

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME V**

#### **FIRST SPECIAL SESSION**

July 11, 1991 to July 18, 1991

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#### **FIRST CONFIRMATION SESSION**

October 2, 1991

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#### **SECOND SPECIAL SESSION**

December 18, 1991 to January 7, 1992

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#### **SECOND REGULAR SESSION**

House of Representatives

January 8, 1992 to March 9, 1992

STATE OF MAINE  
ONE HUNDRED AND FIFTEENTH LEGISLATURE  
FIRST SPECIAL SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Wednesday  
July 17, 1991

After Recess.

Senate called to Order by the President.

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

**ORDERS**

**Joint Order**

On motion by Senator CLARK of Cumberland the  
following Joint Order:

S.P. 783

ORDERED, the House concurring, that the following  
legislative documents be recalled from the  
legislative file of the First Regular Session of the  
115th Legislature to the Senate for the pending  
question:

S.P. 149, L.D. 361  
An Act to Expand the Applicability of Certain Energy  
Standards

S.P. 154, L.D. 366  
An Act to Appropriate Funds for a Study of the  
Effectiveness of Education Reform in Maine

H.P. 1166, L.D. 1707  
An Act to Amend the Maine Uniform Accounting and  
Auditing Practices Act for Community Agencies

H.P. 1210, L.D. 1768  
An Act to Reduce the Administrative Cost of State  
Government by Abolishing the Division of Community  
Services and the Department of Economic and  
Community Development and Transferring Their  
Essential Functions

H.P. 1211, L.D. 1769  
An Act to Encourage Business Investments

H.P. 1230, L.D. 1794  
An Act to Amend the Minimum Requirements for  
Emergency Medical Technicians

H.P. 1384, L.D. 1973  
An Act to Authorize a General Fund Bond Issue in the  
Amount of \$10,000,000 for the Purchase of Recycling  
Equipment and Facilities and for the Remediation and  
Closure of Solid Waste Landfills

Which was READ.

**THE PRESIDENT:** The pending question before the  
Senate is **PASSAGE**. Pursuant to Joint Rule 15, this  
Joint Order requires the affirmative vote of  
two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**,  
please rise and remain standing in your place until  
counted.

Will all those opposed please rise in their  
places and remain standing until counted.

32 Senators having voted in the affirmative and  
No Senators having voted in the negative, and 32  
being more than two-thirds of the Members present and  
voting, the Joint Order was **PASSED**.

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:

**ORDERS**

**Joint Order**

Senator CLARK of Cumberland, under unanimous  
consent, presented on behalf of Senator CLEVELAND of  
Androscoggin the following Joint Order:  
S.P. 784

ORDERED, the House concurring, that "Resolve, to  
Establish the Commission on Electric Utilities and  
Long-range Energy Production Planning," S.P. 292,  
L.D. 774, and all its accompanying papers, be  
recalled from the legislative files to the Senate.

Which was READ.

**THE PRESIDENT:** The pending question before the  
Senate is **PASSAGE**. Pursuant to Joint Rule 15, this  
Joint Order requires the affirmative vote of  
two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**,  
please rise and remain standing in your place until  
counted.

Will all those opposed please rise in their  
places and remain standing until counted.

32 Senators having voted in the affirmative and  
No Senators having voted in the negative, and 32  
being more than two-thirds of the Members present and  
voting, the Joint Order was **PASSED**.

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

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

**ENACTORS**

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

An Act Relating to Assumption of Medical Expenses by the State in Child Protection Investigations  
 S.P. 211 L.D. 538  
 (S "A" S-429 to C "A" S-81)

An Act to Reduce Duplication at the Department of Human Services  
 S.P. 247 L.D. 656  
 (C "A" S-103; S "A" S-430)

An Act Regarding Subsidies to Public Schools for Home School Students  
 H.P. 579 L.D. 830  
 (S "A" S-436 to C "A" H-356)

An Act to Ensure Early Intervention Services to Eligible Special Needs Children from 3 to 5 Years of Age  
 H.P. 588 L.D. 839  
 (S "B" S-447 to C "A" H-615)

An Act to Strengthen Municipal Borrowing Alternatives  
 S.P. 331 L.D. 887  
 (S "A" S-444 to C "A" S-299)

An Act to Establish a Higher Education Loan Program and to Make Certain Amendments to the Laws Affecting Education Programs of the Finance Authority of Maine  
 S.P. 642 L.D. 1690  
 (S "B" S-426 to C "A" S-308)

An Act to Repeal the Laws Allowing the State to Participate in Lotto\*America  
 H.P. 1304 L.D. 1886  
 (S "A" S-438 to C "A" H-576)

An Act to Eliminate the Requirement of Reimbursement for Search and Rescue Activities  
 H.P. 1343 L.D. 1934  
 (S "A" S-439)

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

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An Act to Preserve the Integrity of the Maine State Lottery  
 S.P. 80 L.D. 143  
 (S "B" S-443 to C "A" S-187)

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

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A Division has been requested.

Will all those in favor of **ENACTMENT**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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An Act to Protect the Public from Unsafe Industrial and Commercial Facilities  
 H.P. 258 L.D. 349  
 (S "A" S-428 to C "A" H-590)

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

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A Division has been requested.

