

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

In Senate Chamber
Tuesday
April 2, 2002

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

Prayer by Senator Chandler E. Woodcock of Franklin County.

SENATOR WOODCOCK: I would comment briefly, before praying this morning, that it has been a significant honor to have served with each of you. I have come to know many of you personally. I regret that this could not be the case with each member of this body. I've grown to admire your intellect and your dedication to the service to the people of Maine. I would remind you all, however, that our service is quite temporary in this body, with the notable exceptions of the good Senator from Sagadahoc, Senator Small, and the Senator from Aroostook, Senator Martin. I would also remind you that we all have a higher calling. Let us pray.

It is in the still, quiet moments that we turn to You for guidance, Lord, and support. It is amidst the turmoil of life that we seek Your comforting presence. Let us never forget that You endure in times of peace as well as conflict; in times of affirmation as well as doubt. My special prayer this morning is for each of my colleagues in the Senate. In years past, we danced the dance of innocence and there will come a time when that dance will return. Thus for now, in your anguish and delight, in your joy and in your sorrow, wherever you journey in your tomorrows, may God bless you always. Amen.

National Anthem performed by the Vikettes and Viking Voices of Oxford Hills Comprehensive High School.

Reading of the Journal of Monday, April 1, 2002.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committees on **NATURAL RESOURCES** and **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Provide for Livable, Affordable Neighborhoods"

H.P. 1596 L.D. 2099

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-939)** (14 members)

Minority - **Ought Not to Pass** (10 members)

In House, March 26, 2002, Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committees on **NATURAL RESOURCES** and **BUSINESS AND ECONOMIC DEVELOPMENT**.

In Senate, March 27, 2002, Reports **READ**. On motion by Senator **MARTIN** of Aroostook, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **RECEDED** and the Bill and accompanying papers **COMMITTED** to the Committee on **NATURAL RESOURCES**, in **NON-CONCURRENCE**.

On motion by Senator **TREAT** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

Senate at Ease.

Senate called to order by the President.

COMMUNICATIONS

The Following Communication: S.C. 686

**120TH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

March 28, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2060 An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 to Make Public Infrastructure Improvements

We have also notified the sponsor and cosponsors of the bill of the Committee's action.

Sincerely,

S/Sen. Jill M. Goldthwait
Senate Chair

S/Rep. Randall L. Berry
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 687

**120TH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

March 28, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

H.P. 1702 The Task Force to Study Regulatory Barriers to Affordable Housing

L.D. 2109 An Act to Prevent Price Gouging During Abnormal Market Disruptions

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Kevin L. Shorey
Senate Chair

S/Rep. John G. Richardson
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 688

**120TH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 28, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2188 An Act Regarding the Withdrawal of Lake View Plantation from School Administrative District No. 41

We have also notified the sponsor and cosponsors of the bill of the Committee's action.

Sincerely,

S/Sen. Betty Lou Mitchell
Senate Chair

S/Rep. Shirley K. Richard
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 689

**120TH LEGISLATURE
COMMITTEE ON LABOR**

March 28, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2187 An Act to Provide Equity to Adoptive Parents with Respect to Parental Leave

We have also notified the sponsor and cosponsors of the bill of the Committee's action.

Sincerely,

S/Sen. Betheda G. Edmonds
Senate Chair

S/Rep. George H. Bunker Jr.
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 690

120TH LEGISLATURE

COMMITTEE ON NATURAL RESOURCES

March 28, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2176 An Act to Ensure Consistent Regulation of Air Emissions in the State

We have also notified the sponsor and cosponsors of the bill of the Committee's action.

Sincerely,

S/Sen. John L. Martin
Senate Chair

S/Rep. Scott W. Cowger
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 691

**120TH LEGISLATURE
COMMITTEE ON TAXATION**

March 28, 2002

Honorable Richard A. Bennett, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 883 An Act to Return a Percentage of Sales and Use Tax to Municipalities

We have also notified the sponsor and cosponsors of the bill of the Committee's action.

Sincerely,

S/Sen. Kenneth T. Gagnon
Senate Chair

S/Rep. Bonnie Green
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I appreciate the opportunity to speak briefly on this matter. I just wanted to say that, even though it came out of committee as a unanimous Ought Not to Pass, the service center folks and others are going to be concentrating on other issues that are important to them because this bill really didn't have the support of either body at this time. I did want to commend the members of the Taxation Committee. There are people who worked on this bill arduously. Even those folks who didn't support the concept put that aside so we could come up with the best possible product that we could have. It was as though we were told or instructed by someone that we had to have a local option tax. I think we did come up with a very good product. The state isn't ready for that at this time. I just want to commend the good Senator from Aroostook, Senator Kneeland, the good Senator from York, Senator Lemont, and the members of the other body who were on the Taxation Committee. They really rolled up their sleeves and are doing a very good job. Thank you very much and thank you for the opportunity to speak.

ORDERS

Joint Resolution

On motion by Senator **SMALL** of Sagadahoc, under unanimous consent on behalf of President **BENNETT** of Oxford (Cosponsored by Representative: QUINT of Portland, Senators: DAVIS of Piscataquis, McALEVEY of York, MILLS of Somerset, O'GARA of Cumberland, Representatives: LaVERDIERE of Wilton, MADORE of Augusta, PEAVEY of Woolwich), the following Joint Resolution:

S.P. 829

**JOINT RESOLUTION RECOGNIZING THE WEEK OF
APRIL 14TH TO 20TH IN 2002 AS NATIONAL
RESTORATIVE JUSTICE WEEK IN MAINE**

WHEREAS, Restorative Justice is a value-based approach to criminal justice, with a balanced focus on the offender, victim and community; and

WHEREAS, the basis of Restorative Justice is to determine the harm resulting from a crime, what needs to be done to repair the harm and who is responsible for repairing the harm; and

WHEREAS, currently, the primary approach to criminal justice is retributive justice and is focused on determining what law was broken, who broke it and how they should be punished; and

WHEREAS, Restorative Justice is a response to a crime as much as punishment, but it focuses on restoring the losses suffered by victims, holding offenders accountable for the harm they have caused and restoring peace within the communities; and

WHEREAS, Restorative Justice uses victim-offender mediation conferencing, victim assistance, ex-offender assistance, restitution, community service and countless other ways to help those who have been injured, including the victim, the offender and the community; and

WHEREAS, Restorative Justice is a concept that has many adherents and is internationally recognized, and many communities and police departments in our own State are interested in pursuing restorative justice; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to announce that the week of April 14th to April 20th in 2002 is National Restorative Justice Week in Maine and that we encourage communities throughout the State to learn about this helpful system; and

BE IT FURTHER RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Friends Committee on Restorative Justice, the Renaissance Lawyer Society, the Chief Justice of the Maine Supreme Judicial Court and the Maine Council of Churches.

READ and ADOPTED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Implement the Unanimous and the Majority Recommendations of the Commission to Study Equity in the Distribution of Gas Tax Revenues Attributable to Snowmobiles, All-terrain Vehicles and Watercraft"

H.P. 1575 L.D. 2081

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1054).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1054).**

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

READ ONCE.

Committee Amendment "A" (H-1054) **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-1054)**, in concurrence.

The Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Establish Classes of Property for Purposes of Taxation and to Exempt Personal Property from Taxation if there is an Excise Tax on Certain Personal Property

H.P. 1582 L.D. 2087

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1053).**

Comes from the House with the Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1053).**

Report **READ.**

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

Divided Report

Eight members of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores"

H.P. 1623 L.D. 2123

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1049).**

Signed:

Senators:

DOUGLASS of Androscoggin
BROMLEY of Cumberland

Representatives:

CHIZMAR of Lisbon
COTE of Lewiston
ESTES of Kittery
TUTTLE of Sanford
O'BRIEN of Lewiston
PATRICK of Rumford

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

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

LABRECQUE of Gorham
HEIDRICH of Oxford

DUNCAN of Presque Isle

Senator:
TURNER of Cumberland

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-1050).**

Signed:

Representative:
MAYO of Bath

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049).**

Reports **READ.**

Senator **DOUGLASS** of Androscoggin moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**, in concurrence.

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Allow Persons with Disabilities to Purchase Coverage Under the Medicaid Program
S.P. 699 L.D. 1901

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-531).**

Signed:

Senators:
LONGLEY of Waldo
MARTIN of Aroostook

Representatives:
FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
LOVETT of Scarborough
O'BRIEN of Augusta

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

Signed:

Representatives:

SHIELDS of Auburn
NUTTING of Oakland

Reports **READ**.

Senator **TURNER** of Cumberland moved the Senate **ACCEPT** the Minority **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 Minority **OUGHT NOT TO PASS** Report.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for 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 (4/1/02) 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 - April 1, 2002, by Senator **TREAT** of Kennebec

Pending - motion by Senator **EDMONDS** of Cumberland 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**.)

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

READ ONCE.

Committee Amendment "B" (H-947) **READ**.

On motion by Senator **O'GARA** of Cumberland, Senate Amendment "A" (S-536) to Committee Amendment "B" (H-947) **READ**.

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. This is, in fact, a piece of legislation that the Senator from Cumberland, Senator Turner, and I spoke to you about yesterday. All this amendment does is take this issue and refer it to the Maine Fire Protection Services Commission for its review. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I would urge you to support the good Senator from Cumberland, Senator O'Gara's, amendment. The Maine Fire Service Commission has been a asset and a valuable resource to the members of the Criminal Justice Committee, especially on providing advise, criticism, and other comments concerning issues dealing with the Fire Service, which many of us on the committee are learning to become expert in. But I would highly recommend that this goes to the commission for their review. Hopefully, we'll welcome their comments next year.

On motion by Senator **O'GARA** of Cumberland, Senate Amendment "A" (S-536) to Committee Amendment "B" (H-947) **ADOPTED**.

Committee Amendment "B" (H-947) as Amended by Senate Amendment "A" (S-536) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-947) AS AMENDED BY SENATE AMENDMENT "A" (S-536)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/1/02) Assigned matter:

Bill, "An Act to Control Internet 'Spam'"

H.P. 1538 L.D. 2041

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

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-960) AS AMENDED BY SENATE AMENDMENT "A" (S-520)** thereto, in **NON-CONCURRENCE**

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

(In Senate, April 1, 2002, on motion by Senator **SHOREY** of Washington, **RULES SUSPENDED. RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDMENT BY COMMITTEE AMENDMENT "A" (H-960). RULES SUSPENDED. RECONSIDERED ADOPTION OF COMMITTEE AMENDMENT "A" (H-506).** On further motion by same Senator, Senate Amendment "A" (S-520) to Committee Amendment "A" (H-960) **READ and ADOPTED.**)

Committee Amendment "A" (H-960) as Amended by Senate Amendment "A" (S-520) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-960) AS AMENDED BY SENATE AMENDMENT "A" (S-520) thereto, in **NON-CONCURRENCE.**

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

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 (4/1/02) Assigned matter:

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)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 25, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) AS AMENDED BY SENATE AMENDMENT "A" (S-487)** thereto.)

(In House, April 1, 2002, **PASSED TO BE ENACTED.**)

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) AS AMENDED BY SENATE AMENDMENT "A" (S-487)** thereto.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-472) as Amended by Senate Amendment "A" (S-487) thereto.

On further motion by same Senator, Senate Amendment "B" (S-533) to Committee Amendment "A" (S-472) **READ.**

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. The purpose of this amendment is to add the mandate preamble to this bill and I'd like to explain why I think it's needed. This bill is addressing a real problem in terms of search of title regarding subdivision amendments. It does create a significant cost to municipalities in this regard. First of all, municipalities have concerns about the state definition of subdivision in state statute because there are quite a few exemptions to that definition and more seem to be added on a fairly regular basis. This bill requires that a municipal subdivision ordinance must conform to the state definition by 2006 and that it must file any conflicting definition at the county registry of deeds. The filing of a conflicting definition is not a problem, but the requirement of the bill that municipalities must conform to the state definition is. Because the state definition is changed on a fairly regular basis, every time the state definition changes, as far as I can tell from this bill, the municipality would have to change its ordinance to conform. I don't know how many of you have served in local government, but changing an ordinance at the local level is every bit as complicated as changing a bill at the state level. It does entail significant time and effort. These ordinances have taken a great deal of effort to prepare and to pass, usually at town meetings. To be amending those on a regular basis is a significant cost. It is estimated that over 300 municipalities will have to change their subdivision ordinances to comply with the terms of this law. So if it is the decision that municipal authority is to be preempted and that municipalities are going to be ordered to have a definition of subdivision that conforms to state law, so be it, but I think it's fair that we acknowledge the fact that it will take significant time and effort on the part of municipalities to do this and I think it is appropriate that the mandate preamble be added. Thank you.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. The Natural Resources Committee spent a great deal of time dealing with this issue. The final analysis, which finally brought it down, was the MMA, in the way that they voted, decided that they didn't like it. They really, basically, tried to figure out a way to kill it. So this is obviously a way in which they

could chose to do so. I guess I should go further, but I won't at this point because I firmly believe that the amendment that has just been offered by the Senator from Hancock, Senator Goldthwait, is in violation of Joint Rule 312. I'd ask the President to provide a ruling.

Senator **MARTIN** of Aroostook rose to a **POINT OF ORDER** as to whether Senate Amendment "B" (S-533) was in violation of Joint Rule 312.

TABLED pending **RULING OF THE CHAIR**.

The Chair laid before the Senate the following Tabled and Later (4/1/02) Assigned matter:

Bill "An Act to Reduce Medical Errors and Improve Patient Health"

S.P. 419 L.D. 1363
(C "A" S-527)

Tabled - April 1, 2002, by Senator **RAND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527)**

(In Senate, April 1, 2002, Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (S-527) **READ** and **ADOPTED**. **READ A SECOND TIME**.)

On motion by Senator **RAND** of Cumberland, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-527).

On further motion by same Senator, Senate Amendment "A" (S-532) to Committee Amendment "A" (S-527) **READ** and **ADOPTED**.

Committee Amendment "A" (S-527) as Amended by Senate Amendment "A" (S-532) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-527) AS AMENDED BY SENATE AMENDMENT "A" (S-532) thereto.

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

Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

The Chair laid before the Senate the following Tabled and Later (4/1/02) 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 - April 1, 2002, by Senator **SMALL** of Sagadahoc

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

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

At the request of Senator **GOLDTHWAIT** of Hancock a Division was had. 33 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-476) **READ**.

On motion by Senator **SHOREY** of Washington, Senate Amendment "B" (S-522) to Committee Amendment "A" (S-476) **READ**.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. With this legislation, we are doing a very good thing. We're getting rid of the mercury switches, properly, so they won't further pollute our environment. At the same time, what we're going to do is punish big businesses that put these products in our cars, these switches which have control over our air conditioning units, our power windows, our convenience lights. So we should really feel good about what we're doing because we're cleaning up our environment. We're making the culprits pay. But in every scenario there is a winner and a loser. In this legislation, one would make you believe the winners are the people in the State of Maine and the manufacturers are the losers because they have to pay. But I would suggest to you that this is not the case. I would suggest to you that the people in the State of Maine, the consumers, and the auto dealers, specifically those located along the borders, are the losers here. Not the big manufacturers. Not at all. We're just kidding ourselves. We think that these costs of \$20, \$30, or \$40 won't be passed down the chain to the consumers ultimately. This legislation calls for a review of costs incurred. I would suggest that we can't really look at that. What we need to do is look at clear business principles. Are we actually going to tell businesses, these auto manufacturers, what they are going to charge these people and say, 'no, that's not correct, you need to charge a lower price'? No,

we're not going to do that. We're going to look at them and they are going to explain to us why it's costing \$20, \$30, or \$40 more for every car that is purchased in the State of Maine, that has been passed on to the consumer, and we're going to say, 'that makes sense.' Because you know what, under the current proposal, there is such a track these switches have to go on and hoops these manufacturers have to jump through, that there are going to be costs incurred. The next thing you need to know is how long are we going to be paying these costs? How much longer are the consumers going to be paying these \$20, \$30, or \$40 fees? I would suggest to you, again, that this fee might go on forever. I'll use my own example here. I have a small business and we use UPS quite a bit. Last year, when the gas prices were quite high, UPS sent along a little note saying that they were going to have an adjustment for fuel. That made sense. We're paying a higher fuel cost. Fuel costs automatically started going down. Did I get a note from UPS saying that since the prices had gone down, they were now going to charge less? No. So I would suggest that there is no end to this. But there is a better way. There is a way we still can rid these switches from our environment, these switches that also come from refrigerators, air conditioners, and a lot of other sources, and have an understanding of what the payment would be. The payment would be \$1. There is an end to this also, 10 years. What I am suggesting in this amendment is that we would put a \$1 fee on every new and used car sold in the State of Maine. That's it. The consumer would know exactly what they are paying and it's a savings over what it would be if the manufacturer were passing those costs down. Also, in 10 years, this will sunset. No more fees. No more charges. No more hidden charges for the consumer. Everything is right up front. In 10 years the fee is done. So what I would ask you to do is support this amendment and support it for the consumers in the State of Maine, because we're not punishing anybody. The only people we're going to punish are the people here in the state that are going to pay for this forever. Thank you very much.

