658 L.D. 2163
(C "A" H-883)

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

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

REPORTS OF COMMITTEES

House

Divided Report

Pursuant to Joint Order

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act Allowing for a Public Hearing Process for Certain Actions Relating to Dams"

H.P. 1720 L.D. 2208

Reported that the same **Ought Not to Pass**, pursuant to Joint Order 2001 (H.P. 1693).

Signed:

Senators:

MARTIN of Aroostook
SAWYER of Penobscot

Representatives:

TOBIN of Windham
KOFFMAN of Bar Harbor
COWGER of Hallowell
DAIGLE of Arundel
DUPLESSIE of Westbrook
TWOMEY of Biddeford
CRABTREE of Hope

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**, pursuant to Joint Order 2001 (H.P. 1693).

Signed:

Representatives:

CLARK of Millinocket
ANNIS of Dover-Foxcroft

Comes from the House with the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Reports **READ**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On motion by Senator **SHOREY** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **NATURAL RESOURCES** on 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

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1046)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046)**.

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

READ ONCE.

Committee Amendment "A" (H-1046) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046)**, in concurrence.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study"

S.P. 789 L.D. 2133

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-486)** (5 members)

Tabled - April 1, 2002, by Senator **TREAT** of Kennebec

Pending - motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, March 25, 2002, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Mr. President, men and women of the Senate. I just want to take a moment to tell you why I would like you to join me in supporting the Ought Not to Pass report. This bill has come before our committee and it has to do with the changing of the governance of the Workers' Compensation Board. It was one of the larger, in number of papers, bills that came before our committee. In fact, it has many far-reaching proposals in it. I was not here in this body in 1992, but I remember, from being a constituent at that time and not an

elected official, clearly how big a job it was to fix the Workers' Compensation System and the result of that is the present system. Having listened to the work session where many, many folks spoke and having had 2 or 3 work sessions, it became clear to me that this was going to require a whole lot more talk and a lot more investigation and discussion than was being provided for at the very end of this session, when this bill appeared. So I am not comfortable with going forward just on that basis. That is why I wanted to vote in opposition to this bill, not because I don't think there are things that need to be done with the Workers' Compensation Board, but because I feel that much needs to be done and required a longer, more detailed, more in-depth investigation than we were prepared to give it. Thank you.

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

Senator **SAWYER:** Thank you, Mr. President and ladies and gentlemen of the Senate. I would urge you to vote in opposition to the motion before you. I was on ground zero in 1992 when Workers' Comp was being analyzed and in 1992 it was probably the first or second largest reason why businesses would not come into Maine and create jobs, or the first, or second reason why businesses, which were already in Maine, would not expand jobs. A Blue Ribbon Panel was put in place. What you see is a result of that Blue Ribbon Panel and that is what we are dealing with today. I was fortunate enough, in 1993, to be appointed by the Blue Ribbon Panel to the Board of Maine Employers Mutual and saw, first hand, part of the crisis that was going on with Workers' Comp, to the degree that Maine Employers Mutual was literally the only company writing compensation in the State of Maine. Everyone else in the private market had bailed. Now we come forward, approximately 10 years later. This is a Governor's bill. It's the result of a very comprehensive analysis by Berry, Dunn, McNeil, and Parker, a very well respected accounting firm in Maine, and it has, in my perspective, two essential component changes. While not simple, this is not the most complicated thing to come before us. The first is, no one in their wildest imagination, in 1992, thought that a board comprised of 4 labor and 4 management members would be as, in my opinion, dysfunctional as this one has become. You may recall the jokes in 1993 where the board couldn't agree on the size or the shape of the table around which they were going to meet. Frankly, large parts of that dysfunctionality have not come forward until now. There have been lawsuits filed against the board. The board has been unable to adjust the Workers' Comp threshold from the current 11.8%. I agree with the Governor and Berry, Dunn, McNeil, and Parker that the time has come for change. In the proposal, two of the essential proposals are that the board would change to a 3 by 3 by 3. That is the Workers' Comp Board would be comprised of 3 labor, 3 management, and 3 neutral or citizen members. In my opinion, and in the opinion of the consultants, that would get us off dead center. There would not be the opportunity for impasse. There would not be the opportunity for a tie. The second piece is that the Executive Director now reports to a dysfunctional board of directors on the Workers' Comp Board. In the Governor's proposal, the Executive Director would serve at the will of the Governor, more or less, for example, as a commissioner subject to replacement. In my opinion, and the opinion of the minority of the committee, that would work better. Finally, let me just add that I spend a lot of time on the coast. An old downeast fisherman once suggested to me that if you don't

change direction, you'll end up exactly where you are headed. 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 just have two things to add. The report that came to us in the Labor Committee was a report from the good folks who did a decent job of investigating the governance of the Workers' Compensation System. However, from my point of view, that is not a complete investigation of everybody, all the stakeholders, everybody involved. While it is a good starting place, it didn't, in fact, replicate the amount of good attention that needs to be given to this issue in order to make it really a workable one. Yes, there are some ideas about how to change the governance of the Workers' Compensation Board. They are not embraced by everyone and I don't think that we're going to make something work until we have a real direct conversation, where people come to some agreement, instead of having it forced on them. Thank you.

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

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. As I've looked at this committee report and reviewed the committee amendment that is before us this evening, I'm standing and urging you to vote against the pending motion. I want to briefly say why. Back in 1992, unfortunately, Maine had the highest rate of injuries in our workplace of any state in the country. That was one of the main reasons Workers' Comp costs were so high. By 1998, we had done an excellent job, employers had done an excellent job, and the number of accidents had fallen to the national average. Unfortunately, in the last 18 months, the accident rate in Maine has gone back up. We're very close, again, to the highest in the country with the number of accidents we're having in our workplaces. What that means is that there are more injured workers now going through our Workers' Comp System. The Workers' Comp Board, for a long time, has wanted, and I feel needed, an increase in their funding. An increase because there are more accidents, more injured workers are going through the system. Also the Workers' Comp Board, through the May Program, and the May Program is a program that is looking at insurance companies that are challenging claims that they shouldn't challenge. I think that is something that definitely needs to happen. As I've looked at this report before us, the only report that funds the Workers' Comp Board with an increase in funding is the Minority Report. Their budget is increased from \$7,227,000 to \$8,600,000. Much of that is geared to beef-up the May Program, to make sure in Maine an insurance company doesn't challenge and drag out a claim they shouldn't. That helps injured workers. This \$1.3 million increase would beef-up the injured workers advocate program, so that the caseloads would not be as large and injured workers would get more help going through the system. I very strongly support both of those funding increases. The only vehicle I have before me that funds those programs is the Minority Report. So I am going to be voting against the pending motion so I can go on and support the Minority Report so that the board gets the funds needed to do the job that it is supposed to do. Thank you.

The Chair ordered a Division. 12 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-486) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486)**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

On motion by Senator **LAFOUNTAIN** of York, **ADJOURNED** to Tuesday, April 2, 2002, at 10:00 in the morning.