Will all those in favor of **ENACTMENT**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act to Establish State Selective Purchasing Standards

H.P. 1174 L.D. 1715  
(S "C" S-423)

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Speaking as the Senator from Sagadahoc, this is the Bill known as the South Africa Bill. While I don't want to prolong the debate on this particular issue, because it has been debated in this Senate a number of times, I did want to point out briefly to my colleagues here in the Senate that the timing is not particularly good for this piece of legislation. A few days ago, as I am sure you all know, President Bush rescinded sanctions against the South African Government. The Today Show even had clip with former President Carter, who spoke in favor of President Bush's actions. With that in mind, I would suggest that we perhaps not differ from our national leaders on this issue of foreign policy, and I urge you to vote against the Bill.

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

The Chair ordered a Division.

Will all those in favor of **ENACTMENT**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Resolve**

Resolve, to Conduct an Independent Review of the Department of Human Services

S.P. 551 L.D. 1455  
(C "A" S-240; S "A" S-422)

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

**THE PRESIDENT:** The pending question before the Senate is **FINAL PASSAGE**.

A Division has been requested.

Will all those in favor of **FINAL PASSAGE**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Resolve was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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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**

An Act to Revise the Small Claims Laws

S.P. 134 L.D. 272  
(S "A" S-427 to C "A" S-238)

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.

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**Emergency**

An Act to Provide Funds to the Maine Rural Water Association for Services to Water and Wastewater Systems

H.P. 328 L.D. 458  
(S "A" S-434)

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.

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**Emergency**

An Act to Amend the Laws Concerning Certification of Educational Personnel

S.P. 326 L.D. 882  
(S "A" S-431 to C "A" S-253)

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is a Bill concerning testing requirements. I apologize, because I just have a note here to ask for a Division. However, I am not sure what this Bill does. If anyone in the Education Committee would help me, I would really appreciate it.

On motion by Senator **WEBSTER** of Franklin, Tabled until Later in Today's Session, pending **ENACTMENT**.

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**Emergency**

An Act to Improve Student Financial Assistance Services

H.P. 750 L.D. 1070  
(S "A" S-432 to C  
"A" H-646)

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.

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**Emergency**

An Act to Unify Housing Services

H.P. 1067 L.D. 1556  
(S "A" S-440 to C  
"A" H-568)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 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.

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**Emergency**

An Act to Promote Long-term Economic Development

H.P. 1321 L.D. 1912  
(S "A" S-433 to C  
"A" H-657)

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

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**Emergency**

An Act to Fund a Collective Bargaining Agreement  
H.P. 1374 L.D. 1959  
(S "A" S-448)

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

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**Emergency Resolve**

Resolve, Relating to Medicaid Rules Governing Services to Persons with Mental Retardation  
S.P. 538 L.D. 1436  
(S "A" S-437 to C  
"A" S-231)

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

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**ORDERS OF THE DAY**

On motion by Senator **WEBSTER** of Franklin, the Senate removed from the Tabled and Later Today Assigned matter:

An Act to Amend the Laws Concerning Certification of Educational Personnel

S.P. 326 L.D. 882  
(S "A" S-431 to C  
"A" S-253)

Tabled - July 17, 1991, by Senator WEBSTER of Franklin.

Pending - ENACTMENT

(In Senate, July 10, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253) AS AMENDED BY SENATE AMENDMENT "A" (S-431) thereto.)

(In House, July 16, 1991, PASSED TO BE ENACTED.)

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

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act Related to the Office of Substance Abuse"

S.P. 90 L.D. 175  
(S "D" S-420 to C  
"A" S-359)

In Senate, July 10, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AS AMENDED BY SENATE AMENDMENT "D" (S-420) thereto.

RECALLED from the Legislative Files pursuant to Joint Order (H.P. 1395), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AS AMENDED BY SENATE AMENDMENT "D" (S-420) AND HOUSE AMENDMENT "B" (H-764) thereto, in NON-CONCURRENCE.

The Senate ADHERED.

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:

**COMMUNICATIONS**

The Following Communication:

**COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

July 11, 1991

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Appropriations and Financial Affairs during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	72
Unanimous reports	54
Leave to Withdraw	2
Ought to Pass	6
Ought Not to Pass	21
Ought to Pass as Amended	10
Re-Referred	11
Carry Over	4
Divided reports	7
On July 10, 1991, House and Senate adjourned without day as second five-day extension expired pursuant to MRSA 3, §2, therefore 11 bills died between houses	11
Bills reported out pursuant to Joint Order	6

Respectfully submitted,

S/Joseph C. Brannigan  
Senate Chair

S/Lorraine N. Chonko  
House Chair

Which was READ and ORDERED PLACED ON FILE.

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

The Following Communication:

**COMMITTEE ON JUDICIARY  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

July 11, 1991

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Judiciary during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	213
Unanimous reports	206
Leave to Withdraw	48
Ought to Pass	12
Ought Not to Pass	33
Ought to Pass as Amended	79
Re-Referred	3
Carry Over	31

Divided reports	6
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On July 10, 1991, House and Senate adjourned without day as second five-day extension expired pursuant to MRSA 3, §2, therefore 1 bill died between houses	1
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Respectfully submitted,

S/N. Paul Gauvreau  
Senate Chair

S/Patrick E. Paradis  
House Chair

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

**COMMITTEE ON BANKING AND INSURANCE  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

July 11, 1991

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Banking and Insurance during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	120
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Unanimous reports	112
Leave to Withdraw	22
Ought to Pass	5
Ought Not to Pass	36
Ought to Pass as Amended	30
Re-Referred	2
Carry Over	17