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

Senator **MARTIN:** Thank you very much, Mr. President, members of the Senate. I was really hoping that the Senator from Washington, Senator Shorey, had changed his mind and was now supporting the committee amendment with the bill and whatever might happen to it. Let me just, very quickly, give you the basis for the legislation because I think it's important that we remember that in 1998 the United States Congress declared and determined that mercury was the most dangerous of all air pollutants that we have in this country. They made it clear that it was something that we all had to be concerned about. It is also what has caused a lot of our problems with the bald eagle. As an aside, one of the areas where I fish from time to time when I have an opportunity is a lake called Long Lake, which is part of the Allagash Waterway. A number of years ago, Long Lake was designated with its fish having the most mercury of any lake in this country. Now keep in mind that there is no industry in the Allagash Waterway, at least that I know of, and there is no mercury. So you know that mercury is being transported by air. That, basically, is part of our problem. Now, as to how we got to where we are now. I find myself in a very strange position today. I find the Senator from Washington, Senator Shorey, perhaps where I would have been a number of years ago. I'm the one talking about free enterprise,

the free market system, and the Senator, with his amendment, is offering you another state program. I find that awfully strange, from my position, where I normally come from. So I'm offering you today an amendment and the committee amendment, which basically creates a program that is the responsibility of those people who created the problem. Let me just lay out for a moment the scenario. About 10 years ago all the car manufacturers in Europe stopped using mercury. In 1995, the automobile industry in this country took the position that they would stop too. They haven't. We are now told that they will stop by July. So potentially all the cars now have mercury switches. They are encapsulated. They are not a problem until such time as that capsule ends up in an incinerator. When that car gets melted down in its final death in Pennsylvania or wherever. It gets into the air, because they are now melting that. That is when the emission occurs. What we are trying to do is put into place a program that will work. You've just received some material, and I'd like you to take a look at it. I want to just lay out the differences between the amendment that has been offered versus the committee amendment. As I said, number one, the majority of the committee made it a position that the responsibility of the mercury lays upon the manufacturers. The State of Maine and state's taxes should not pay for that because it was not caused by the State of Maine. The amendment offered by the Senator from Washington, Senator Shorey, also adds a \$1 fee. That's pretty close, by the way, to saying we're adding a tax here, which is in violation of the state constitution because we don't have that power. Then, of course, the argument that in the handout that was distributed yesterday, was the amendment offered by the Senator from Washington, Senator Shorey, would start the program sooner. The reality is that it starts the program a year later because the rules would need to be adopted. That creates an additional delay. In addition, the thing that I want to point out, which is far more important perhaps than anything else, is that for each year that we delay there is roughly 100,000 cars in Maine that get destroyed, that have the end-of-life. Keep in mind that the money that's generated by this amendment will simply be unable to generate the amount of money necessary to do the job. That's what it is really all about. So I would urge that members of the Senate vote against adoption of this amendment. I will offer an amendment that deals with the issues that were brought to the committee's attention by members of the Senate and also by the Maine Automobile Dealers, who felt very strongly that they didn't want to be the collective agency and they felt that this was not the way to proceed. We agreed with them. So I will be offering that amendment on behalf of the committee. I really urge you not to vote for the pending amendment.

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

Off Record Remarks

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 agree with the good Senator from Aroostook, Senator Martin, that there is a problem and we do have to deal with it. My amendment does just that. But I would stress to you that I'd rather deal with the devil I know than the one I don't. In my amendment, we know that it's going to be \$1 for every new and used car. That's it, \$1. We have no idea at all how much more is going to be passed onto the Maine consumer here. This fee, not a tax but a fee, is again the devil we know, and will end in 10 years. You know what, if we don't have enough money in 10 years to finish this program, what we can do is put forth legislation that will bring additional funds in from the fees. So I'd rather go a little lower in the beginning than over charge at the end and continue charging. So I would ask you folks to think about your consumers in your districts, the people who are buying the cars, the people who are going to be paying this additional money, and support this amendment. Thank you.

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

Senator **GAGNON**: Thank you, Mr. President, men and women of the Senate. I want remind folks that a fee is a fee. If walks like a duck and quacks like a duck, generally we say it's a duck. Some people have suggested that the difference between a fee and a tax is that a tax is what is done in the Taxation Committee and a fee is what is done in all the other committees. I'd suggest that this is in fact a tax and that the people of the State of Maine should not be taxed for something that was done by auto manufacturers. 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 would urge you to vote against the pending motion because I believe that it would create a system that will not work effectively and will delay, well into the future, the ability to have a program that really addresses a very serious problem. The other day we received some materials, which I think were very effective materials, trying to show that the amendment that is being offered now was a much better proposal than that in the majority committee amendment. I would like to address some of the concerns that were raised there because I do think that, even though they were not part of the floor debate here, they have been part of the discussion that has been going on in the various caucuses surrounding this bill. One of the concerns I have about having the \$1 fee in this bill is that it will essentially limit this program to one that will take many years to accomplish its goal. My understanding is that rules would be adopted in the fall of 2002, but until the fees are collected, the program would be delayed for many, many years thereafter. Every year of delay is another 100,000 cars with mercury switches that are scraped. This amendment sets up a program that is inadequately funded. It creates additional bureaucracy in the Department of Environmental Protection when, as the Senator from Aroostook, Senator Martin, has mentioned, we actually have an existing network of 6 collection systems that are out there in the State of Maine ready and waiting for the private sector to give them a call and say let's do a contract and send out materials to you. The materials that were passed out previously also make reference to the issue of storage of mercury at various junk dealers and car

recyclers. I want to make some points about that as well. I think the indication there was that there would be some very onerous requirements on either auto dealers, junkyard owners, or auto recyclers, that would be a tremendous burden on them, based on the number of mercury switches that would have to be saved. I just wanted to make a point that under the majority report, as well as this amendment, the Department of Environmental Protection is being directed to change its rules on universal waste, which is what currently has a limit on how many of these mercury switches they can collect. The result will be that, when they do make that change, up to 4,000 of these switches can be kept at any one location without being considered a universal waste or hazardous waste. That could be several years' supply before they have to be sent off to the collection system. So I think that some of the information that has been handed out about the majority report is not entirely accurate. My concern is that this amendment purports to address those concerns but actually will create a fairly unworkable system that is under funded and will take many years to accomplish the goal. I urge that you reject this amendment so that we can go on to adopt the Majority Report and some alternative amendments which I think are much better targeted to address what will be more legitimate concerns about how this system works.

Off Record Remarks

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

Senator **MILLS**: Mr. President, I rise because I simply don't understand the Majority Report out of the committee.

THE PRESIDENT: The matter before us at the present time is Senate Amendment "B" (S-522) to Committee Amendment "A" (S-476).

Senator **MILLS**: The purpose of Senate Amendment "B" is to correct the source of my confusion. As I understand the bill as it lays unamended by the pending amendment, it phrases a declaration that some 20 or 22 manufacturers of motor vehicles, some of whom reside in Europe, that are sold or distributed in this state shall, individually or collectively, do the following. Then the committee version goes on to contain language directing this herd of cats to get together at some undefined location, to arrive at some sort of agreement, and then provide a new program for the benefit of the state. If I were a manufacturer, and if I were one who hadn't produced mercury switches for some years, and I suspect there are many in that category, I'd be tempted to say leave me out of it. Go ahead and prove that there are any vehicles out there with mercury switches in them. Or I defy you to make me do this. What is the sanction if I don't? What is the sanction if I disagree with my other 19 or 20 compatriot manufacturers about the allocation of costs for this state program that you want me to start, gear up, run, and administer for some indefinite time frame? I want these mercury switches removed from the environment. But for us to get it done, we have to create a system that is simple, that won't be subject to confusion, that is administrable, that works. I'm at a loss to understand. I've read

this again and again. I don't understand. I respect the committee's work, I respect the effort and the enthusiasm and the good intentions. But I, for the life of me, don't understand why you are going to succeed in getting 20 or so manufacturers together around a common proposition to establish a new program for the benefit of the State of Maine. As much as I hate to admit it, I don't see any way out of this without imposing some sort of a modest fee, as is proposed in the pending amendment, and setting up a program that would be administered by the department. I might add, this fee would be imposed on cars that are sold by the collective group of manufacturers who we are purporting to order to something for us in the committee's version. The burden of this, it seems to me, is roughly the same no matter how you draft it, it's just that in the version we have coming out of the committee, I don't understand how it will work or indeed that it will work without being tied up in litigation or outright defiance. 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. First I want to congratulate everyone involved in the preparation of this bill because I think, once again, Maine is showing its leadership on environmental issues. I think it's a fine project and I fully support the goals of the project. But I want to speak to why I am supporting Senate Amendment "B". I would echo the sentiments of the good Senator from Somerset, Senator Mills, regarding the fact that because it is a good project, I want it to work. I want to share with you one of my favorite e-mails of the session so far. It comes from an extremely straight-ahead Maine guy named Jeff. I don't know where Jeff is from. But his words put it better than mine could. It says, 'I own a junkyard. This is about mercury switches. We follow the law. We don't have any organization any more to watch what goes on in the state capital, but we had guys at those meetings the DEP held on mercury switches and we knew who was going to have to take them out. Of course we knew that was going to be our job. We like the idea of getting \$1 for each one. I guess that's better than nothing. We don't like the idea that every company that makes cars is going to set up a place for us to take the switches. I want something that isn't going to take a lot of my time driving around the state. I want one box for all the switches and take them to one place where no one cares if I cut them from a Ford or a Chevy. A few of us found out about the new plan that is Amendment "B". We hope that you will put that plan in the works. We thought that was what was going to happen anyway. We don't know where the idea came from to have each car company take its own switches back. That could get crazy. We really don't want to deal with DEP, but it's better than dealing with 13 different car models and different rules for each one. OK? Thank you.' Thank you.

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

Senator **MARTIN:** Thank you very much, Mr. President, members of the Senate. I don't know who Jeff is, but certainly he had his antenna dealing with the car manufacturers. Let me just lay out for you, first of all, in reference to junk dealers. Have any of you ever figured out what state laws are about junk dealers or junkyards? They are left to the State Police and they are left,

basically, to municipalities to regulate. There are very few regulations or we don't even know where they are. Junkyards exist in every town, some of which we don't even know exist and they do exist, we know, because we live there. In reference to what is proposed, to the comments from the Senator from Somerset, Senator Mills, the amendment, if I ever get to offer it, will solve the problem that he is concerned about. It was never intended; was not drafted that way; but it is being interpreted that way. So we're going to make sure that the interpretation is what it is we intend. Keep in mind what we have done this session in the Natural Resources Committee. We've actually eliminated staff in the department. We've cut their budget and we've basically not raised fees. We are trying to keep things so that the employers and manufacturers and business owners in this state will not have to pay more fees. What some people are now suggesting is that we create a brand new state program and that the state be responsible for cleaning up the messes that auto manufacturers have created. That, to me, is a real mistake. The difference here is very simple. Whether or not we want to create a program that will be operated by those who created the problem and paid for by them or whether or not it will be paid through the Department of Environmental Protection and then the state will end up paying for it. To me, it's very simple. That's the process we tried to establish in our committee. So I would urge you to defeat the pending motion.

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

Senator **SAWYER:** Thank you, Mr. President. I must say, this is an exciting day in the Maine Senate. Either direction we take, I think the Maine environment will benefit. Having said that, I am also especially enthusiastic to welcome the Senator from Aroostook, Senator Martin, as a fellow student of Adam Smith, one of the great outpourings of the Scottish enlightenment. It's clear to me the main difference between my problem with the amendment that is before us is that it does mean more government. I would far rather see a free and competitive marketplace solve this problem. I would like to read to you a letter I received, we all received actually, from the Institute of Scrap Recycling Industries, a group that I've had some occasion to know for 25 years. They say, 'we would like you to know that we consider the manufacturers responsibility provision contained in L.D. 1921 to be significant and vitally important to the legislation. While the automotive manufacturers knew for many years of the persistence bio-accumulative and toxic effects of mercury, especially to young children, they did nothing to replace mercury switches with readily available non-mercury alternatives. If you pass the report that came from the committee, you will be sending a signal to the automotive industry that it must design vehicles with the people and the environment in mind.' I don't want to pass mandates. I don't want to tell manufacturers how to build their cars. I would like them to make those decisions. But I would like them to make those decisions with the consumers in mind. The amendment before you creates an addition to the bureaucracy of the state and I'll be voting against it. 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. The debate that we are having today, I don't

believe, is whether or not we're interested in getting rid of mercury switches and lights, let's not forget this is not just switches but also lights. It's about how to go about doing that. The concern that I have, and not being an attorney I'm not sure exactly how to phrase the question, is that I know that there are prohibitions against companies getting together and fixing prices. What we are requiring them to do, if we don't pass this amendment, is to all get together and determine what the price is going to be for this program, whether we call it a program or not, and then we need them to report back to the legislature on what the price is. I'm concerned about that. The other piece, when we talk about a tax is a tax and a fee is a tax, and all those sorts of things, is that a program is a program. I think it makes great sense for us to get rid of switches. I also got the e-mail from Jeff and I also talked to some of the junkyard folks in my area who have the same concern. When you are in a position where you might be required to have a whole series of buckets across the back of the garage with all the different models of cars and places for headlights and different things you'd need to sort out, that is an incredible imposition on those businesses. So I guess my question, to some of the attorneys is: are we, in fact, creating a situation where we are forcing companies to come together and set prices? Is that not a problem? If it isn't, that's one issue. But than the other is, if we are going to establish this program, why don't we just go ahead and do it? Why don't we just say to DEP what is the budget going to be for doing this? What is the fee going to be? And just go there. Thank you.

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. This is a very interesting debate. The citizens of the state can't lose no matter how this comes out. But the amendment before us does have a fixed cost. I think what we want to consider is the efficiency and the cost. It seems to me, in the amendment that is before us, we do have a cost and a time, out to 2013 I believe. I think we're all going to be naive if we don't believe there is going to be a cost if the manufacturers do this. They are going to pass that on to the consumer. Whether you call it a pass through or a fee or anything that you want to call it, at least with the amendment before us we know what it is and we know what the timetable is. Apparently the good Senator from Hancock, Senator Goldthwait, with the e-mail that she got, knows one individual who believes that we should adopt this amendment. Having heard the debate, I stand to support that. Thank you, Mr. President.

THE PRESIDENT: The Senator from Aroostook, Senator Martin, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. First of all, this is not collusion. We dealt with that issue and it's clear that this is not collusion and not forcing what some people might suggest. The second point I want to make is that this amendment that is being offered to you now, does not fund the program. It is severely under funded by probably as much as \$2 million. We would end up having to charge, the way that this is being proposed, a minimum of \$4 in order to get the necessary money to do the job. We discussed that, because at one point

the committee took a look at that issue and we did not go this route for a couple of reasons. First of all, the auto dealers in Maine did not support that. They were adamantly opposed to doing it in this fashion. We backed off. We felt that it was not the way to go. We felt that it would not work. Finally, what this amendment does is takes all the responsibility from the manufacturers who put the mercury there. It takes all the responsibility off their shoulders and puts it right back on the people who own those cars. In my opinion, the manufacturers deserve to have some responsibility.

Off Record Remarks

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

Senator **TREAT:** Thank you, Mr. President, men and women of the Senate. I rise to clarify some issues around some legal questions that were raised by the good Senator from Lincoln, Senator Kilkelly, and would like to assure you that the committee got legal advise from the Attorney General's Office and looked into issues, including questions of potential preemption and whether there were concerns around franchise law, and of course, anti-trust concerns. Nothing in the letters from the Attorney General's Office, addressing this issue, that went to the Department of Environmental Protection and to the committee raised any concern, whatsoever, about anti-trust violations. I know that this is an issue that comes up frequently when manufacturers do not wish to do something that, perhaps, a legislature or a congress wishes them to do. I know that in my past experience working on issues around recyclability and companies coming up with packaging that could be recycled and was consistent in the labeling provisions so that something was recyclable for one company would also be recyclable to another. These very same questions were raised. They are, I believe, a smoke screen. I don't think that they have any legitimate basis in the law. They are the kind of things that do get raised when companies are coming up with whatever they can come up with. I think some legitimate questions have been raised about the practicalities of companies sorting these switches and putting them into different bins and things like that. My understanding of the committee bill is that there was no intention to require that. My understanding is that is something that will be clarified if we can get beyond the pending amendment. My main concern with the pending amendment is the fact it raises insufficient funds to actually do this program. I guess I would say to everyone who has stood up here today and said this really isn't a question about whether to do it, it's how to do it. It is a question of whether to do it if we create a program that is so under funded that it cannot achieve its goals for over 12 years. I also think it's an issue of whether we are doing it if it doesn't get started for quite some time, because it takes that long to come up with the money. I really think that if there are concerns with the way the committee amendment has been drafted, there are practical concerns that can be addressed and will be addressed with amendments that are going to be offered later. I strongly urge you to reject the pending motion, which I believe will essentially gut this program and create something that is really half of what we really want to

do. Sometimes I think that is really almost as bad as not doing something at all. To pat ourselves on the back and say that we solved a problem when we're really doing it only halfway. That really does concern me. I think a responsible amendment would have funded the program adequately. This amendment does not do that.

THE PRESIDENT: The Senator from Washington, Senator Shorey, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I rise for the third time and I apologize. But I do feel I need to correct a few things. The good Senator from Penobscot, Senator Sawyer, talked about free enterprise. Forcing business into a collection isn't free enterprise. Telling business what to do and how to do it is not free enterprise. Also the fact that it is paid for by the manufacturers, that's just not accurate. What is accurate is that the money will come from the consumers. The manufacturers aren't going to pay. Their profits are not going to go down in the State of Maine to pay for this. They are going to pass it on. Also funding. It would seem to me that we sell more cars in the State of Maine than we destroy every year. So every year we should be running a surplus because these cars that we are taking the switches out of will be the ones that they will be paying for. So we sell more cars, new and used cars, not just new cars, than are destroyed every year. That raises another question. If we have more switches than cars that are being sold, where are the switches coming from? Are they coming from refrigerators? They are coming from all sorts of other locations. So, again, we are asking the auto manufacturers to pay for other industries. Also there are results. This program works in New York and Connecticut. The mercury collection from New York and Connecticut show that only a few thousand switches are collected per year. But again, let's think about it. How many cars are sold in the State of Maine per year? Over 100,000. Actually 120,000 or there about. So you are looking at about \$1.2 million over the 10 years, which should be more than adequate to collect the amount of switches that are taken from cars that are destroyed, because there aren't that many cars destroyed every year in the State of Maine. Thank you.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I have a question I'd like to pose through the chair.

THE PRESIDENT: The Senator may pose his question.

Senator **GAGNON:** To the sponsor of the amendment, through this new tax, I'm wondering what the incentive will be for manufacturers to decrease the amount of mercury that they have in these automobiles? It is my understanding that currently alternatives are available. Those bright blue lights that you see sometimes on the highway, and you wonder if it's a police officer, are the bright blue headlights that have mercury in them as do many switches. There are alternatives to those. My question is, what would encourage a manufacturer to eliminate those switches and go to alternatives if the people of the State of Maine are paying a tax to take care of their problem for them?

THE PRESIDENT: The Senator from Kennebec, Senator Gagnon poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS**: Mr. President, the bill, in whatever version you chose to vote for today, absolutely prohibits the sale of these mercury switches forever. So that is not going to be an issue. I'm also reliably informed that the Maine Automobile Dealers support, without decent, the amendment that is now before this body. They feel this is the simple, direct, and if you would pardon the expression, elegant way of dealing with this awkward problem and that we shouldn't be attempting to herd-up the automobile manufacturers and try to compel them to do something that they may be unwilling to do. In fact, we may not have the power, legally, to compel them to do this. I'm also informed that we sell at least 150,000 cars a year, both new and used. There are, in addition, private sales between individuals that are not in that figure. We crush as many as 100,000 per year. If you think about it for a minute, it stands to reason that almost every car is sold 2 or 3 times before it is crushed. Clearly there is revenue to support the program. My biggest concern is the legal one raised by the good Senator from Lincoln, Senator Kilkelly, about the legal issues. I think they are paramount concerns. How on earth are we going to compel these manufacturers to do what we say they have to do? What is the bad thing that happens to them if they say 'nuts, we're not going to do this'? Why shouldn't they be entitled to resist on the basis, first of all, that there is no sanction, no apparent sanction, for not participating, and secondly, they can raise the constitution argument, that has been alluded to, that they are not allowed, at least for any other reason, to combine in restraint of trade. While they are sitting on the sidelines, doing nothing or expressing confusion about what this law might mean, there is no program. Maybe those who get elected next year will have to reconsider this entire thing. I'd like to get it resolved today. I think the Senate Amendment "B" proposed by my seatmate, the good Senator from Washington, Senator Shorey, is the answer and we should adopt it and move on. 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 answer the question posed by the Senator from Lincoln, Senator Kilkelly, with regard to whether or not the amendment requires manufacturers to set prices. I believe that is her question. I would argue that it doesn't at all. In fact, there is a huge difference between prohibiting, as we do, manufacturers from setting price on products that are sold new and the situation we encounter here, which is remediation of pollutants and poisons that are going to go into our air and are in fact already in our air and in our lakes. The problem I see with the current amendment is that it fails to adequately fund any program that might be offered by the State of Maine. It does this in a number of ways. First, the dollar amount, \$1 for each of these switches, simply cannot be right. That simply can't remediate a situation involving mercury, which we all know from our experience, our common sense experience with regard to asbestos, underground oil tanks, and any number of other pollutants that you care to name that we have purged from our soils and from our air, cost a whole lot more than \$1 per switch or per little, tiny item. So the first thing that this amendment does is under estimates the amount that this program will cost. The second thing it does is it discourages the purchase of new vehicles or adds on a fee and that adds sort of a negative component to purchasing a new vehicle when, in fact, we want our citizens to purchase new vehicles because they will not include mercury switches. What it does is actually work in exactly

the opposite direction by discouraging new product purchases and encouraging continued use of the products that have these switches. How did those switches get there? Why have they remained there? I'm not sure that anyone has put on the record the information that I have been given. I'm not sure how accurate it is. Several European manufacturers, and manufacturers of other nations, discontinued use of these mercury switches 10 years ago while American manufacturers continue to use them. I say that is a choice that was made by the manufacturer and if that choice is now found, by this body as a legislature and a public policy institution, to be one that needs to be changed than let's make sure we don't pass this cost onto consumers when, in fact, it is the past actions of the manufacturers that is at issue. It is true. We can all expect that manufacturers are going to put some portion of remediating this situation into the price of a new vehicle. However, why should we allow them to say, 'oh and that's the State of Maine taxing you again.' That's not right. In fact, it was their prior actions that caused this situation to occur. So from a number of points of view, we need to defeat the pending motion because it fails to encourage new car purchase, and in fact, discourages that. It fails to adequately fund any program that truly would remediate the situation. I urge you to vote against the pending motion.

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

Senator **TURNER**: Thank you, Mr. President, ladies and gentlemen of the Senate. I'll try to be brief. I think there have been many things said on both sides of this issue. Many of them I agree with. However, I think there are some compelling points that have been made that I think are persuasive, particularly manufacturers, who have had the opportunity to make substitutions, going back a decade. It has been suggested that the manufacturers will somehow be forced into a very convoluted mechanism for compliance. I think the contrary is actually allowed to them. If they chose to work together, they can develop, I think, a very efficient means of implementing this bill. Now I'm not an attorney, there are some here who have spoken eloquently on this matter, but I would like to think that I could speak forcefully as a businessperson. As a businessperson, you try to weigh various risks. One of the risks that you need to weigh is the legal one. There is also a reputation risk. I would be hard pressed, I believe as a businessperson, to want to take this bill to litigation. I think you'd be far better off, as a businessperson, to declare victory, work cooperatively with your companions who are in the automobile manufacturing business, and move on. I would urge that you vote against the pending motion. 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'm not in the habit of debating at such length, we must have all this pent-up debate inside ourselves that we're unleashing on this poor little bill. But I couldn't resist saying something about the adequacy of funding in Senate Amendment "B". That I am amazed, which is not a strong enough word, to hear someone suggest that we are discouraging a product purchase because we're putting a \$1 on the price of a car. It's a car. I don't know what anyone paid for their last car, but I know what I paid for mine and it's not elegant and it's limping through its

last few months of service here. I really wouldn't have noticed if \$1 had been added. In fact, I think we all add enough bells and whistles to our vehicles that it pales in comparison. So to suggest that somebody's going to be discouraged from buying a car because of this \$1 fee sounds ludicrous to me. As a matter of fact, if it's not adequately funded, I would say we put \$10 on because I don't think anybody would notice that either. If you want to spread blame for pollution to people, than we might talk about putting some amount in the hundreds onto owners of vehicles like SUVs that are notorious for their pollution components. It seems to me that Senate Amendment "B" is on the right track. If the funding proves to be inadequate, doubling, tripling, or quadrupling that \$1 is not going to deter anyone from buying a vehicle. I urge your support for the pending amendment.

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

Senator **DOUGLASS:** Mr. President, men and women of the Senate, as the Senator who raised the issue of the fee being added on, I wanted to be clear that I believe that it will cost far more than \$1. In fact, it's not fair to say to the citizens of Maine that they are going to be paying for this program and that it will cost only \$1 per vehicle. In fact, we ought to be saying to the citizens and to the manufacturers that they must, in their corporate statement of financial affairs, admit to the responsibility for this matter and put into that account line whatever it takes to rectify this situation. To the extent that goes into the price of a new car, I do expect it will be far more than \$1 and probably more like \$10 or more. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you very much, Mr. President. I promise I will be very brief. The good Senator from Lincoln, Senator Kilkelly, asked for a legal opinion. I've sat here and listened to 3 attorneys get up and speak on this. I believe, perhaps I'm wrong, that I've heard 3 different opinions. There are 20 car manufacturers. There are about 125 lawyers over in the Attorney General's Office, as we speak right now. I wonder how many opinions we will wind up with before it's all over? I believe the good Senator from Washington, Senator Shorey's, amendment is far more direct. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Washington, Senator Shorey to Adopt Senate Amendment "B" (S-522) to Committee Amendment "A" (S-476). 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 (#279)

YEAS: Senators: CARPENTER, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, LEMONT, MCALEVEY, MILLS, MITCHELL, O'GARA, PENDLETON, SAVAGE, SHOREY, SMALL

NAYS: Senators: BRENNAN, BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, KNEELAND, LAFOUNTAIN, LONGLEY, MARTIN, MICHAUD, NUTTING, RAND, ROTUNDO, SAWYER, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **SHOREY** of Washington to **ADOPT** Senate Amendment "B" (S-522) to Committee Amendment "A" (S-476), **FAILED**.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-476).

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

PAPERS FROM THE HOUSE

Joint Orders

Expressions of Legislative Sentiment recognizing:

David Gonyea, Head Coach of the Central Maine Technical College Men's Basketball Team, who has been named the United States Collegiate Athletic Association's Athletic Director of the Year. We commend him on his excellence and extend our congratulations to him on his achievement;
HLS 1067

The following members and coaches of the Central Maine Technical College Men's Basketball Team, the Mustangs, who reached a milestone in Maine intercollegiate athletics history in basketball when the United States Collegiate Athletic Association Division 2 awarded the team the National Title on March 9, 2002: Ryan Myles; Joshua Berard; Joshua Hodgkins; Shaun Lewis; John Csoros; Darren Winchenbach; Nicholas Hamel; Patrick Dempsey; Captains David Brown and Daniel Graham; Rory Dupuis; Assistant Coaches Geoff Robbins, Jim Foy, Todd Crossley and Chris Cormier; Manager Kelley Cormier; and Head Coach David Gonyea, also named the United States Collegiate Athletic Association's Athletic Director of the Year. This is the first team in the State to obtain a national title in basketball from any collegiate conference. We commend the team on its excellent achievement and extend our congratulations;
HLS 1068

Come from the House **READ** and **PASSED**.

READ.

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

Senator **DOUGLASS**: Mr. President, women and men of the Senate, I just wanted to emphasize the fact that this is the first basketball team at the collegiate level from Maine to win a national title. We're very, very proud. Apparently they defeated Northern Maine Technical College, the Rhema Bible College in Oklahoma, Bunker Hill Community College, New Hampshire Technical College, and thereby won the championship. We're very proud of you.

PASSED, in concurrence.

THE PRESIDENT: The Chair is pleased to recognize with us today David Gonyea, Head Coach of the Central Maine Technical College Men's Basketball Team, as well as Central Maine Technical College Men's Basketball Team, the Mustangs. They are with us today. Will they please rise and receive the greetings of the Senate.

ORDERS OF THE DAY

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

Bill "An Act to Prevent Mercury Emissions when Recycling and Disposing of Motor Vehicles"
S.P. 719 L.D. 1921

Tabled - April 2, 2002, by Senator **MARTIN** of Aroostook

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-476)**

(In Senate, April 2, 2002, on motion by Senator **MARTIN** of Aroostook, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476)** Report **ACCEPTED. READ ONCE.** Committee Amendment "A" (S-476) **READ.** On motion by Senator **SHOREY** of Washington, Senate Amendment "B" (S-522) to Committee Amendment "A" (S-476) **READ** and **FAILED ADOPTION.**)

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "C" (S-535) to Committee Amendment "A" (S-476) **READ.**

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

Senator **MARTIN**: Thank you, Mr. President, members of the Senate. I'll deal with the last portion of the amendment first because it deals with the issue that there was some confusion about as to whether or not there was going to be 20 of these companies that would be responsible for setting up sites. This makes it clear that there will be one site. Secondly, it deals with the question of making sure that the car dealers in Maine do not have to be collection agents, because they requested that this be the case. Basically, we're trying to make sure that we deal with the issues that we have been dealt and I think the amendment solves that problem and deals with the problems that car dealers in Maine brought to our attention.

On further motion by same Senator, Senate Amendment "C" (S-535) to Committee Amendment "A" (S-476) **ADOPTED.**

Committee Amendment "A" (S-476) as Amended by Senate Amendment "C" (S-535) thereto, **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-476) AS AMENDED BY SENATE AMENDMENT "C" (S-535)** thereto.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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. 1725

JOINT RESOLUTION MEMORIALIZING CONGRESS TO CHANGE THE SCHEDULED DESIGNATION OF MARIJUANA TO ALLOW FOR LIMITED MEDICAL USE

WE, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Congress of the United States, as follows:

WHEREAS, the State of Maine is one of several states that have passed humane laws to allow for possession of small amounts of marijuana for medical purposes by persons with certain specified medical conditions and diseases; and

WHEREAS, these specified medical conditions and diseases, such as AIDS and cancer, often are treated with drugs that leave the patients weak, tired and with severe nausea that is alleviated in some people by marijuana; and

WHEREAS, the State of Maine, after careful consideration, much debate and a statewide citizens' referendum, did pass a law entitled, "An Act to Permit the Medical Use of Marijuana"; and

WHEREAS, the compassionate citizens of the State of Maine, by a wide margin, agreed that a certain active ingredient in marijuana should be allowed to be used to treat people who are

suffering, and these citizens in no way condone the abuse of drugs; and

WHEREAS, the Institute of Medicine, within the National Academy of Sciences, has concluded after years of study that some patients "who do not respond to other treatments should not be denied the use of marijuana for medical purposes"; and

WHEREAS, 21 United States Code, Section 801 et seq., the Controlled Substances Act, places marijuana as a Schedule I drug, which indicates that marijuana has no medical use; and

WHEREAS, based on that existing statute, the United States Supreme Court ruled on May 14, 2001 in the case of United States v. Oakland Cannabis Buyers' Cooperative et al. that the designation of marijuana as a Schedule I drug disallows any medical necessity as a defense to federal prosecution for manufacturing and distributing marijuana; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Congress of the United States reconsider the scheduling of marijuana as a Schedule I drug use and allow the various law-abiding citizens who have need of the ingredient in marijuana to alleviate horrible symptoms to partake of this drug for a strictly medicinal purpose; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the Congress of the United States recognize the intent of these laws that the State of Maine and other states have passed and allow them to go into effect and to help those who need it most; and be it further

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

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

READ.