Divided reports	7
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On July 10, 1991, House and Senate adjourned without day as second five-day extension expired pursuant to MRSA 3, §2, therefore 1 bill died between houses	1
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Bills reported out pursuant to Joint Order	1
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Respectfully submitted,

S/Judy C. Kany  
Senate Chair

S/Elizabeth H. Mitchell  
House Chair

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

**COMMITTEES ON BANKING AND INSURANCE  
AND LABOR  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

July 11, 1991

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committees on Banking and Insurance and Labor during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committees follows:

Total number of bills received	1
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Unanimous reports	0
Leave to Withdraw	0
Ought to Pass	0
Ought Not to Pass	0
Ought to Pass as Amended	0

Divided reports	0
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On July 10, 1991, House and Senate adjourned without day as second five-day extension expired pursuant to MRSA 3, §2, therefore 1 bill died between houses	1
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One joint order to report out a bill  
died between houses 1

Bills reported out pursuant to  
Joint Order 1

The Following Communication:

**COMMITTEE ON STATE AND LOCAL GOVERNMENT  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

Respectfully submitted,

July 11, 1991

S/Judy C. Kany Senate Chair  
S/Donald E. Esty, Jr. Senate Chair

S/Elizabeth H. Mitchell House Chair  
S/Edward A. McHenry House Chair

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

Which was **READ** and **ORDERED PLACED ON FILE**.

We are pleased to report that all business which was placed before the Committee on State and Local Government during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committee follows:

The Following Communication:

**COMMITTEE ON EDUCATION  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

July 11, 1991

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Education during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	112
Unanimous reports	98
Leave to Withdraw	4
Ought to Pass	6
Ought Not to Pass	44
Ought to Pass as Amended	38
Carry Over	6
Divided reports	13
On July 10, 1991, House and Senate adjourned without day as second five-day extension expired pursuant to MRSA 3, §2, therefore 1 bill died between houses	1

Respectfully submitted,

S/Stephen C. Estes Senate Chair  
S/Nathaniel Crowley, Sr. House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

Total number of bills received	180
Unanimous reports	140
Leave to Withdraw	13
Ought to Pass	19
Ought Not to Pass	46
Ought to Pass as Amended	53
Re-Deferred	2
Carry Over	7

Divided reports 38

On July 10, 1991, House and Senate adjourned without day as second five-day extension expired pursuant to MRSA 3, §2, therefore 2 bills died between houses 2

Bills reported out pursuant to Joint Order 1

Resolves reported out pursuant to Joint Order 12

Respectfully submitted,

S/Georgette B. Berube Senate Chair  
S/Ruth Joseph House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication:

**COMMITTEE ON TRANSPORTATION  
ONE HUNDRED AND FIFTEENTH LEGISLATURE**

July 1, 1991

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Transportation during the First Regular Session of the 115th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received		116
Unanimous reports		110
Leave to Withdraw	25	
Ought to Pass	6	
Ought Not to Pass	25	
Ought to Pass as Amended	47	
Re-Deferred	2	
Carry Over	5	
Divided reports		6
Bills reported out pursuant to Public Law		1

Respectfully submitted,

S/Raynold Theriault  
Senate Chair

S/Harold M. Macomber  
House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

---

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

**PAPERS FROM THE HOUSE**

**Joint Order**

The following Joint Order: H.P. 1396

ORDERED, the Senate concurring, that the following bill with all its accompanying papers, which was placed in the legislative file upon adjournment without day of the First Regular Session of the 115th Legislature, be recalled from the file and recommitted to the following joint standing committee of the Legislature:

Joint Standing Committee on State and Local Government

S.P. 42, L.D. 66  
RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities

; and be it further

ORDERED, that this matter be carried over to the next special or regular session of the 115th Legislature.

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

Which was **READ**.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**, please rise and remain standing in your place until counted.

Will all those opposed please rise in their places and remain standing until counted.

31 Senators having voted in the affirmative and 2 Senators having voted in the negative, and 31 being more than two-thirds of the Members present and voting, the Joint Order was **PASSED**, in concurrence.

---

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Authorize Payment of Payroll Obligations to Certain State Employees for Work Already Performed for Which Payment Is Scheduled on July 16, 1991 and July 23, 1991" (Emergency)  
S.P. 780 L.D. 1980

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

In Senate, July 15, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

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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. 1398

ORDERED, the Senate concurring, that Bill, "An Act Relating to the Education of Homeless Students," S.P. 466, L.D. 1249, and all its accompanying papers, be recalled from the legislative files to the House.

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

Which was **READ**.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**, please rise and remain standing in your place until counted.

Will all those opposed please rise in their places and remain standing until counted.

32 Senators having voted in the affirmative and No Senators having voted in the negative, and 32 being more than two-thirds of the Members present and voting, the Joint Order was **PASSED**, in concurrence.

---

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

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

**ENACTORS**

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

**Emergency Resolve**

Resolve, to Establish the Commission to Study the Use of Professional Strikebreakers

H.P. 139 L.D. 199  
(C "A" H-185; S "A" S-421)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 2 Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Resolve, to Study the Feasibility of a Statewide Health Insurance Program

H.P. 1184 L.D. 1727  
(S "B" S-424 to C "A" H-406)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 3 Senators having voted in the negative, and 29 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.

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Senate at Ease

Senate called to order by the President.

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

**RECALLED FROM LEGISLATIVE FILES**

An Act to Expand the Applicability of Certain Energy Standards

S.P. 149 L.D. 361  
(C "A" S-34)

(In Senate, April 22, 1991, Placed on the Special Appropriations Table by Senator **BRANNIGAN** of Cumberland, pending **ENACTMENT**.)

(In House, April 18, 1991, **PASSED TO BE ENACTED**.)

(In Senate, April 4, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-34)**.)

(**RECALLED** from the Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

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

---

**RECALLED FROM LEGISLATIVE FILES**

**Emergency**

An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine

S.P. 154 L.D. 366  
(C "A" S-286)

(In Senate, June 12, 1991, Placed on the Special Appropriations Table by Senator **PEARSON** of Penobscot, pending **ENACTMENT**.)

(In House, June 12, 1991, **PASSED TO BE ENACTED**.)

(In Senate, June 11, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)**.)

(RECALLED from the Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

On motion by Senator BRANNIGAN of Cumberland the Senate **SUSPENDED THE RULES.**

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

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-286).

On further motion by same Senator, Senate Amendment "A" (S-470) to Committee Amendment "A" (S-286) **READ** and **ADOPTED.**

Committee Amendment "A" (S-286) as Amended by Senate Amendment "A" (S-470) thereto, **ADOPTED** in **NON-CONCURRENCE.**

Which was, **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE.**

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-498) as Amended by Senate Amendment "A" (S-367) thereto.

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "A" (S-367) to Committee Amendment "A" (H-498).

On further motion by same Senator, Senate Amendment "A" (S-367) to Committee Amendment "A" (H-498) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

On further motion by same Senator, Senate Amendment "B" (S-452) to Committee Amendment "A" (H-498) **READ** and **ADOPTED.**

Committee Amendment "A" (H-498) as Amended by Senate Amendment "B" (S-452) thereto, **ADOPTED** in **NON-CONCURRENCE.**

Which was **PASSED TO BE ENGROSSED, as Amended** in **NON-CONCURRENCE.**

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

**RECALLED FROM LEGISLATIVE FILES**

An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies  
H.P. 1166 L.D. 1707  
(S "A" S-367 to C  
"A" H-498)

(In Senate, June 26, 1991, Placed on the Special Appropriations Table by Senator PEARSON of Penobscot, pending **ENACTMENT.**)

(In House, June 26, 1991, **PASSED TO BE ENACTED.**)

(In Senate, June 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498) AS AMENDED BY SENATE AMENDMENT "A" (S-367)** thereto.)

(RECALLED from Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

On motion by Senator BRANNIGAN of Cumberland, the Senate **SUSPENDED THE RULES.**

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

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

**RECALLED FROM LEGISLATIVE FILES**

An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and the Department of Economic and Community Development and Transferring Their Essential Functions  
H.P. 1210 L.D. 1768  
(H "A" H-711 to C  
"A" H-690)

(In Senate, June 29, 1991, Placed on the Special Appropriations Table by Senator BRANNIGAN of Cumberland, pending **ENACTMENT.**)

(In House, June 29, 1991, **PASSED TO BE ENACTED.**)

(In Senate, June 28, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-690) AS AMENDED BY HOUSE AMENDMENT "A" (H-711)** thereto, in concurrence.)

(RECALLED from the Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

On motion by Senator CLARK of Cumberland, the Senate **SUSPENDED THE RULES.**

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

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-690) as Amended by House Amendment "A" (H-711) thereto.

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** House Amendment "A" (H-711) to Committee Amendment "A" (H-690).

On further motion by same Senator, House Amendment "A" (H-711) to Committee Amendment "A" (H-690) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-473) to Committee Amendment "A" (H-690) **READ** and **ADOPTED**.

Committee Amendment "A" (H-690) as Amended by Senate Amendment "A" (S-473) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask you to vote against Passage to be Engrossed on this particular piece of legislation. This amendment abolishes four positions in the Division of Community Services, and abolishes that Division, and moves the functions to other state agencies. It does have a fairly significant cost savings. While I think that this is something that we should explore, I think that the function of doing this would perhaps be better and more timely if we referred it to our Restructuring Committee. So I would ask you to vote no.

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

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If this were other than what is hopefully the last day of the First Special Session, this amendment that I offered in the Senate Chamber this evening would have been tended to in the other Body, but, I submit that it would have come back to our Body in non-concurrence, and this just saved a step.

L.D. 1768 was on the Senate Table and approved by the majority of the Committee on Appropriations and Financial Affairs. In the waning days of the First Regular Session, when the Legislative Council met, as the final process in the Appropriations procedure, the Legislative Council disapproved of this Bill 7 to 5. Many of us at that time, including this Senator, voted incorrectly, misunderstanding in the speed of the events of that evening the pending motion. Thus I offered myself as the person who would place it in the position that I had initially supported, which is the way that it came out of Committee.

The purpose of the amendment is to cut what are reported to be excessive and unnecessary Administrative costs, without cutting back on

services, and to save the General Fund a lot of money, about \$300,000, by downsizing State Government. The amendment specifically eliminates part of the original Bill that made cuts in the Department of Economic Development, and leaves that segment of that department in tact. The Bill as amended, as suggested by the good Senator from Sagadahoc, Senator Cahill, would only cut the Division of Community Services, and I would share with you justification for that action. We have experienced during the entire duration of our First Regular Session, and even in this First Special Session, a number of hard choices necessitated by hard times. Over the past two years, the Division of Community Services has transferred major programs like Weatherization, and has laid off almost half of its staff, resulting in six management positions supervising nine employees. This amendment abolishes the Director, Deputy Director, and Assistant Director. These top three positions earn an average of nearly \$50,000 each, plus fringes and benefits annually. The result of this Passage to be Engrossed as Amended, would be a savings of over \$300,000 each year to the General Fund. The remaining staff in the Division of Community Services would be transferred per the amendment and the statement of fact, to the Maine State Housing Authority where six people would go, the Department of Human Services where three people would go, and the Department of Economic Development where three people would go. I would urge your support for Passage.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE TO BE ENGROSSED, AS AMENDED** in **NON-CONCURRENCE**.