On motion by Senator **MCALLEVEY** of York, 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 (#280)

YEAS: Senators: BRENNAN, BROMLEY, DAGGETT, DOUGLASS, EDMONDS, GAGNON, LONGLEY, MITCHELL, PENDLETON, RAND, ROTUNDO, TREAT, TURNER

NAYS: Senators: CARPENTER, CATHCART, DAVIS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MCALLEVEY, MICHAUD, MILLS, NUTTING, O'GARA, SAVAGE, SAWYER, SHOREY, SMALL,

WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, **FAILED ADOPTION**, 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:

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1728

JOINT RESOLUTION ENDORSING TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

WHEREAS, good health is essential to every citizen of the world, and access to the highest standards of health information and services is necessary to improve public health; and

WHEREAS, the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people; and

WHEREAS, the achievements of Taiwan, the Republic of China, in the field of health are substantial, including having one of the highest life expectancy levels in Asia, having maternal and infant mortality rates comparable to those of western countries, eradicating infectious diseases like cholera, smallpox and the plague, and being the first country in Asia to eradicate polio and provide children with Hepatitis B vaccinations; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart agencies have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years, Taiwan has expressed a willingness to assist financially and technically in international health activities supported by the WHO; and

WHEREAS, direct and unobstructed participation in international health forums and programs is critical to limit the spread of various infectious diseases and to achieve good world health; and

WHEREAS, the European Parliament called on the World Health Assembly, in Geneva, Switzerland, to accept observer status for Taiwan and on its member states to support the application of Taiwan as an observer to the WHO; and

WHEREAS, the United States Congress has authorized the United States Secretary of State to endorse observer status for Taiwan at the World Health Assembly and President Bush and members of his administration have voiced support for Taiwan's participation in the WHO; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to commend and support the efforts of Taiwan, the Republic of China, on its application as an observer to the World Health Organization; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to President George W. Bush, the Secretary of Health and Human Services, the Director-General of the World Health Organization, the Director General of the Taipei Economic and Cultural Office in Boston and the Members of the Maine Congressional Delegation.

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

READ.

Senator **GOLDTHWAIT** of Hancock requested a Division.

Senator **LONGLEY** of Waldo requested a Roll Call. Less than one-fifth of the members responding, a Roll Call was not in order.

At the request of Senator **GOLDTHWAIT** of Hancock a Division was had. 17 Senators having voted in the affirmative and 16 Senators having voted in the negative, **ADOPTED**, in concurrence.

Senator **LONGLEY** of Waldo was granted unanimous consent to address the Senate off the Record.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1727

ORDERED, the Senate concurring, that the Task Force on Rail Transportation is established as follows.

1. Task force established. The Task Force on Rail Transportation, referred to in this order as the "task force," is established to develop a rail transportation policy for the State.

2. Membership. The task force consists of 12 members appointed as follows:

A. Two members of the Joint Standing Committee on Appropriations and Financial Affairs, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

B. Three members of the Joint Standing Committee on Business and Economic Development, 2 of whom are

appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

C. Three members of the Joint Standing Committee on Transportation, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House;

D. One member representing the Board of Directors of the Maine Port Authority, appointed by the President of the Senate;

E. One member representing railroad shippers, appointed by the Speaker of the House;

F. One member representing an airport that currently is integrated with an existing rail system, appointed by the President of the Senate; and

G. One member representing the Northern New England Passenger Rail Authority, appointed by the Speaker of the House.

3. Task force chairs. The first named Senator is the Senate chair of the task force and the first named member of the House is the House chair of the task force.

4. Appointments; convening of task force. All appointments must be made no later than 30 days after adjournment of the Second Regular Session of the 120th Legislature. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the task force shall call and convene the first meeting of the task force, which must be no later than June 15, 2002.

5. Duties. The task force shall:

A. In cooperation with the Commissioner of Transportation, develop a rail transportation policy and plan that integrates rail, highway, marine and air transportation into an efficient and cohesive system for the entire State that best meets the needs of Maine citizens and Maine businesses;

B. Develop visions for an integrated transportation system to be established in 5 and 10 years, and beyond, as far as practicable, and develop the steps that must be taken to achieve each vision within each specified time period;

C. Develop emergency and backup plans for railroads that are confronted with the possibility of bankruptcy, significant financial problems or significant reductions in service;

D. Review and evaluate current transportation system policies and plans;

E. Identify any obstacles to the successful implementation of current and proposed transportation system policies and plans;

F. Determine the resources, including "personal services," "capital" and "all other" funding, needed to achieve each

vision, including the means by which these resources can be made available; and

G. Create a plan for educating the Legislature and the public with respect to the transportation plans and policies developed by the task force.

6. Meetings. The task force may meet a maximum of 4 times.

7. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the task force.

8. Compensation. Members of the task force are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the task force.

9. Report. The task force shall submit a report that includes its findings and recommendations, to the Legislative Council by November 6, 2002.

10. Extension. If the task force requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the task force terminates.

11. Budget. The chairs of the task force, with assistance from the task force staff, shall administer the task force's budget. Within 10 days after its first meeting, the task force shall present a work plan and proposed budget to the Legislative Council for approval. The task force may not incur expenses that would result in the task force's exceeding its approved budget. Upon request from the task force, the Executive Director of the Legislative Council or the executive director's designee shall promptly provide the task force chairs and staff with a status report on the task force's budget, expenditures incurred and paid and available funds.

Comes from the House, **READ** and **REFERRED** to the Committee on **TRANSPORTATION**.

READ and **REFERRED** to the Committee on **TRANSPORTATION**, in concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Joint Study Order - Relative to Creating a Task Force to Study the Creation of a Registry of Personal Care Attendants
H.P. 1671

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

In Senate, April 1, 2002, **READ** and **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

On motion by President Pro Tem **MICHAUD** of Penobscot, the Senate **ADHERED**.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Joint Study Order - Relative to Establishing the Committee on Workforce Investment

H.P. 1682

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

In Senate, April 1, 2002, **READ** and **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

On motion by President Pro Tem **MICHAUD** of Penobscot, the Senate **ADHERED**.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1729

ORDERED, the Senate concurring, that Bill, "An Act to Amend Maine's Wild Turkey Hunting Season," S.P. 721, L.D. 1923, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

Off Record Remarks

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

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

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

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 **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create the Maine Rural Development Authority"

H.P. 1724 L.D. 2212

Reported that the same **Ought to Pass**, pursuant to Joint Order 2001 (H.P. 1610).

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**.

On motion by Senator **SHOREY** of Washington, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

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 **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Include a Woman Veteran on the Board of Trustees of the Maine Veterans' Homes"

H.P. 1723 L.D. 2211

Reported that the same **Ought to Pass**, pursuant to Joint Order 2001 (H.P. 1689).

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.

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

**Ought to Pass
Pursuant to Joint Order**

The Committee on **MARINE RESOURCES** on Resolve, Dealing With One-time License Transfers of Sea Urchin Dragging Licenses (EMERGENCY)

H.P. 1726 L.D. 2213

Reported that the same **Ought to Pass**, pursuant to Joint Order 2001 (H.P. 1705).

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

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

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:

ENACTORS

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

Emergency Measure

An Act to Enhance Economic Development Capacity
S.P. 337 L.D. 1144
(C "B" S-517)

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

Emergency Resolve

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

H.P. 1684 L.D. 2183

On motion by Senator **SMALL** of Sagadahoc, **TABLED** until Later in Today's Session, 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:

Act

An Act to Provide Maine State Retirement System Representation on the State Employee Health Commission
S.P. 817 L.D. 2198
(C "A" S-516)

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

Resolve

Resolve, Regarding Legislative Review of Chapter 220: Methodology for Identification of Regional Service Centers, a Major Substantive Rule of the Executive Department, State Planning Office

H.P. 1641 L.D. 2144
(S "A" S-515)

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

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1730

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out, to the House, a bill, "An Act to Transfer \$3,500,000 from the Maine Learning Technology Endowment to the General Purpose Aid Cushion."

Comes from the House, **READ** and **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

READ.

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

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONE** the Joint Order, in **NON-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, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, Part II HMO Guidelines, a Major Substantive Rule of the Department of Professional and Financial Regulation

H.P. 1635 L.D. 2138

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with 1 Senator having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following matter Tabled pending a Ruling of the Chair:

Bill, "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)

Tabled - April 2, 2002

Pending - **RULING OF THE CHAIR**

(In Senate, March 25, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) AS AMENDED BY SENATE AMENDMENT "A" (S-487)** thereto.)

(In House, April 1, 2002, **PASSED TO BE ENACTED.**)

(In Senate, April 2, 2002, on motion by Senator **GOLDTHWAIT** of Hancock, the Senate **SUSPENDED THE RULES** and **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) AS AMENDED BY SENATE AMENDMENT "A" (S-487)** thereto. On further motion by same Senator, **RULES SUSPENDED** and **RECONSIDERED ADOPTION** of Committee Amendment "A" (S-472) as Amended by Senate Amendment "A" (S-487) thereto. On further motion by same Senator, Senate Amendment "B" (S-533) to Committee Amendment "A" (S-472) **READ**. Senator **MARTIN** of Aroostook rose to a **POINT OF ORDER** as to whether Senate Amendment "B" (S-533) was in violation of Joint Rule 312.)

THE CHAIR MADE THE FOLLOWING RULING:

"Senator Martin of Aroostook has raised a Point of Order with regard to whether Senate Amendment "B" (S-533) to L.D. 2119, "An Act Relating to Subdivision Revision and Title Search Procedures" is in violation of Joint Rule 312. Joint Rule 312, Fiscal Notes, states: 'Every bill or resolve affecting state revenues, appropriations, or allocations or that requires a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues and that has a committee recommendation other than Ought Not to Pass or Referral to Another Committee must include a fiscal note. This statement must be incorporated in the bill before it is reported out of committee. Any amendment introduced that would affect the fiscal impact of the original bill must also include a fiscal note. The Office of Fiscal and Program Review has the sole responsibility for preparing all fiscal notes.'

The Chair notes that the Committee on Natural Resources reported out this bill with no fiscal note. Joint Rule 312 requires that fiscal notes be added before a bill is reported out of committee. Although Joint Rule 312 allows amendments that have fiscal impacts to be added to a bill on the floor if those amendments include fiscal notes, this is not the situation presented by Senate Amendment "B". Senate Amendment "B"

adds no new substance to L.D. 2119. Instead it seeks only to add a fiscal note. To allow it would be to circumvent the role of the Committee on Natural Resources contemplated by Joint Rule 312. Therefore, Senate Amendment "B" with a filing number of S-533 is in violation of Joint Rule 312 and is not in order."

The Chair **RULED** Senate Amendment "B" (S-533) is **NOT PROPERLY BEFORE THE BODY**.

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

Senator **GOLDTHWAIT**: Thank you, Mr. President, ladies and gentlemen of the Senate. I would just remind you, before this vote is taken, of the features of this particular committee amendment. Also, in my understanding of the ruling of the presiding officer, that the ruling is not that this bill doesn't have a cost to municipalities, but rather that the mandate preamble was not applied at the correct time. There is a big distinction there. It does, in my opinion, certainly have a significant cost to municipalities in that they will be required to amend their ordinance over and over again in order to conform to the state definition of subdivision. It is the intent of the committee amendment to have the municipality's ordinances conform. They will be required to conform to a definition of subdivision with which they strongly disagree. The communities recognize the issue about the difficulty of searches on properties for this reason and there are certainly ways that this part of this could be addressed short of this bill. As I said earlier, this will require approximately 300 municipalities to change their ordinance to conform to the state definition of subdivision and it is a definition that is laden with exemptions and takes away the municipal opportunity to create an ordinance that they feel is appropriate to their, and your, communities. This is a significant preemption of local control. I would urge you to vote against the pending motion.

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

Senator **MILLS**: Mr. President, men and women of the Senate, I think that the issue addressed by the good Senator from Hancock, Senator Goldthwait, can easily be answered by suggesting that municipalities may simply incorporate state law as the law which defines subdivisions. My belief is that most communities do that already. In any case, they are certainly free to do that. They can simply say that a subdivision takes it meaning from the Maine statutes; blank, blank as amended. Then it will have one single definition which applies to all 395 municipalities, and I would suggest, that there is no need to amend local ordinances from year to year to conform to that single acknowledged definition that resides in state law. This certainly will make life a lot easier for title searches and also, I suggest, to municipalities. They won't have to entertain proposals to adopt some special definition for the town. Admittedly, this does take away some element of local control, but the definition of subdivision has been very, very well thought out in Maine law. It has been around since, I think, 1971. I think it is in the best interest of the state, and indeed, all of the municipalities that we adhere to one definition and that we all agree that there be only one definition to work with, so it doesn't change from one town to another. Thank you.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I want to thank the Senator from Somerset, Senator Mills, for laying that out because that is exactly what the committee went through in trying to solve the problems that are out there and trying to prevent more from occurring. I do want to make a couple of comments. Some of you may have read the article that appeared in the Legislative Bulletin for the Maine Municipal Association in which they described the non-mandate/mandate issue. First of all, you need to be aware that even though my name happens to appear on this bill, I am not the sponsor of this bill because it actually came through the commission and so I was merely reporting it out on behalf of the commission. I would hope that the next time that MMA chooses to write the story that they might correct that point. I'm not necessarily the sponsor. Second point I want to make is that our whole goal here was to deal with the problems that are out there. I guess the other final point I want to make is that I'm finding it difficult to understand, since I was here when home rule was passed, that all of a sudden the home rule amendment seems to be interpreted by some people within the Maine Municipal Association that it prevents the legislature from establishing standards that are statewide. If you go back and read the amendment and you read the debate, it is very clear as to what was going on here when we passed it. If you were around, and you were listening to the debate on the home rule provision at the time, the big reason why we passed it was because of the problems we were having, ironically, with the Lewiston City charter. Every time that they wanted to change the color of a police uniform, or they wanted to change anything at all with the charter of the City of Lewiston, they would end up having to bring that to the legislature. At that point, the City of Lewiston had 5 legislators in the other body. It appeared they could never agree about the color of the uniform. We'd have divided reports coming out of the Committee on Local Government as to what color the police uniform and the fireman uniform should be. So those of us who were really sick and tired of hearing some of those issues decided it was time to deal with it. The following session we put in the provision to amend the state constitution to deal with the question of home rule. It is specifically for charters, specifically those things, which are of local control, are local issues. But it does not impede the process of the legislature to deal with issues of statewide concern. I hope, for those who are pushing the argument, that it is beyond that, go back and read the constitution, read the legislative debate, and read the Supreme Court decisions.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I thank the Senator from Aroostook, Senator Martin, for reminding me of that history. I have a sense, I think I was in my crib, and hearing Senator Martin from Aroostook County speaking on the radio regarding this issue of local control. It's all coming back to me now. I think that the final point that I would like to make is that I don't disagree that it is appropriate at times for the state to set some standards. I do disagree most vehemently that it is appropriate for the state to presume that they have created a definition of subdivision that is so wonderful that

no municipality could possibly have thought of a definition that improves on that in any way for that specific locality. That, to me, is what home rule is all about. There are variations around the State of Maine, municipalities have reasons for doing things just as we legislators do in this building, and they may not suit the needs of someone in another part of the state, but they do suit the needs of that particular municipality. This takes away the municipality's ability to say this is right for them and says that we, the state, have decided what is right for them. That is the portion of this to which I object. I hope you will join me in opposing the pending motion.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I wasn't quite aware that I was eligible for election at the age referred to by the Senator from Hancock, Senator Goldthwait. But during that period of time, if I remember correctly, she was the President of the Maine Municipal Association.

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. I appreciate the comments of the Senator from Hancock, Senator Goldthwait, both her previous ones and the ones just made now. In response to the comment about home rule, and I want to make sure everyone understands, including the Senator from Aroostook, Senator Martin, that those of us who are questioning this aren't ignoring what local control is all about or what the state law on local control is all about. I came to this body 18 years ago, having served as the Chief Elected Officer of the City of Westbrook. I think I understand what local control is all about. In my judgment, anybody who votes for this piece of legislation is ignoring the fact that local communities have a right, the sense, the ability, and professionalism to make this kind of decision. It's interesting that, at the very last of one of the several items we've gotten, one of the missals that has been put on our desks on both sides of this issue, those from a group supporting this legislation asked the question, 'isn't this bill just adding more regulation and controls?' Then it answers that question by saying, 'no, it does the opposite, eliminating unnecessary standards in areas best suited for development.' I underlined 'best suited for development' and I ask you, who is better qualified or better prepared to answer the question about areas best suited for development, someone at the state level, some of us, who don't know those towns and those cities and those areas or the municipal officials who have lived there, have been elected there, and who govern there? That is what it is about. It is absolutely wrong. I heard upstairs a little while ago that someone in this body said that this would be the best environmental bill we've ever passed. I also heard the word hogwash used. I didn't use it, but now I am. That's a lot of hogwash. To talk of this as an environmental issue is going way beyond what the issue really is all about. I suggest to each member of this body, if you really believe in having some local control, local officials having some control at all, then you should not vote for this piece of legislation. If, on the other hand, local control is just something you use when it is convenient, just something that you give lip service to, then you should really support this piece of legislation. But if you believe, as I do, that

no community should be told that they can't decide at the local level. There are reasons why they have the plans that they have. Some, frankly, are economical. Let's be blunt about it. Some of them just don't have the wherewithal to take care of the many services or the additional pressures on the many services that they provide, so they establish rules, laws, ordinances, and plans that best suit their needs. I don't think this body should be about telling a local community, whether it is a city as big as Portland, Bangor or Lewiston, my city of Westbrook, or some little town in this state, that the state knows better and they will not be allowed, if this passes, to have a stricter definition of subdivision. Who, including the people who put this thing together, are we to think we know better than what goes on in a local community? I urge you to defeat the pending motion. Thank you.

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

Senator **BROMLEY:** Thank you, Mr. President. As the chair of the Study Committee to Look at Growth Management, we looked at the subdivision bill as it had been already passed by the previous legislature. Some of us, who weren't as familiar with the details as others, posed the question of how did this come about, this question about do we need a statewide definition? Interestingly, it was a municipality who posed the question and said they needed the legislature to do something because they had this incremental lot-by-lot development at a pace that didn't trigger the subdivision review and what would happen is, all of a sudden, over time there would be a subdivision with substandard roads, without appropriate water and sewer. The municipality was asking us to help them do something. It was at that point that MMA and SPO agreed that there ought to be a statewide definition of subdivision. That's a piece of the history. Two of the issues that get looked at around the subdivision law are when too much development is happening for communities too fast or when a community is choosing to use this to slow development down. This statewide definition would go to both of those issues. The other issue that came up, that was a surprise to me and something I'd not thought of, was by slowing down a process by having questions of title be difficult to unearth, title searches more time consuming, we add cost and time to a process in terms of housing and development. I want to read to you a list of people that support this bill, and they come at it from many different directions. The Majority Report is supported by the Maine Community Action Association, the Maine Sustainable Forestry Coalition, the Maine Association of Realtors, the Maine Economic and Real Estate Development Association, the Maine Chamber of Commerce, the Maine State Housing Authority, the Maine Bankers' Association, the Maine Community Banks, by the Natural Resource Council, the Maine Audubon Society, and I might add, the former legislature. What this does is simply remove a sunset of October 1st on legislation that has not already been passed and gone into effect in June 2001. It's very important, and I don't think there has been debate that a statewide definition is important. I think the debate about whether this is the appropriate definition has been had at least once, twice, or perhaps more. Thank you, Mr. President.

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

Senator **MILLS:** Mr. President and men and women of the Senate, the good Senator from Cumberland, Senator O'Gara, suggested that it would be inappropriate for this body to impose a widespread and evasive infringements on the right of local control of municipalities. I must say I cannot agree with him more and he need not be concerned because this bill does nothing of the kind. This bill does not deal with zoning. It does not deal with permitting. It does not deal with setback requirements. It does not deal with whether you can even build anything on the lot that might be subject to the subdivision. All it does is to say that there ought to be a statewide definition of subdivision for purposes of knowing whether a conveyance is appropriate or permitted under the common rules adopted by our state. The municipalities are clearly free to put those lots in a zone that it may define, to rule on zoning changes relating to that lot, to decide what the set-backs may be from the lot lines, to decide whether you can build anything on it, let alone the structure that owner may have in mind. There is tremendous latitude left to the local municipality. The only thing that is being done by this bill is to ensure that when the subdivision notion is triggered, that it be triggered in accordance with the statewide standard. That's really all that is of issue here. I don't think there is any intent on the part of the drafters what we be infringing on local land use controls. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President. I might as well join the fun; all these people talking. In listening, and treating seriously what both sides are saying here, the question occurred to me of are we mandating one and only, are we saying what we want is what is good for the state and is good for every municipality? So I went back and read the language. Basically, the bill says that we set the minimum standard. Simple as that. It's like our constitution. Our constitution, state and national, sets the minimum standards and states can go beyond that or towns can go beyond the state. But at some level we set a minimum standard. I have no objection to setting minimum standards, especially when it makes it easier for all transactions related to real estate. Going into a registry and trying to figure out what the local municipal ordinance is, arguably that is your job. But why not set a state standard and if municipalities want to go further, so be it. I don't see that we are saying our way or no way. We're saying our or if you can find a better way that goes farther, feel free to go your own way. Again, we are simply setting a minimum standard. It's the professional way to go, in my opinion. Thank you.

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

Senator **DOUGLASS:** Mr. President, men and women of the Senate, because of the reference to the city of Lewiston, which I and the good Senator from Androscoggin, Senator Rotundo, represent, I had to stand up and say that we now work together on just about every measure possible. I rather think that the same will be true of this bill. Thank you.

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

Senator **O'GARA**: Thank you, Mr. President. I only rise for the second time to say that a statement was made by one of the previous speakers is not accurate when you start thinking about it only as a minimum. The fact of the matter is that no municipality will be able to have a stricter definition of subdivision than is set by the state. I just think that it is wrong to tell a municipality that they may not do that because, I submit again, that each municipality has its own purposes, its own reasons, for wanting that subdivision. If they decide to have one that is stricter than the state, then they have a reasons that are known to them and to them only. They ought to be able to have the right to do that. It is as simple as that. Thank you.

The pending question before the Senate was **ADOPTION** of Committee Amendment "A" (S-472) as Amended by Senate Amendment "A" (S-487) thereto, in concurrence.

The Chair ordered a Division.

On motion by Senator **GOLDTHWAIT** of Hancock, 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 (#281)

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

NAYS: Senators: GOLDTHWAIT, MCALEVEY, NUTTING, O'GARA, WOODCOCK

30 Senators having voted in the affirmative and 5 Senators having voted in the negative, Committee Amendment "A" (S-472) as Amended by Senate Amendment "A" (S-487) thereto, **ADOPTED**, in concurrence.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) AS AMENDED BY SENATE AMENDMENT "A" (S-487) thereto, in concurrence.

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

The Chair laid before the Senate the following Tabled and Later (4/1/02) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought Not to Pass**, pursuant to Joint Order 2001 (H.P. 1693) (9 members)

Minority - **Ought to Pass**, pursuant to Joint Order 2001 (H.P. 1693) (2 members)

Tabled - April 1, 2002, by Senator **SHOREY** of Washington

Pending - motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, April 1, 2002, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

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

Senator **SHOREY** of Washington requested a Division.

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

Senate at Ease.
Senate called to order by the President.
Off Record Remarks

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **GOLDTHWAIT**: Thank you, Mr. President, ladies and gentlemen of the Senate. To anyone who can answer, I'm confused about one of the provisions of this bill and I wonder if someone could clarify that before we vote. I am trying to do this by addressing the report that is before us, which I understand to be the Majority Report. Is that correct? Is the pending report the majority?

THE PRESIDENT: The pending motion is the motion by the Senator from Aroostook, Senator Martin, to accept the Majority Ought Not to Pass Report, in non-concurrence.

Senator **GOLDTHWAIT**: Thank you. The question is: I understand that there is an issue regarding one specific dam that could be affected by this legislation in terms of the timing of being able to acquire federal funds. If it is not a violation of protocol to be speaking of that issue when we're looking at an ought not to pass report, it would help me in determining my vote if I had an understanding of whether that is, indeed, true. Would we lose an opportunity to receive some federal money for a dam project if we pass the ought not to pass report?

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

Senator **MARTIN**: Thank you very much, Mr. President, members of the Senate. To respond to the question from the Senator from Hancock, Senator Goldthwait, the response is yes, in the affirmative, if the Majority Report were to be accepted. To give you a little background, an order was passed by both houses to report out a bill, which was very specific. The bill, the way it came across, would have covered about 5 dams in Maine, none of which were the ones that the sponsors wanted to deal with. At that point, we realized that we were late in the session. If you wanted to start to regulate every dam in the state that you really needed some time and money to do that. The signers of the Minority Report decided that they would cover all dams in Maine not covered by FRC. So the bill, basically, deals with all those, including the dam that is in the process of being removed and is in the process of getting federal funds for removal. This bill, if it were to be enacted, goes far beyond anyone's knowledge of what could happen. There has been no information for even the people who own dams all over this state. They really knew nothing about this issue. As a matter of fact, in one instance the owner found out about it and the owner of Moosehead Manufacturing Company in Dover-Foxcroft showed up and basically said that he is covered by FRC, but this bill actually would create another problem for him and he pleaded with us not to deal with this issue. So the committee voted, I believe it was 9 to 2, and basically said this was not the time and that's why you have the Majority Ought Not to Pass report. I certainly hope that the Senate will concur with that recommendation from the committee.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Accept the Majority Ought Not to Pass Report. 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 (#282)

YEAS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO,

SAWYER, TREAT, TURNER, THE PRESIDENT - RICHARD A. BENNETT

NAYS: Senators: MCALEVEY, SAVAGE, SHOREY, SMALL, WOODCOCK, YOUNGBLOOD

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

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

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

HOUSE REPORT - from the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Establish Classes of Property for Purposes of Taxation and to Exempt Personal Property from Taxation if there is an Excise Tax on Certain Personal Property
H.P. 1582 L.D. 2087

Reported -**Ought to Pass as Amended by Committee Amendment "A" (H-1053)**.

Tabled - April 2, 2002, by Senator **DAGGETT** of Kennebec

Pending - **ACCEPTANCE OF REPORT**

(In House, April 1, 2002, Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1053)**.)

(In Senate, April 2, 2002, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-1059) **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-1053)**, in concurrence.

(See action later today.)

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores"

H.P. 1623 L.D. 2123

Tabled - April 2, 2002, by Senator **DOUGLASS** of Androscoggin

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-1049)** (8 members)

Pending - motion by same Senator to **ACCEPT Report "A", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**, in concurrence

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

(In House, April 1, 2002, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**.)

Report "C" - **Ought To Pass as Amended by Committee Amendment "B" (H-1050)** (1 member)

(In Senate, April 2, 2002, Reports **READ**.)

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

Senator **DOUGLASS:** Mr. President, men and women of the Senate, I rise to urge your support of the pending motion. We heard from people on all sides of this issue, but one of the clear messages that we got from staff that looked at sales from the agency stores that replaced those stores that were closed is that sales have been lost since last year with the changes that were brought about in the closure of state liquor stores. For instance, in Lewiston, where one state liquor store was closed and 6 agency stores were opened, the sales are lower. When you add all of those closures together and look at the results, there was a \$1 million loss to the state in sales of alcohol products. I believe that is not wise for our state. For that reason, I hope you will vote for the Majority Report.

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

Senator **WOODCOCK:** Thank you, Mr. President, ladies and gentlemen of the Senate. I rise in opposition to the pending motion. This is an issue that we have faced considerably in the past and there have been rather conflicting reports of financial gain and financial loss, depending upon your perspective. The original report was that the state would save in excess of \$3 million through the closure of the remaining liquor stores. The generation of those monies apparently has not been forthcoming in terms of sales. I would caution you to be very careful about drawing the conclusion that we, in fact, have lost liquor sales, given the many events that have occurred over the past year or so. Sales nationwide are down in most areas of retail sales. The philosophical question of whether the state should be involved with selling liquor is a dominant one for me. I have stated in the past and I will restate today, this issue of selling liquor is a very complicated one for all of us. Should we, as a state, sell liquor over the counter? I maintain we should not. It is interesting for me to note that when it comes time for us to address the sales of other products sold within the boundaries of this state, we readily place taxes upon them. Yet, when it comes to alcohol, we are reluctant to do so. So I would maintain that the State of Maine should pass the liquor business onto the private sector and we will, in fact, realize a gain in funds of retail sales as this program moves forward as well as realizing a savings in the management of this program.

The same Senator requested a Division.

On motion by Senator **DAVIS** of Piscataquis, 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 (#283)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049)**, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-1049) **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-1049)**, in concurrence.

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

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

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Allow Persons with Disabilities to Purchase Coverage Under the Medicaid Program S.P. 699 L.D. 1901

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-531)** (10 members)

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

Tabled - April 2, 2002, by Senator **TURNER** of Cumberland

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

(In Senate, April 2, 2002, Reports **READ**.)

Senator **DOUGLASS** of Androscoggin moved the Resolve and accompanying papers be **INDEFINITELY POSTPONED**.

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

Senator **DOUGLASS:** Mr. President, women and men of the Senate, it is my fervent desire that we be able to accomplish the objective of this bill. However, it has a high fiscal note, one that I know we cannot deal with in this term of our legislature. I would like to just briefly explain what this bill intended to do and why it did get the support of so many people from the Health and Human Services Committee. It had intended to remove a cap on persons with disabilities so that they might remain eligible for Medicaid funding for their prescription drugs. As some of you may know, there are people who, in the middle of their lives, after leading very productive and economically rewarding lives, are stricken with mental illness, particularly those people who suffer with Bipolar Disease or Schizophrenia. The medicines used to combat that disease are very expensive, in the hundreds of dollars, close to a thousand dollars, per month in their cost. Our current policies encourage those folks to return to work, which they can do when they can afford to pay for their medicine. Unfortunately, if they do so, they may become ineligible for that medicine by virtue of earning too much. In addition, the current policies of the State of Maine are such that occasionally Social Security COLA increases for these individuals, who were in economically rewarding jobs, put them over a certain threshold so that, again, they are no longer eligible for having their prescriptions paid by Medicaid. This can happen by just earning a couple of dollars. It's really not the kind of policy we should have. We should have a policy that encourages these people to continue taking their medicine and to stay healthy and be productive members of society. I have a particular constituent, Bill Stubbs, who really shepherded me through this bill, both in the last session of the legislature and in this one. He communicated with me regularly and it is on his behalf that I brought it forward. I'm disappointed that, because of the fiscal note, I'm not able to pursue this matter further. But I did want to let you know what the bill intended to do.

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

Senator **LONGLEY:** Thank you, Mr. President and colleagues in the Senate. I will be very brief too. As the Chair of the Health and Human Services Committee I would simply like to say that, as we all know, when you are on a committee and people come forward and speak their truths, sometimes you get some very brave people telling something that isn't safe to say in the world. But because they are strong advocates for their cause and the cause of others, in this case those who are mentally ill, they brave the potentially rough climate and come and tell their stories. We, who are in the legislature, get to sit and listen and look them in the eye and say thank you for being willing to come forward. We can't, as the Senator from Androscoggin, Senator Douglass, afford it. It turned out that we have a \$1 million fiscal note. We tried to bring it down to \$200,000. Even then it was more than we could afford. This is unfortunate, but maybe in a future year the brave souls who came forward this year can be helped out. They

deserve the help. Basically, all they were saying is, 'let us work.' Work helps with their mental health. So hopefully in the next few years we can find the funds to help keep these people and all the people they represent at work and all the more healthy. Thank you.

On motion by Senator **DOUGLASS** of Androscoggin, Resolve and accompanying papers **INDEFINITELY POSTPONED**.

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

The Chair laid before the Senate the following Tabled and Later (4/1/02) Assigned matter:

Bill "An Act to Establish the Maine Consumer Choice Health Plan"
S.P. 793 L.D. 2146

Tabled - April 1, 2002, by Senator **SMALL** of Sagadahoc

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-530)**

(In Senate, April 1, 2002, Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (S-530) **READ**.)

On motion by Senator **LAFOUNTAIN** of York, Senate Amendment "A" (S-548) to Committee Amendment "A" (S-530) **READ** and **ADOPTED**.

Committee Amendment "A" (S-530) as Amended by Senate Amendment "A" (S-548) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-530) AS AMENDED BY SENATE AMENDMENT "A" (S-548) thereto.

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

The Chair laid before the Senate the following Tabled and Later (4/1/02) 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 - April 1, 2002, by Senator **TREAT** of Kennebec

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

(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 TO PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929)**.)

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.

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

The Chair ordered a Division. 15 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **RECEDE** and **CONCUR**, **FAILED**.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#284)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **TURNER** of Cumberland to **INSIST**, **PREVAILED**.

Senator **FERGUSON** of Oxford was granted unanimous consent to address the Senate off the Record.