A Division has been requested.

Will all those in favor of **PASSAGE TO BE ENGROSSED, as Amended** in **NON-CONCURRENCE**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 12 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED, as Amended** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

**RECALLED FROM LEGISLATIVE FILES**

**Emergency**

An Act to Encourage Business Investments  
H.P. 1211 L.D. 1769  
(C "A" H-603)

(In Senate, June 12, 1991, Placed on the Special Appropriations Table by Senator PEARSON of Penobscot, pending ENACTMENT.)

(In House, June 11, 1991, PASSED TO BE ENACTED.)

(In Senate, June 11, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-603), in concurrence.)

(RECALLED from the Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

On motion by Senator BRANNIGAN of Cumberland, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED.

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

On further motion by same Senator, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-603).

On further motion by same Senator, Senate Amendment "B" (S-445) to Committee Amendment "A" (H-603) READ and ADOPTED.

Committee Amendment "A" (H-603) As Amended by Senate Amendment "B" (S-445) thereto, ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

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

**RECALLED FROM THE LEGISLATIVE FILES**

An Act to Amend the Minimum Requirements for Emergency Medical Technicians

H.P. 1230 L.D. 1794  
(C "A" H-512)

(In Senate, June 10, 1991, Placed on the Special Appropriations Table by Senator BRANNIGAN of Cumberland, pending ENACTMENT.)

(In House, June 10, 1991, PASSED TO BE ENACTED.)

(In Senate, June 6, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-512), in concurrence.)

(RECALLED from the Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

On motion by Senator BALDACCI of Penobscot, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED.

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

On further motion by same Senator, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-512).

On further motion by same Senator, Committee Amendment "A" (H-512) INDEFINITELY POSTPONED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. Just very briefly an explanation. The original Bill did not include paramedics and its relicensing exemption, this is going back to the original Bill which is going to be the proper thing to do at this particular time. Thank you.

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

**RECALLED FROM LEGISLATIVE FILES**

**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for the Purchase of Recycling Equipment and Facilities and for the Remediation and Closure of Solid Waste Landfills  
H.P. 1384 L.D. 1973

(In Senate, July 10, 1991, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, in concurrence.)

(In House, July 10, 1991, PASSED TO BE ENACTED.)

(RECALLED from the Legislative Files, pursuant to Joint Order S.P. 783, in concurrence.)

This being a Bond Authorization Act and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the Membership present and voting, 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:

**RECALLED FROM LEGISLATIVE FILES**

Resolve, to Establish the Commission on Electric Utilities and Long-range Energy Production Planning (Emergency)

S.P. 292 L.D. 774  
(S "A" S-220 to C  
"A" S-205)

(In Senate, May 28, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-205) AS AMENDED BY SENATE AMENDMENT "A" (S-220)** thereto.)

(In House, July 10, 1991, **RESOLVE** and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, July 10, 1991, **INDEFINITELY POSTPONED**, in concurrence.)

(**RECALLED** from the Legislative Files, pursuant to Joint Order S.P. 784, in concurrence.)

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby the Resolve was **INDEFINITELY POSTPONED.**

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED.**

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-205) As Amended by Senate Amendment "A" (S-220) thereto.

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "A" (S-220) to Committee Amendment "A" (S-205).

On further motion by same Senator, Senate Amendment "A" (S-220) to Committee Amendment "A" (S-205) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

Senate Amendment "B" (S-472) to Committee Amendment "A" (S-205) **READ** and **ADOPTED.**

Committee Amendment "A" (S-205) As Amended by Senate Amendment "B" (S-472) thereto, **ADOPTED** in **NON-CONCURRENCE.**

Which was **PASSED TO BE ENGROSSED**, As Amended in **NON-CONCURRENCE.**

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

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act Proposing a License Cap to Manage the Lobster Fishing Effort Through the Limited Issuance of Licenses"

S.P. 365 L.D. 967  
(S "B" S-441 to C  
"A" S-290)

In Senate, July 10, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-290) AS AMENDED BY SENATE AMENDMENT "B" (S-441)** thereto.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-290) AS AMENDED BY HOUSE AMENDMENT "B" (H-765)** thereto, in **NON-CONCURRENCE.**

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

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:

An Act to Enhance the Integrated Pest Management Capabilities of Agriculture in the State

H.P. 875 L.D. 1261  
(S "B" S-446 to C  
"A" H-273)

Which 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:

**SENATE PAPERS**

Bill "An Act Relating to Average Final Compensation for Purposes of the Maine State Retirement System" (Emergency) S.P. 786 L.D. 1982

Presented by Senator MCCORMICK of Kennebec Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Committee on AGING, RETIREMENT AND VETERANS suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

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

Bill "An Act to Amend the Fees for Lobster and Crab Fishing Licenses" S.P. 787 L.D. 1983

Presented by Senator VOSE of Washington Cosponsored by Representative COLES of Harpswell Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Committee on MARINE RESOURCES suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

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:

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committees on BANKING AND INSURANCE and LABOR, pursuant to Joint Order H.P. 1382, on Bill "An Act to Make Changes in the Workers' Compensation System"

H.P. 1397 L.D. 1981

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-766).

Signed:

Senators:

- ESTY of Cumberland
KANY of Kennebec
THERIAULT of Aroostook
CARPENTER of York
BRAWN of Knox

Representatives:

- JOSEPH of Waterville
HASTINGS of Fryeburg
CARLETON of Wells
AIKMAN of Poland
GARLAND of Bangor
PINEAU of Jay
MITCHELL of Vassalboro
LIPMAN of Augusta
RUHLIN of Brewer

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

Signed:

Senator:

- CONLEY of Cumberland

Representatives:

- MCKEEN of Windham
TRACY of Rome
RAND of Portland
ST. ONGE of Greene
ERWIN of Rumford
MCHENRY of Madawaska

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-766) AND HOUSE AMENDMENTS "A" (H-768); "B" (H-769); "C" (H-770) AND "G" (H-774).

Which Reports were READ.

On motion by Senator KANY of Kennebec, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I have two amendments on their way, will I have an opportunity to put those on before it goes down to the House?

THE PRESIDENT: The Chair would advise the Senator that he believes that the amendments are to the Bill, which would require the Second Reading.

The Bill READ ONCE.

Committee Amendment "A" (H-766) READ and ADOPTED, in concurrence.

House Amendment "A" (H-768) READ.

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



Senator **CARPENTER**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would move Indefinite Postponement of House Amendment "A" (H-768) because of an agreement that we had between the President of the Senate, the Speaker of the House, and the Governor of the State of Maine, that there would be no unfriendly amendments placed on this Bill once it left the Committee without mutual agreement between both Parties. I request a Division.

Senator **CARPENTER** of York moved to **INDEFINITELY POSTPONE HOUSE AMENDMENT "A" (H-768)** and requested a Division.

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

Senator **KANY**: Thank you Mr. President. Ladies and Gentlemen of the Senate. An amendment to House Amendment "A" (H-768) is being printed, and I would ask to have this item be Tabled until later in today's session.

Senator **CARPENTER** of York requested and received leave of the Senate to withdraw his request for a Division.

**THE PRESIDENT**: The Chair would advise the Senator that her amendment is to the Bill. The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator **CLARK**: Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from York, Senator Carpenter, has eluded to the Memorandum of Agreement that was signed by the Presiding Officers of the Maine Senate and the other Body, as well as the Governor of the State of Maine. Simply in an effort to correct the Record, that Memorandum of Agreement did not contain any condition that would reject out-of-hand amendments that are perceived as friendly or unfriendly. As a matter of fact, that Memorandum of Agreement has been violated. An example of that is, that the Presiding Officers have never received from the actuary the letter which explains the assessment of points. That is simply one citation as to how that Memorandum of Agreement has been violated. I would submit, that to use that as the basis of action in this Chamber is, in fact, specious. While we anticipate the receipt of that letter insofar as possible within a time frame that makes it allegedly relevant, I submit that it is the right of each individual Senator within our respective caucuses to submit for adoption and approval, debate and discussion on any amendment that is reflective of not only their position on this vital issue, but represents the constituency that each of us were elected to serve. Thank you.

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

Senator **WEBSTER**: Thank you Mr. President. Ladies and Gentlemen of the Senate. To follow up on the points made by the good Senator from Cumberland, Senator Clark, Item two of this agreement states the actuary in the Bureau of Insurance will evaluate an impact of points of agreements. The Budget has been passed, we only assume having read this agreement that the points were sufficient, or the Governor would not have signed the Budget. I can see no

deviation to this point from the agreement that was offered initially by Senator Clark and myself, and has been signed by the Governor and members of both Bodies.

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

Senator **CAHILL**: Thank you Mr. President. Ladies and Gentlemen of the Senate. You will have to forgive me because I am confused. It seems that the amendment that the good Senator from Kennebec, Senator Kany is offering, is it to the Bill or to the amendment, because we haven't seen the amendment, therefore, I am getting conflicting reports.

**THE PRESIDENT**: The Chair would advise the Senator that there is no pending amendment before us. The confusion is that the Chair has seen two amendments, one to House Amendment "A" (H-768), and one to the Bill that accomplishes the same thing.

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Off Record Remarks

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Senate at Ease

Senate called to order by the President.

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On motion by Senator **KANY** of Kennebec, Tabled until Later in Today's Session, pending **ADOPTION** of House Amendment "A" (H-768), in concurrence.

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On motion by Senator **KANY** of Kennebec, **RECESSED** until 10:53 in the evening.

After Recess

Senate called to order by the President.

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**ORDERS OF THE DAY**

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

Bill "An Act to Make Changes in the Workers' Compensation System"

H.P. 1397 L.D. 1981

Tabled - July 17, 1991, by Senator **KANY** of Kennebec.

Pending - **ADOPTION** of House Amendment "A" (H-768), in concurrence

(In Senate, July 17, 1991, the Majority **UGHT TO PASS AS AMENDED** Report was **READ** and **ACCEPTED**, in concurrence. The Bill **READ ONCE**. Committee Amendment "A" (H-766) **READ** and **ADOPTED**, in concurrence. House Amendment "A" (H-768) **READ**.)

(In House, July 17, 1991, the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-766) AND HOUSE AMENDMENTS "A" (H-768); "B" (H-769); "C" (H-770) AND "G" (H-774).**)

On motion by Senator **KANY** of Kennebec, Senate Amendment "A" (S-477) to House Amendment "A" (H-768) **READ**.