The Chair laid before the Senate the following Tabled and Later (4/1/02) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1031)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - April 1, 2002, by Senator **SHOREY** of Washington

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

(In House, April 1, 2002, 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-1031)**.)

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

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#285)

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

NAYS: Senators: DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MICHAUD, NUTTING, O'GARA, RAND, TREAT

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **SHOREY** of Washington to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

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

The Chair laid before the Senate the following Tabled and Later (4/1/02) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought to Pass as Amended by Committee Amendment "C" (H-839)** (7 members)

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

Tabled - April 1, 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, April 1, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-839) AS AMENDED BY HOUSE AMENDMENT "B" (H-1027)** thereto.)

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

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

Senator **EDMONDS:** Thank you, Mr. President, women and men of the Senate. I am delighted to be presenting this bill to you today. We've worked long and hard to get to this point. There is good news. The good news is this bill, which requires the Department of Labor to prepare major substantive rules to allow those laid-off who are available for part time work and who are otherwise eligible for unemployment benefits, to receive them. When those major substantive rules are created, they are to come back to the legislature and talk to us about them. The extra good news is that, because of the federal economic stimulus package and something called the Reed Act, monies have already flowed into the State of Maine that may be used for the payment of part time unemployment benefits. That's very, very, very good news. That means we can help both employers and employees. It's very much of a win, win situation. As you probably know, there has been no change in the way part time workers are treated in the unemployment insurance program since 1939. Yet, as you also probably know, there has been a doubling for the demand for part time workers. Women represent 70% of these part time workers. You probably know from your walks through your communities that more and more families, my guess is probably 80% to 90% of the families in Maine, really need both folks working to make ends meet. In some of those families there are young people who need to be attended to in half-day kindergartens. There are, perhaps, an elder in the home that needs care part of the day. So families have made the choice that somebody will work part time. If that someone is laid off from their part time work, at present they cannot collect unemployment benefits, even though employers are already paying into the unemployment insurance trust fund on behalf of those workers. As I said before, the good news is that with the Reed Act money, which is \$33 million, that has already flowed into the unemployment trust fund in Maine and which may be used to give benefits to those part time workers, we have a chance to help these workers, without raising employers' rates. You probably remember that in October of 2000 unemployment tax rates dropped from Schedule F to Schedule C, giving employers, who are paying the actual rate, an average deduction of \$82 per employer, per year, an drop of nearly 30%. Even as we enact this bill, which would give coverage to part time workers, employers' rates will drop again from Schedule C to Schedule A beginning next January. This is the second reduction of 25%. Both Senators Collins and Snowe worked hard on the federal level to get this language put into the economic stimulus package to give Maine the chance to use this money for part time workers. As you also know, if we are able to do this, we will be able to keep

this money pumped right back into the Maine economy through people paying rents, buying groceries, and all those sorts of things. I should also note that in the other body an amendment was put on this bill that would improve it even more. There is the ability now for us to have the Department of Labor report back to the legislature on how the part time benefits are going, how many people are receiving them, how this whole benefit thing is working, in 2008. That will still be in a situation where rates were kept low and people are still getting these benefits. I think this is a chance for all of us to address a problem that I know we've all wanted to address and now we have the opportunity to address in a good, solid way that harms no businesses and helps a whole lot of folks who heretofore have been hard working people and yet been unable to collect unemployment benefits when they needed them. I am very hopeful that you will join me here, because I think this is one of the cases where we get to do a good thing for both business and workers. 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 would also urge you to support the Majority Ought to Pass Report and just want to give you a tiny bit of history on this and some background. In 1997, I chaired a commission that was looking at improving the solvency of the unemployment insurance system as well as looking at how well it covered our workforce when they became unemployed. We found out that only 4 of 10 workers in the State of Maine are actually eligible for unemployment and only 1 of 10 women are eligible for unemployment. This is often the case even when their employers, as the case actually is with part time workers, are paying into the unemployment insurance fund on their behalf. At that time, we worked very hard to come up with a package of reforms that would make the system more solvent. We also had recommendations about covering part time workers. To its credit, the legislature worked hard to pass the solvency provisions and those did go into effect. At the same time, we said let's wait until the fund is solvent before we take on these other issues. I am happy to report that now the fund is solvent, and not only that, the cost to employers has gone down quite dramatically. In 2000, at that time the average cost was \$118 million per year over the 1990's. Since the solvency reforms were put into effect, those rates have dropped an estimated \$81 million, which is really quite significant. The money that would be used to make these changes is coming from the federal government and is coming in the form of the stimulus package. There is a reason for that. One reason is related to stimulating the economy, because you have people with money in their pockets that are able to go shopping and put food on the table. That's very important to the economy. The other piece of it came to light as a result of the 9/11 attack. At that time, it became quite apparent, not just to folks in Maine who sat on very long commission meetings about unemployment insurance, but also to a lot of other people, that there were hundreds and hundreds of people in Manhattan who had jobs around the area of Ground Zero who no longer had employment because either their buildings had been obliterated or the companies had gone out of business. Suddenly folks woke up to the fact that many, many of these people did not qualify for unemployment insurance. It was quite a shock to many folks because they hadn't had the benefit of spending a year sitting on the Solvency and Unemployment Commission as I did. They

were quite surprised to find out that part time workers are not covered in many states Unemployment Compensation Systems. So for that reason, Congress moved to put money into the stimulus package to assist states in making that change. I think it was a very wise thing to do and certainly, when we're looking at helping people who have been working all their lives, who have been putting their unemployment system, yet they get no benefits out of it. It's a very unfair system and we really do need to make some changes here. So I urge you to support the pending motion. It's an excellent proposal and one that I don't think we can go wrong with.

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

Senator **MILLS:** Mr. President and men and women of the Senate, this does have a long history and a great deal of credit belongs to the Senator from Kennebec, Senator Treat, and the former Senator from Androscoggin, Senator Cleveland, who are 2 among many others who served on a commission to evaluate an old, contentious, very broken, and insolvent system that we had for unemployment compensation as late as 5 or 6 years ago. Unemployment compensation in this state is not quite as big as Workers' Compensation in dollar volume but it's on the same order of magnitude. It generates somewhere in the order of \$100 million a year in benefits. It's an extraordinarily significant and very valuable social safety valve. At times when there are lay offs, people who are out of work are able to pick up the continuing check, ongoing. This means that the local grocery store and hardware store and landlords will continue to get a stream of revenue coming into the community, even when it's being devastated as we are currently seeing in Waterville with the impending closure of Hathaway and the closure of other mills in this state, sawmills up north. The unemployment compensation system is an extraordinarily significant and very valuable system. It was quite fractured 5 or 6 years ago. The reserves in the fund were down as low as \$31 or \$32 million not too long ago, 8 or 10 years ago. Those reserves are now up at \$400 million. That is a credit to several factors. The economy among them, certainly. The very low level of unemployment in this state, which is below the national average even now. The system was fully reformed in the crucible of the Labor Committee in some very, at times contentious, work sessions and hearings over the span of several sessions, I might add with the full cooperation, on most occasions, of the administration and of the very, very fine Department of Labor, and a brilliant woman names Gail Thayer who has since retired, but who is the designer of the system that we now have. Labor gave up some benefits in offering to help make the system solvent. Those were permanent benefit concessions that were quite substantial. The chamber, on its behalf, acknowledged the need for a tax increase, which was implemented 3 or 4 years ago. With the combination of benefit adjustments and cuts, a redefinition of misconduct, and the tax increase, people finally came together with a bill that no one group or no one person was particularly happy with but it did fix the system. It was done in a concessive way, with a lot of give and take on the part of all the players. It is something that this legislature should be very proud of. I agree that part time workers, and indeed a number of other categories of workers, are left out of the system, even though a premium is being collected in respect of their wages. However, it is not quite correct to say that part time workers are not covered by the system. They are,

but they have to be prepared to represent themselves as being ready and available for full time work, which I understand the department interprets to mean something in the order of 35 hours or more per week. So if you are a part time worker and you are seeking full time work and you are not constricting yourself and are making yourself available, then you are covered in every sense, assuming that you had the eligible hours and wages in previous quarters to render you eligible. What the bill that lies before you seeks to do is to say that you would still be eligible even if you were seeking some form of part time work, having been a part time worker. My criticism of the bill is that it doesn't define in law exactly who these folks are. It says to the department by rule making for them to go out and make the decision about who these folks are, whether 5 hours a week might be enough arbitrarily, or if 20 hours a week, or 30. It's telling them to draw up the thresholds and write up all the rules about how these people will demonstrate their readiness to go to work in the workforce and come back with something that would quite rightfully be called a major substantive rule. It is so major, in fact that I suggest that it ought to be in the law. My concern about the present drafting of the committee report is that it gives to the department the responsibility to create a law, almost out of whole cloth, to cover this admittedly worthy group of people and then bring it back so we will approve it or not as a matter of rule making approval. I would much prefer that we, as a legislature, make a policy decision in law about the class of folks who are part time workers who will be covered and those who will not so that the rules, at least in outline, will be set in statute and then let the department fill in the gaps, if there are any, through rule making. At this point in time, I have no idea what I would be voting for because the draft that lays before you says the Department of Labor will go out and create a law under the guise of rule making and bring it back next year and we'll have a up or down vote on the rules when the next legislature assembles. I have no idea what this is going to cost. I don't know how much latitude the department will feel in what it may create by way of fiscal note. How much money are they permitted to spend in order to create this new benefit? I don't think it's clear from any of the drafting that has been done so far. It is largely for the indefinite list of this statute that I will vote against it. 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 want to clarify a couple of things. The bill does, actually, require a person to meet all other requirements to qualify. All the requirements that you would have to qualify for now, including the earnings requirement, so that nobody working 5 hours a week would qualify with that little earning. It was our sense that the Department of Labor and the unemployment insurance compensation folks actually had been thinking about this a long time and need a chance to go ahead and create these major substantive rules, which we are perfectly aware they are creating, and they are going to bring it back to us and we will have a chance to vote on it and it may not be up or down. That will be ours to decide.

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 Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. I'll be very brief. I think we've had some good debate so far on this bill. Last year I was not comfortable with this bill. I joined the good Senator from Somerset, Senator Mills, and several other Senators in deciding that it was best to just hold this bill over until this session, which is what happened. I am comfortable this year, though, for a combination of reasons. The rate the businesses pay in Maine has dropped. It's going to drop some more. The federal government has recognized, with their stimulus package, that many states may want to offer unemployment benefits to part time workers and that funding of \$32.5 million has been allotted for this state and it is clear that if we chose we can cover part time workers. The workforce, as I see it in my Senate district, has changed. More and more people, for various reasons, family reasons, health reasons, children, can't work full time, they can only work part time. They still work very hard at their jobs. They still pay into the system. To me, with the fact that they pay into the system, I also think that this bill has been improved by an amendment that says that we're going to get a report back in the future about this system. I am comfortable that the Department of Labor can draft rules about this program. They have been involved in all the previous studies, year after year after year. I'm comfortable with this this year. I think it's the right thing to do. I think it recognizes that things have changed now. Our workforce has changed. I urge you to vote for the pending motion. Thank you.

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. At the risk of being somewhat repetitive, I'm also going to ask that you vote against the pending motion. A couple of things concern me very much. When you talk about the found money of \$33 million coming from the federal government, one of the most optimistic scenarios is that this will last us until 2008. If the scenario is less optimistic, that money will be gone sooner. Then it will be incumbent upon Maine's employers and employees to pick up that slack. As has been stated earlier, part time workers are currently available to have access to this fund when they chose to seek full time employment. We've already been told that. That is, indeed, correct. In my opinion, this bill is misplaced and I would ask that you vote against it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds to Accept the Majority Ought to Pass as Amended Report. 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 (#286)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DAGGETT, DOUGLASS, GAGNON, KILKELLY,

LAFOUNTAIN, LONGLEY, MARTIN, MCALEVEY,
MICHAUD, NUTTING, O'GARA, RAND,
ROTUNDO, TREAT

INDEFINITELY POSTPONE the Resolution and accompanying papers, in **NON-CONCURRENCE**.

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

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

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

After Recess

Senate called to order by the President.

On motion by Senator **SMALL** of Sagadahoc, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1053)**, in concurrence, the following:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Establish Classes of Property for Purposes of Taxation and to Exempt Personal Property from Taxation if there is an Excise Tax on Certain Personal Property
H.P. 1582 L.D. 2087

(In House, April 1, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1053)**.)

(In Senate, April 2, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1053)**, in concurrence.)

The same Senator moved the Resolution and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to

Off Record Remarks

ORDERS OF THE DAY

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

An Act Concerning Student Threats

H.P. 1474 L.D. 1975
(C "B" (H-922))

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 20, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922)**, in concurrence.)

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922)**, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "B" (H-922), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-546) to Committee Amendment "B" (H-922) **READ** and **ADOPTED**.

Committee Amendment "B" (H-922) as Amended by Senate Amendment "A" (S-546) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922) AS AMENDED BY SENATE AMENDMENT "A" (S-546) thereto, in **NON-CONCURRENCE**.

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

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

Resolve

Resolve, to Develop a Living Memorial in Capitol Park in Honor of the Victims and Heroes of the September 11, 2001 Tragedy
H.P. 1488 L.D. 1991
(C "A" H-801)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, February 20, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-801)**, in concurrence.)

(In House, February 26, 2002, **FINALLY PASSED**.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-801)**, 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-801), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-544) to Committee Amendment "A" (H-801) **READ** and **ADOPTED**.

Committee Amendment "A" (H-801) as Amended by Senate Amendment "A" (S-544) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-801) AS AMENDED BY SENATE AMENDMENT "A" (S-544) thereto, in **NON-CONCURRENCE**.

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

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

Resolve

Resolve, to Recognize Veterans of World War II and the Korean War in the State House Hall of Flags

S.P. 735 L.D. 2046
(C "A" S-449)

Tabled - March 12, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 5, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-449)**.)

(In House, March 12, 2002, **FINALLY PASSED**.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-449)**.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-449).

On further motion by same Senator, Senate Amendment "A" (S-543) to Committee Amendment "A" (S-449) **READ** and **ADOPTED**.

Committee Amendment "A" (S-449) as Amended by Senate Amendment "A" (S-543) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-449) AS AMENDED BY SENATE AMENDMENT "A" (S-543) thereto, in **NON-CONCURRENCE**.

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

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

Resolve

Resolve, to Continue the Study of the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families

H.P. 1556 L.D. 2058
(H "A" H-903 to C "A" H-847)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 15, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) AS AMENDED BY HOUSE AMENDMENT "A" (H-903)** thereto, in concurrence.)

(In House, March 20, 2002, **FINALLY PASSED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) AS AMENDED BY HOUSE AMENDMENT "A" (H-903)** thereto, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-847) as Amended by House Amendment "A" (H-903) thereto, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** House Amendment "A" (H-903) to Committee Amendment "A" (H-847) and **INDEFINITELY POSTPONED** the same, in **NON-CONCURRENCE.**

On further motion by same Senator, Senate Amendment "A" (S-545) to Committee Amendment "A" (H-847) **READ** and **ADOPTED.**

Committee Amendment "A" (H-847) as Amended by Senate Amendment "A" (S-545) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847) AS AMENDED BY SENATE AMENDMENT "A" (S-545) thereto, in **NON-CONCURRENCE.**

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

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

An Act to Establish the Community Preservation Advisory Committee

H.P. 1565 L.D. 2070
(C "A" (H-950))

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 21, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950)**, in concurrence.)

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950)**, 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-950), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-542) to Committee Amendment "A" (H-950) **READ** and **ADOPTED.**

Committee Amendment "A" (H-950) as Amended by Senate Amendment "A" (S-542) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950) AS AMENDED BY SENATE AMENDMENT "A" (S-542) thereto, in **NON-CONCURRENCE.**

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

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

Emergency Resolve

Resolve, to Promote the Interests of the People of Maine when Public Funds are Used to Acquire Conservation Easements
H.P. 1593 L.D. 2096
(C "A" H-990)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 25, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-990)**, in concurrence.)