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This amendment would replace the House Amendment, and would prohibit any health care provider who receives more than 50% of the providers income from a single employer, and so-called "company doctors" from serving as an independent medical examiner.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the spirit in which this language is being offered by my colleague, the Senator from Kennebec, Senator Kany. I do have a concern that the language might be too conservatively styled. It seems to me that under Section 65 Title 39, an insurance carrier for an employer has the capacity now to request an examination of an injured worker as part of the workers' compensation proceeding. This is an examination outside, separate and distinct from the independent medical examination being contemplated in L.D. 1981. I raise the issue, if in a given proceeding an insurance company has had Doctor "X" examine an injured worker, would it be possible under this language for that doctor to be picked or selected as the independent medical examiner in that proceeding regarding that injured worker?

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In answer to the Senator from Androscoggin, Senator Gauvreau, independent medical examiners are selected by a commissioner in a case. If the commissioner fails to select an independent medical examiner after five days, if there is a need under the law for one, then the medical coordinator could select one. The medical coordinator prepares a list of independent medical examiners by rule, which is promulgated by the Chair of the Commission after the rules have been proposed by the Medical Coordinator. That may sound a little convoluted to some, but that is for the Record. I suppose, theoretically, an insurer or an employer could request that a company doctor examine

someone, but I would suggest that even under common law, it would be a conflict of interest for an independent medical examiner such as outlined by the good Senator from Androscoggin, Senator Gauvreau, to perform the functions under this proposed law as independent medical examiner. The independent medical examiners present findings to a commissioner at the Workers' Compensation Commission, and those findings can be rejected under proposed language in the law by the Commission.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As I understand what is going on here, and if I compare House Amendment "A" (H-768) with the present amendment that is before us, Senate Amendment "A" (S-477), it seems to me that we are doing relatively nothing when we look at this amendment as to whether a doctor who has examined a patient for an insurance company is allowed to become the independent medical examiner. House Amendment "A" (H-768) would, in fact, exclude anyone who had examined a patient for an insurance company from the IME. It seems to me that House Amendment "A" (H-768) is an appropriate amendment if you are in the Bill itself not allowing the family physician of the injured worker to serve as an IME, it just makes eminent fair play to me to accept House Amendment "A" (H-768), and not Senate Amendment "A" (S-477).

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

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **KANY** of Kennebec to **ADOPT** Senate Amendment "A" (S-477) to House Amendment "A" (H-768).

A Division has been requested.

Will all those in favor of the motion by Senator **KANY** of Kennebec to **ADOPT** Senate Amendment "A" (S-477) to House Amendment "A" (H-768), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

23 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **KANY** of Kennebec to **ADOPT** Senate Amendment "A" (S-477) to House Amendment "A" (H-768), **PREVAILED**.

House Amendment "A" (H-768) as Amended by Senate Amendment "A" (S-477) thereto, **ADOPTED** in **NON-CONCURRENCE**.

House Amendment "B" (H-769) **READ**.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It seems to me that there are a lot of amendments on this Bill

tonight. It is a Bill that we have worked long and hard on. I hate to see it killed with little stabs. If you are going to kill it, you might as well do it all at once. I would move Indefinite Postponement of this amendment.

Senator **CARPENTER** of York moved to **INDEFINITELY POSTPONE** House Amendment "B" (H-769) in **NON-CONCURRENCE**.

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The amendment says that "the employer shall pay all reasonable expenses incurred by the employee in conducting the exploration of the positions on the list provided by the employer, regarding the statewide work search". I think if nothing else, that is simply an issue of fairness that nobody seemed to have any problem with. Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Right now many of the commissioners do allow compensation or expenses for travel for work search. We just don't feel that we should micromanage this whole Bill. It should be set up under the rules by the commissioners. Thank you.

Senator **ESTY** of Cumberland requested a Division.

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

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In response to remarks from the good Senator from York, Senator Carpenter, I would like to point out to the Body that if one wants to examine micromanaging of the Workers' Compensation Act, they have only had to be hanging around here for the last month. I can assure you that if they had observed the negotiations that were going on between the parties involved, micromanaging would be an understatement of what has occurred. This amendment, which was never discussed, hard to believe, given everything that was discussed in this past month, is something which has been placed before both Bodies because it was thought of afterwards. Thank God someone did think of it! Right now, by law, the Commission does order the carriers to pay people's traveling expenses when they have to go back and forth to their doctors. Many people have to travel considerable distances, particularly those in rural areas.

The reason why it is extremely important to have this measure placed on the statutes is, because if the law which we will be considering in its capacity later is passed, there is a good chance that an employee that is looking for work will only have twenty-one days in which to find jobs which he has been alerted to by the carriers. These jobs could be

anywhere in the state! If you lived in Fort Kent you would have to travel to Kittery, and so forth, all across the state, wherever those jobs may have been pointed out for you to look at. Therefore, it is extremely important that these expenses be paid for by the carrier. It is extremely important that they be in statute. I don't think that it is asking a lot. I would ask that you vote in favor of this amendment.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Along with many others, I have been involved somewhat actively in the discussions of the past fortnight on the Workers' Compensation Bill. We have, as you know, been involved in this exercise where we have tried to reconstruct what the collective consciousness of the men and women of the Senate and the other Body was as of last week. We have chosen and promised not to deviate from our collective intent as of last week.