(In House, March 26, 2002, **FINALLY PASSED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-990)**, 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-990), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-541) to Committee Amendment "A" (H-990) **READ.**

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

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. I rise tonight in a very unusual circumstance. But I would ask you to consider not adopting this particular senate amendment. This bill comes out of a 2-year study to look at access to public and private land. As we spent the second year on that study, one of the things that we looked at was the issue of easements. We know that there are large forestry easements that are being considered in this state and our recommendation from the committee was that there be established a working group that would develop a process and a policy to be used in all further easements because as we are moving forward, in terms of land conservation, we know the issue of easements is going to come up over and over again. We have no policy. The first time that the State Planning Office Director came over and met with the access committee and we had the discussion with him, he then took that information and created a working group. The only difference between the working group that was established and the working group that we proposed is that there were no legislators on the working group that was established. We addressed that issue in the Agriculture Committee and said that we would like to have 1 legislator who would be able to participate in this working group. The cost of having 1 legislator participate in the working group is \$470, to assure that the legislative branch has an opportunity for input into the process of developing a policy for forestry easements in this state. I believe that it is critically important that we do that. The amendment that is before you removes the \$470 and suggests that people be invited to come and sit in. Well, of course any of us can come and sit in, but we feel, on the Agriculture Committee and on the Access Committee, that it was important for the legislative body to be represented within this working group and I personally, having not had an opportunity to talk to many of the other members of the committee, feel very strongly that people ought to be reimbursed their expenses if they are going to be participating in this process. So I would urge you to defeat this amendment so that the \$470 can be available to assure that there is legislative input into the process of developing a policy for these forestry easements. 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 am in the lamentable position of having to offer all of the amendments to these bills so that they will pass and must say that they have been drafted without my input, but certainly approved with my vote. So let me just say that the purpose of doing this is to, indeed, remove the fiscal note so that the bill can be passed. I'm also in the lamentable position of not having any money. So it was not an option for the committee to fund any bills, because we simply have allocated all of the money that was available either to caucuses to fund bills or to the budget. There is, essentially, zero left in the cupboard. I do not believe that this bill can go forward to enactment, since there is no identified funding source, and therefore, we need to either pass the amendment as it is presented, or if one chooses to table the bill until it could be determined that there is some funding source for this, but it simply can't go forward with the fiscal note on it without funding.

On motion by Senator **KILKELLY** of Lincoln, **TABLED** until Later in Today's Session, pending the motion by Senator **GOLDTHWAIT** of Hancock to **ADOPT** Senate Amendment "A" (S-541) to Committee Amendment "A" (H-990).

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

An Act Regarding Essential Programs and Services
H.P. 1602 L.D. 2103
(C "A" H-1002)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 26, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1002)**, in concurrence.)

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1002)**, 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-1002), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-540) to Committee Amendment "A" (H-1002) **READ** and **ADOPTED**.

H.P. 1428 L.D. 1925
(S "A" S-423)

Committee Amendment "A" (H-1002) as Amended by Senate Amendment "A" (S-541) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1002) AS AMENDED BY SENATE AMENDMENT "A" (S-541) thereto, in **NON-CONCURRENCE**.

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

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

An Act to Implement the Recommendations of the Returnable Container Handling and Collection Study
H.P. 1685 L.D. 2184

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

Pending - **ENACTMENT**, in concurrence

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

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

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

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

On motion by Same Senator Senate Amendment "A" (S-539) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-539), in **NON-CONCURRENCE**.

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

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

Emergency Resolve

Resolve, to Extend the Reporting Deadline for the Maine Millennium Commission on Hunger and Food Security

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, February 14, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-423)**.)

(In House, February 26, 2002, **FINALLY PASSED**.)

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

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

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

Emergency Resolve

Resolve, Establishing a Commission to Study County Jail Population, Cost and Reimbursement by the State
H.P. 1499 L.D. 2002
(C "A" H-861)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 12, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-861)**, in concurrence.)

(In House, March 15, 2002, **FINALLY PASSED**.)

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

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

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

An Act to Establish the Energy Resources Council
H.P. 506 L.D. 646
(C "A" H-882)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 13, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-882)**, in concurrence.)

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

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

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

An Act to Amend the Uniform Commercial Code, Article 9-A
H.P. 1401 L.D. 1840
(C "A" H-857)

Tabled - March 12, 2002, by Senator **GOLDTHWAIT** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 7, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-857)**, in concurrence.)

(In House, March 12, 2002, **PASSED TO BE ENACTED.**)

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

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow for Loans to be Repaid With Federal Transportation Funds

S.P. 705 L.D. 1907
(H "A" H-842 to C "A" S-419)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, February 27, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-419) AS AMENDED BY HOUSE AMENDMENT "A" (H-842)** thereto, in concurrence.)

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

This being a Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the Members present and voting, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Secretary of State for his approval.

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

Resolve

Resolve, Regarding Legislative Review of Amendments to Chapter 127, Instructional Program, Assessment and Diploma Requirements, a Major Substantive Rule of the Department of Education

H.P. 1633 L.D. 2136
(C "A" H-954)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 21, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-954)**, in concurrence.)

(In House, March 25, 2002, **FINALLY PASSED**.)

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

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

An Act to Amend the Maine Criminal Code to Address Terrorism
S.P. 801 L.D. 2160
(C "A" S-499)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 25, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-499)**.)

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

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

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 27, 2002, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, April 1, 2002, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Allow Health Insurance Premiums to be Eligible for Medical Savings Accounts"

H.P. 1151 L.D. 1554

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

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin

Representatives:

DUDLEY of Portland
SMITH of Van Buren
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-1048)**.

Signed:

Senator:

SMALL of Sagadahoc

Representatives:

MICHAEL of Auburn
YOUNG of Limestone
MAYO of Bath
MARRACHÉ of Waterville
GLYNN of South Portland

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

At the request of Senator **TURNER** of Cumberland a Division was had. 19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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 **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Permit Small Game Hunting on Private Property on Sunday in Unorganized Territory"
H.P. 1698 L.D. 2196

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

Signed:

Senators:

- CARPENTER of York
- KILKELLY of Lincoln
- WOODCOCK of Franklin

Representatives:

- DUNLAP of Old Town
- PERKINS of Penobscot
- TRAHAN of Waldoboro
- CHICK of Lebanon
- HONEY of Boothbay

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-1038)**.

Signed:

Representatives:

- McGLOCKLIN of Embden
- CLARK of Millinocket
- USHER of Westbrook
- BRYANT of Dixfield

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **CARPENTER** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, 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 Committees on **BUSINESS AND ECONOMIC DEVELOPMENT** and **LEGAL AND VETERANS AFFAIRS** on Resolve, to Study the Impact of a Maine-based Casino on the Economy, Transportation Infrastructure, State Revenues and the Job Market

H.P. 1700 L.D. 2200

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1035)**.

Signed:

Senators:

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

Representatives:

- THOMAS of Orono
- RICHARDSON of Brunswick
- BRYANT of Dixfield
- DORR of Camden
- MICHAUD of Fort Kent
- MORRISON of Baileyville
- DUPREY of Hampden
- LABRECQUE of Gorham
- CHIZMAR of Lisbon
- COTE of Lewiston
- PATRICK of Rumford
- DUNCAN of Presque Isle
- ESTES of Kittery
- TUTTLE of Sanford
- O'BRIEN of Lewiston
- HEIDRICH of Oxford
- HATCH of Skowhegan

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

Signed:

Senators:

- WOODCOCK of Franklin
- DOUGLASS of Androscoggin

Representatives:

- MAYO of Bath
- MURPHY of Kennebunk

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-1035)**.

Reports **READ**.

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

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

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

Senator **MILLS:** Mr. President and men and women of the Senate, I rise to oppose the pending motion and the proposed study. I do so because, perhaps our memories are short, the study proposed here has already been conducted. It was done pursuant to a Governor's Commission on Gambling back in 1995 and 1996, shortly after the defeat of the proposal to open a gambling casino downeast. The commission met for approximately a year. It was chaired, as I recall, by Gerald Rutman. I neglected to bring a copy of the report here today and I wish I had remembered to do so because I saved it at home. But the conclusion of this study, after a great deal of work on the part of the committee, was to recommend that there be no expansion of gambling within the State of Maine. They also recommended strongly that we eliminate the machines from the service clubs and from bars and other places where they were becoming prominent. It was a very thoughtful, very thorough study. I don't think anything has changed in the State of Maine in the past 6 years to warrant or justify another study. Obviously the people that are proposing this study, on such short notice in this legislature, are doing so for purposes of generating a different conclusion than that which was drawn by the people who did the other study. Without having the capacity to give you the conclusions in detail from memory, I think it's fair to say that we've plowed this ground before. I don't think the people of Maine are interested. The tenor of this proposed study this evening is not so much to determine whether any expansion of gambling is appropriate in this state, it is along the lines of where do we put it. The phrasing of the study is, 'gee, it's a good idea, but we just need to decide where and when and how to implement it.' I don't take that view toward this issue. I also do not take the view that the tribes are necessarily any part of the gambling expansion in this state. There is absolutely no reason for that association. There is certainly no reason for the state to consider this in the form of a casino. I have a great of sympathy towards the horse racing folks and the harness racing industry. I think that is an old and respected Maine tradition. I truly believe that the opening of a casino would be detrimental to the people that race horses. For a whole host of other reasons, I think that commissioning a redundant commission merely in the hopes that they will come up with a different conclusion from that which was reached 6 years ago is ill advised. Perhaps we are all victims of term limits and short memories, but it seems to me that we have visited this

subject before. We did put it to rest and I think we should leave it there. For that reason, I will be voting no on the pending motion.

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

Senator **LEMONT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I, too, rise in opposition to the pending motion. There are already many studies that have taken place on this issue. The good Senator from Somerset, Senator Mills, just reminded us of one. There are reams of information available on this issue on the internet, and in the libraries throughout our state. Also many other states are a resource on this issue. During tight budgets, and budgets are going to become much tighter, I think it's a poor use of public funds. I'm very sensitive to this issue, because my hometown of Kittery has been identified as a potential site of a casino. I also can see where this study could be the first step towards legalizing casino gambling in the State of Maine. I want to thank you for allowing me to share with you the concerns of my constituents and hope that you will join me in defeating this motion. Thank you.

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

Senator **CATHCART:** Thank you, Mr. President, men and women of the Senate. I urge you to accept this Majority Ought to Pass as Amended Report so that this study can be done to give us the information that we need when we consider a bill next year. On March 11th, the Chiefs of the Penobscot Nation and the Passamaquoddy tribes addressed a joint session of our legislature for the first time in Maine history. They spoke of the historic relationship between our state and tribal governments. They spoke of their sacred relationship with the land and their obligation to Earth Mother. They spoke of their struggle for survival and even mentioned an unemployment rate of 50% in their tribes. The Passamaquoddy and the Penobscot Nations have put forth a proposal from their tribal government to the government of the State of Maine and surely it deserves our serious consideration and study. This is a policy making body. I ask that we give the tribal government's proposal due diligence and respect. Thousands of jobs have been lost in our state. I was reading a clip about job cuts in Maine. We're all painfully aware of the cuts at Hathaway and Nautica in the last couple of weeks. So, in spite of the economy beginning to recover, we are still losing jobs. I think that any serious economic development proposal deserves full consideration. I would remind you that when our Governor proposed an unusual economic development initiative, what we call the laptop proposal, we gave it very serious consideration. We sat up a task force and studied it for a year before we came back and finally passed it. This is what we are being asked to do with this proposal. It is a proposal for economic development. Casinos are extremely controversial. Gambling is controversial. There has been more than one study done. Recently the Bangor Daily News cited a national study that was done that found that among all the forms of gambling, such as lotteries, etcetera, the casino was the least harmful form of gambling. So I think it's a bit hypocritical of us if we say we don't like gambling. But that being said, it certainly is an emotional issue and a controversial issue. The best way to decide how to resolve it, I think, it to have a study done. There is a lot of worry about this and a lot of emotion. I urge us to at least give it serious

consideration, as it was given to us by our tribes as a proposal for a sustainable economic venture. This has worked well for other tribes in other states across the country. I don't feel that the State of Maine can just afford to reject this proposal out of hand. I ask that you vote for the Majority Report. Thank you, Mr. President.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. I held off pushing my request to speak button because I wanted to hear what some of the objections were to why we wouldn't want to have more information, as to why we wouldn't want to know what the facts are from an independent body, not a body that represents one side or a body that represents the other side. The good Senator from Somerset, Senator Mills, mentioned a study that was conducted in 1995 and 1996. Well, if I was doing a business plan for a bank, I certainly wouldn't want to present my financial information from 1995 and 1996 or my action plan or marketing plan from 1995 or 1996. I'd want something a little bit more current. I'd want some more accurate information. I don't know what was in that study. I have no idea what was in that study and if it was brought to me, if I am fortunate enough to be in this body, next session I would probably discount most of it because of its age. I would hope most other people would too. We don't know what the conclusion of the study would be. Nobody does. That is why we do the study. Also, I wouldn't want one side or the other side to provide me with information for the study, because one side will say, 'you know what, their information is tainted. They are bias.' The other side would say exactly the same thing. Our committee spent a great deal of time hashing out the members of this committee. I'd like to share with you some of this. We have 7 members from the legislature; 2 members of the public who are opposed to this; 2 members of the public who are supporting this; as far as law enforcement, we have the Chief of the State Police; the Attorney General, a representative from the Maine Chiefs of Police; a representative from the Maine Association of Independent Neighborhoods; a member from the Chamber of Commerce; a representative from the Maine Tourism Association; someone from the Office of Substance Abuse. The harness racing was very much considered in this, so we asked the Executive Director of the Maine Harness Racing Commission be included on this. You are looking at a group here that is going to be very much scrutinizing in the information that is passed forward to the people that are going to be sitting in these seats next session. I think we should allow that to go on. I think we should provide as much information as possible, unbiased information. There is nothing to be afraid of. Information is good. Information is not to be feared. I would ask you to support the committee report and support the Majority Ought to Pass. Thank you.

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I pride myself on trying to keep an open mind on matters. But I must confess to you that on this matter my mind is closed. I think there is plenty of information on which to base an opinion regarding this matter. I don't think it needs to be studied further. I also believe that whatever revenues we might generate from such a gambling venture would be more than offset

by the social ills and the programs we would have to generate to cure those social ills. I would urge that you vote against the pending motion. 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. I'm going to be supporting the majority report of this particular L.D. I was very pleased to see in the committee amendment that the Executive Director of the Maine Harness Racing Commission was added to the study. I had considered offering an amendment. I've since decided not to offer the amendment. But I do want to read into the record just the intent of those supporting this from discussions I've had with them earlier. On the majority report amendment, on page 2, on line 47, it says, 'the study is going to estimate the impact on other forms of gambling that are legally conducted in the state.' My amendment would have clarified that one of the things they were going to study was the affect of this on the harness racing industry. I have been assured by those people supporting this amendment that is indeed the intent of line 47. It is to look at this casino and see what affect it would have on the harness racing industry in Maine. So I'm satisfied with that. But I did want to bring this up and put it on the record. It is my intent that line 47 does mean to have the study look at the affects on harness racing. Harness racing, like much other agriculture, results in much open space, especially in south and central Maine where the animals are kept. That's another phase of agriculture that creates open space that people so desperately want in this state. So that is why I was pleased to learn that the affects on harness racing is going to be looked at in this study, with new information. So I am going to be supporting the majority report. I just wanted to clarify the intent. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. In my 8-year tenure in this legislature, I have never supported the expansion of gambling. In fact, in a couple of cases I have work towards eliminating some of it. I do support this study. I don't believe my support of the study is any indication of my support for or against the issue of a casino or the issue of gambling. But I didn't have the opportunity to attend those hearings to hear the people back in 1994, 1995, and 1996. I'd like to afford myself that ability now. I have always supported the horse racing industry and I don't look at that as gambling, I look at that as a Maine tradition, a Maine culture, a Maine sport. But my support of this is that I have nothing to fear from information. The more information one is armed with, the better decision one eventually can make. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Washington, Senator Shorey to Accept the Majority Ought to Pass as Amended Report. 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 (#287)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, FERGUSON, GAGNON, KILKELLY, LONGLEY, MARTIN, MCALEVEY, MICHAUD, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAWYER, SHOREY, YOUNGBLOOD

NAYS: Senators: BRENNAN, CARPENTER, DAVIS, EDMONDS, GOLDTHWAIT, KNEELAND, LAFOUNTAIN, LEMONT, MILLS, SAVAGE, SMALL, TREAT, TURNER, WOODCOCK, THE PRESIDENT - RICHARD A. BENNETT

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **SHOREY** of Washington to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-1035) **READ**.

On motion by Senator **SMALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1035), 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 Committees on **EDUCATION AND CULTURAL AFFAIRS** and **TAXATION** on Bill "An Act to Supplement Maine's Academic Attainment and to Retain Talent" H.P. 1655 L.D. 2162

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1055)**.

Signed:

Senators:
MITCHELL of Penobscot
GAGNON of Kennebec
LEMONT of York
KNEELAND of Aroostook

Representatives:
RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
WATSON of Farmingdale
ESTES of Kittery

CUMMINGS of Portland
WESTON of Montville
LEDWIN of Holden
GREEN of Monmouth
GAGNE of Buckfield
McGOWAN of Pittsfield
MURPHY of Berwick
BUCK of Yarmouth
BUMPS of China
BOWLES of Sanford
McLAUGHLIN of Cape Elizabeth

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

Signed:

Representatives:
STEDMAN of Hartland
ANDREWS of York
STANLEY of Medway

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-1055)**.

Reports **READ**.

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

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **MITCHELL** of Penobscot 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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill, "An Act to Control Internet 'Spam'" H.P. 1538 L.D. 2041 (S "A" S-520 to C "A" H-906)

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

In Senate, April 2, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906) AS AMENDED BY SENATE AMENDMENT "A" (S-520)** thereto, in **NON-CONCURRENCE**.

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

Senator **TREAT** of Kennebec moved the Senate **RECEDE** and **CONCUR**.

Senator **SHOREY** of Washington requested a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#288)

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

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **RECEDE** and **CONCUR**, **FAILED**.

The Senate **ADHERED**.

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 **TAXATION** on Bill "An Act to Amend the Laws Relating to Development Districts"

S.P. 725 L.D. 1966

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-547)**.

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

READ ONCE.

Committee Amendment "B" (S-547) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-547)**.

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

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committees on **EDUCATION AND CULTURAL AFFAIRS** and **TAXATION** on Bill "An Act to Supplement Maine's Academic Attainment and to Retain Talent" H.P. 1655 L.D. 2162

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1055)** (20 members)

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

Tabled - April 2, 2002, by Senator **GAGNON** of Kennebec

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

(In House, April 2, 2002, 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-1055)**.)

(In Senate, April 2, 2002, Reports **READ**.)

On motion by Senator **MITCHELL** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-1055) **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-1055)**, 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:

H.P. 1631 L.D. 2134
(C "A" H-1030)

ENACTORS

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

Acts

An Act Concerning Custody and Visitation for Sex Offenders
H.P. 1468 L.D. 1969
(C "C" H-1033)

An Act Regarding the Requirements for Documenting Pretest and Post-test Counseling for HIV Tests
H.P. 1651 L.D. 2157

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

An Act to Update the Property Tax Exemption for Pollution Control Facilities to Promote Clean Production through Pollution Prevention and Toxics Use Reduction
H.P. 1170 L.D. 1570
(C "A" H-1029)

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

An Act to Amend the Motor Vehicle Laws
H.P. 1485 L.D. 2018
(C "A" H-1032)

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

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

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

Resolve

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Purchase Land in Machias, Maine

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

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

ENACTORS

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

Emergency Measure

An Act to Provide Flexibility in the Rate of Interest Charged on Delinquent Taxes
H.P. 1661 L.D. 2166
(C "A" H-1028)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **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 Amend the Charter of the Winterport Water District
H.P. 1719 L.D. 2207

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

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

REPORTS OF COMMITTEES

House

Divided Report

Seventeen members of the Committees on **HEALTH AND HUMAN SERVICES** and **JUDICIARY** on Bill "An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by an Act of Bioterrorism"
H.P. 1656 L.D. 2164

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1062)**.

Signed:

Senators:

LONGLEY of Waldo
TURNER of Cumberland
MARTIN of Aroostook
RAND of Cumberland
FERGUSON of Oxford

Representatives:

KANE of Saco
LaVERDIERE of Wilton
FULLER of Manchester
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
LOVETT of Scarborough
O'BRIEN of Augusta
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn
MADORE of Augusta

Five members of the same Committees on the same subject reported in Report "B" that the same **Ought To Pass as Amended by Committee Amendment "B" (H-1063)**.

Signed:

Senator:

McALEVEY of York

Representatives:

BROOKS of Winterport
DUGAY of Cherryfield
SHIELDS of Auburn
NUTTING of Oakland

Four members of the same Committees on the same subject reported in Report "C" that the same **Ought Not To Pass**.

Signed:

Representatives:

WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MUSE of South Portland
MENDROS of Lewiston

Comes from the House with Report "C", **OUGHT NOT TO PASS READ** and **ACCEPTED**.

Reports **READ**.

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1062)**, in **NON-CONCURRENCE**.

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

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. This is the bio-terrorism bill and we had a tough balance and we have a new issue that we've never had to deal with

before. Why I am on the report that I am on is because I can live with myself better for having tried to make sure that our fellow citizens are safe rather than deciding that doing nothing was better in this situation. We are doing something and I think it's mostly good. That doesn't mean that it is a perfect bill. It doesn't mean that it doesn't force us to address tough issues around civil liberties. Basically, we heard in our committee that these are real situations now. Anything can happen. It can be somebody deciding to infect themselves with some new weird disease and go to the Super Bowl, and the next thing you know, everyone within the Super Bowl carries this virus with them back to their homes. We haven't seen anything like this since smallpox. I think we have to be responsible. What we have done in this bill is narrow the language as much as possible. Could we narrow it some more? I think yes, with more time. Do I want to go another year without anything on the books to allow the public health officials to do their job to protect as many people as we can should this horrible disaster happen to us? I can live with myself better for trying and maybe not being perfect than for deciding to find fault and do nothing. That is my reasoning. There are other members of the committee here to speak. Thank you for listening.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I would urge that you not accept the committee report "A" so that perhaps we could go on and look at a different alternative. I'm not criticizing the work that went into the material that was presented to us. The problem I have is that we had too much presented in too short a period of time, dealing with some very, very serious issues surrounding civil rights, and surrounding health issues. I think we can do a better job. Is there a threat? It is present everywhere and anywhere. The purpose of this is not to determine if there is a threat, it is to determine what our response should be. I don't think enough time was spent in determining that response. Simply speaking, we had a lot of proposed legislation presented to us in a very short period of time without time for questions and thorough answers. I sincerely believe that, should we turn this down, we may look at an alternative, perhaps a study that would afford us the opportunity to take a serious, long, hard look at these issues. These are very serious issues that I honestly don't think, by no fault of anyone, we had enough time to develop this. Do you really, as a lawmaker, want to have one of your constituents held down and forced, against their will, to be inoculated? Maybe, maybe not. That's a very serious civil rights issue. Do we want to stand by and do nothing when a huge geographical area of this state might be contaminated? No. That's the other side of the issue. These are very serious issues. I'm not faulting the department heads or the commissioners who came forward. They came forward in a relatively quick time with some tough suggestions. But I just think that we need to take more time to study this, to look at this. Is there a threat? Yes, there is. Do I trust our department heads? Yes, I do. But we didn't have enough time to look at these very serious issues, perhaps some of the most serious issues I've ever seen in my 8 years of serving here. So I would urge that we not pass the majority report so that we might consider another legitimate alternative that will get us there but at a much more thorough manner than we are at now. Had they presented this material in the first of the session, I don't think I would be giving

this speech right now. But it was brought to us at the very waning days of this session. Did the committee falter in their hearings or work sessions? No. The committees labored very hard in both their hearings. But I think this deserves a much more in-depth discussion. We do need to do things. What if we don't do anything now and something happens? We have laws on the book. Yes, we can respond, but the response will be a lot slower. We need to fine-tune that response. We need to look at how we survey what we have and determine do we have enough to respond with, which this doesn't do at all. We need to have somebody on the ground looking at and watching what happens to monitor this situation. Now the ultimate decision to declare an emergency rests with the executive. That's fine. But there is nothing in this legislation about directing or requesting that they confer with us or the judiciary before making a decision. Serious, serious issues. Let's hope we never have to put any of these into play. But we need to take a much longer look at this because there are some very serious issues and along with that comes the potential threat of unintended consequences. Those unintended consequences in a desire to rush might even be more detrimental to the citizens of this state than the actual act of bio-terrorism. Let's hope, and I firmly hope and pray, this never happens to the good people of this state. But I would ask that you look at an alternative so that we can study these issues in a much more thorough and probative manner. Thank you.

Off Record Remarks

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

Senator **RAND:** Thank you, Mr. President, men and women of the Senate. It is my hope that you will join me in supporting the Majority Ought to Pass Report. I will admit that when I first heard about this legislation, I had a very negative response to it. When the committees met and we started hearing testimony and started working on some of the particular sections of the bill, it became very apparent to me that things certainly did change in this country on September 11th. I don't think the world was changed forever, but there were certainly some very significant changes. One, I think, is that we Americans found out that we are not immune to this type of terrorist activity. Following that, of course, we are all familiar with the anthrax, not only scare, but we've had several deaths from anthrax. The other thing I think that we learned on September 11th is that when a horrible tragedy like that is perpetrated, when it strikes a community, the citizen immediately turn to their elected officials and say, 'who's in charge?', 'what do we do?', 'where do we go?'. I know a member of another party not mine, Rudy Giuliani, was a beacon of stability. He was the elected official in that city and he did the job and did it well. But people turned to the government and said that this was unbelievable, a tragedy, and what should they do? When we were discussing this bill, smallpox, which had been discussed on a national level as a possibility in the case of a bio-terrorist attack, was mentioned. Smallpox is an extremely variant disease and it's at its worst in the first few days that a carrier has it. There are no symptoms. That is when it is spread the quickest and the fastest. I would like you to visualize, God forbid, an

outbreak of smallpox in one of our colleges, the University of Maine, Colby College, Bates, or something like that. It's not going to be one person, it's probably going to be several. Somebody has to be in charge to move in right away to not only quarantine these people but to start tracking whom they had been with and backtrack. You could very easily have entire communities involved. This is not some far-fetched thing. I think probably almost everyone in this room was vaccinated against smallpox. First of all, the bad news is it's worn out, you would have to be redone in order to have it be effective. Many of us have children who never even received that initial vaccination. We've stopped doing that. If I were a terrorist, that would be the perfect germ to let loose upon a population. So we're not immune from these horrible acts and we do know that people are going to look to government to make some sense out of the chaos that will reign. This bill provides for the Department of Human Services to exercise emergency powers only in the case of an extreme public health crisis. Extreme. There will be no one held down and forced to be vaccinated. There are exceptions written into the law for those who have religious or conscientious objections to this medical care or treatment. But the fact is that those people will possibly face quarantine. This is for the greater good. But there will also be within 48 hours, a judicial review of anyone who has been quarantined and feels they have been unjustly quarantined. Within 48 hours there will be a judicial review. This bill would require the Governor convene, after a declaration of extreme public health crisis, a public health emergency planning commission. This is not something that is going to be over with, God forbid that it ever strikes, in one day. Now we have the public input to advise the Governor and to consult with the Governor. Emergency action will be needed. I can only say that, while the bill may or actually may not need more work, between now and when the 121st legislature convenes and the committees that are assigned to this to do their work, things could happen. When the people, if it did happen, turn to the government, the government then say, 'we thought we had another year,' I think the toll in the human tragedy would be unspeakable. So I would urge you to accept this report and do so with the assurance that, with every possible civil liberty that you could think of, we have done everything that we could to protect peoples' civil liberties up to the point where if somebody is infected, and I can't imagine this happening, but would have the right to quarantine them against their will. If that is wrong, than I can't see where it would be wrong. I would ask you to join me in approving that anyway. So please go along with the Majority Ought to Pass Report. Thank you.

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. I am going to ask that you support the motion of ought to pass. I think the Senator from Cumberland, Senator Rand, has spoken very eloquently on the reasons that we should all support the motion. From my perspective, we could have accepted the model legislation that came down to us from the federal government which, frankly, was much more draconian than what is before us this evening. We could have chosen to do nothing and rely on the power of the Governor to create marshal law in a crisis that would not give us the planning that needs to be done in order to deal with a crisis that comes forth. The Senator from Waldo, Senator Longley, has concerned herself with some

exotic disease that might befall us. I'm not concerned about the exotic ones, it's the plain old killers from long ago, anthrax, smallpox, and a few others. They would have a devastating impact on us, as a population. I don't think I could, nor could any of you if you survived such an attack, look your constituents in the eye and say, 'gee, I didn't know it was coming.' We didn't know September 11th was coming. We have to be vigilant. I think this is the right balance between civil liberties and acting responsibly to avert a potential crisis. I would urge your support. Thank you very much.

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

Senator **MILLS:** Mr. President, men and women of the Senate, just quickly. The work that was done by the Centers for Disease Control to develop a model bill was done with the idea of generating some protections for people who might be victims of a terrorist attack. This legislation received the approval of the Civil Liberties Union precisely because it has protections in it. If we don't pass some sort of health emergency legislation, then we are left with the very heavy-handed remedy of marshal law and then all bets are off. You may not have any access to court. The Governor's National Guard may put you into a quarantine somewhere and there is no defined remedy to get you out. You maybe locked up for months. We don't know. We've seldom tested the limits of marshal law at the state level. Heaven forbid that we should ever have to. But this bill is written to say, 'look, if there is a health emergency, here are some limited pieces of authority that we delegate to the people who know how to manage these crises, and by the way, if you don't want to cooperate or you feel you're aggrieved by these summary processes, you have access to a judge and you can explain your plight and maybe he'll let you go.' There are protections built into this that, frankly, are not built into the Governor's powers under marshal law. That's why these bills have come forward around the United States, with the blessing of people like the Civil Liberties Union, because it's an improvement over what we have had. I might add that 100 years ago, or even in 1916 or 1917, when well over half a million people in the United States died of the flu, these kinds of restrictions were very commonly accepted. There was no question about it. You had typhoid, anthrax, and various forms of pneumonia and flu. They were very common and people accepted these restrictions for the good of society. 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 guess I just have some questions on this bill. I am actually quite troubled by it. Yet many people that I have great respect for are on the majority report. I guess my question would be, to anyone who might answer, if I might pose a question?

THE PRESIDENT: The Senator may pose her question.

Senator **TREAT:** Why couldn't this perhaps wait, pending a study? Why the rule making is minor technical rules when we are sending out plumbing rules to be overseen by the legislature? I'm not joking about that, I consider what is in this legislation to be quite extreme in terms of its taking away civil liberties and I'm just

concerned about voting for it without a better explanation. Thank you.

THE PRESIDENT: The Senator from Kennebec, Senator Treat poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. It basically came down to the timing decision, which is doing something now when a threat, I think, is real or defaulting and not doing anything. Some of you are coming back in January. Whether it is a routine technical or major substantive that makes a slight difference. But the fact of the matter is that you will be back here with every opportunity to change anything that you see that you don't like about the way this bill evolves. Again, I come back to what I said when I first spoke, we narrowed it as best we could, and speaking for myself only, maybe for others, it was matter of, as I went to sign onto this bill and vote for this bill, the question was, 'can I live with myself better for having tried in the case of a terrorist emergency or an extreme health emergency, or not doing anything. How could I live with myself?' I chose to err on the side of caution, knowing full well that every legislature comes back every January and there is every opportunity to address any errors that we've made so far. It's not perfect, but I say doing something is far better than the alternative, especially in the case of an emergency. As was said by the Senator from York, Senator McAlevey, time is of the essence in these emergencies and that is the ethic, time if of the essence. Get something there that will allow us to respond quickly and efficiently. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I appreciate the comments that are being made and the thought had crossed my mind about enacting plumbing code rules and their applicability or non-applicability to what we're discussing now. There are some unanswered questions that I think we need to survey. Our potential to respond to this type of action is not in this legislation. When I questioned, 'what are we going to do with people who we quarantine?' I don't want them going to prison or jail and being held there. I was assured that they won't. They will be held in the Red Cross and public health shelters. Well, that's reassuring, but our Red Cross and public health shelters happen to be school gymnasiums and public buildings. The ideas are good. I'm not saying I'm opposed to any or all of what is in this report. I'm just saying we need more time to get answers to the questions that need to be asked. If there is an emergency now, I'm sure that we're not going to have to worry about too much of it. The federal government will step in. I'd prefer that we handle it with good, solid laws, grounded in thought and due consideration. I would urge you to defeat this so that we can go on to looking at the proposal in another version of studying this.

The Chair ordered a Division. 21 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE**

AMENDMENT "A" (H-1062), in NON-CONCURRENCE, PREVAILED.

READ ONCE.

Committee Amendment "A" (H-1062) **READ** and **ADOPTED**, in **NON-CONCURRENCE.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1062), in NON-CONCURRENCE.**

Sent down for concurrence.

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

Senator **FERGUSON** of Oxford rose to a **POINT OF ORDER** and inquired whether the Senate was in violation of Senate Rule 514.

On motion by Senator **FERGUSON** of Oxford, **ADJOURNED** to Wednesday, April 3, 2002, at 10:00 in the morning.