I think that the Senator from Cumberland, Senator Conley, makes a well, cogent presentation this evening on this amendment. I don't recall any specific discussion on whether or not an employee who, in fact, is provided a list of jobs by an insurance company, and thus triggering the automatic discontinuance language of Section 100 in the Bill. I am not sure if there was a discussion as to whether or not the employee should be compensated for reasonable travel expenses. I think that it is a reasonable policy to espouse, unless there was specific discussion and specific agreement that the employee would not be so compensated. I have no recollection that this issue was decided, and for that reason, unless I hear from a member of the negotiating team to the contrary, I will support the amendment, as I believe it is congruent with the spirit and the agreement that was reached in the past fortnight. Thank you.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have in front of me the agreement that we have made, and being one of the negotiators on this team, as indicated by the good Senator from Androscoggin, Senator Gauvreau, from the nonpartisan OPLA staff, I have in writing here that the latest workers' compensation negotiating session produced agreements on issues such as statewide job search. I know that there are already a \$1,000 worth of expenses that are on this Bill. I hope that you will Indefinitely Postpone this amendment. Thank you.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am not sure, but I think it was Monday of this week, it might have been Sunday, I lose track of the time, but I know it was about 2:30 in the morning in the Judiciary Committee Room that a subcommittee in which I took part, discussed at great length the automatic

discontinuance section of our law. There was tremendous discussion about a 21 day hiatus before a worker would be discontinued from benefits. There was tremendous discussion about procedures which would follow after that point. In the Committee Room in which I took part, there were other Legislators, the Senator from Knox, Senator Brawn, was not to my knowledge in the room, but I may be mistaken given the late hour. But I truly do not recall this issue being discussed. Perhaps Legislators who were in the room and on the Committee negotiating that language, if they can help me on this issue, I do not recall any agreement or discussion that we would reasonably not reimburse the employee for those extraordinary travel expenses. I think that the suggestion is eminently reasonable. I would oppose the amendment if, in fact, it was contrary to our agreement, but I honestly do not recall any agreement that we would not allow reimbursement for the injured worker.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **CARPENTER** of York to **INDEFINITELY POSTPONE** House Amendment "B" (H-769) in **NON-CONCURRENCE**.

A vote of Yes will be in favor of the motion by Senator **CARPENTER** of York to **INDEFINITELY POSTPONE** House Amendment "B" (H-769) in **NON-CONCURRENCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BALDACCI, BERUBE, BRAWN, CAHILL, CARPENTER, COLLINS, DUTREMBLE, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, TWITCHELL, WEBSTER**

**NAYS:** Senators **BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, THERIAULT, TITCOMB, VOSE, THE PRESIDENT - CHARLES P. PRAY**

**ABSENT:** Senator **PEARSON**

Senator **MILLS** of Oxford requested and received leave of the Senate to change his vote from **YEA** to **NAY**.

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **CARPENTER** of York to **INDEFINITELY POSTPONE** House Amendment "B" (H-769), **FAILED**.

Senator **WEBSTER** of Franklin requested a Division.

On motion by Senator **BOST** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would just like to point out that this was brought up at some of the negotiating sessions, it was never agreed to, but it was definitely brought up.

**THE PRESIDENT:** The pending question before the Senate is **ADOPTION** of House Amendment "B" (H-769), in concurrence.

A vote of Yes will be in favor of **ADOPTION** of House Amendment "B" (H-769), in concurrence.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, THERIAULT, TITCOMB, VOSE**

**NAYS:** Senators **BALDACCI, BERUBE, BRAWN, CAHILL, CARPENTER, COLLINS, DUTREMBLE, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, TWITCHELL, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

**ABSENT:** Senator **PEARSON**

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the **ADOPTION** of House Amendment "B" (H-769), **FAILED**.

On motion by Senator **BOST** of Penobscot, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-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 Relating to the Education of Homeless Students" (Emergency)

S.P. 466 L.D. 1249  
(S "A" S-335 to C  
"A" S-274)

In Senate, July 10, 1991, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

In House, July 10, 1991, Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in concurrence.

**RECALLED** from the Legislative Files pursuant to Joint Order H.P. 1398, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-767)** in **NON-CONCURRENCE**.

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

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

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

July 17, 1991

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action on Bill "An Act Related to the Office of Substance Abuse" (S.P. 90) (L.D. 175).

Sincerely,

S/Edwin H. Pert  
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass**

Senator **BRANNIGAN** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Amend Certain Provisions of the Laws Contained in Public Law 1991, Chapter 591" (Emergency)  
S.P. 788 L.D. 1984

Reported that the same **Ought To Pass**, pursuant to Joint Order H.P. 51.

Which Report was **READ** and **ACCEPTED**.

Which was, under suspension of the Rules, **READ TWICE**, and **PASSED TO BE ENGROSSED**.

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.

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:

An Act to Eliminate the Lobster Management Task Force

S.P. 365 L.D. 967  
(H "B" H-765 to C  
"A" S-290)

Which was **PASSED TO BE ENACTED**.

On motion by Senator **BRAWN** of Knox, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

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

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A vote of Yes will be in favor of **ENACTMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

Will all those opposed please rise in their places and remain standing until counted.

32 Senators having voted in the affirmative and No Senators having voted in the negative, and 32 being more than two-thirds of the Members present and voting, the Joint Order was **PASSED**, in concurrence.

**ROLL CALL**

**YEAS:** Senators **BALDACCI, BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

**NAYS:** Senators **BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS**

**ABSENT:** Senator **PEARSON**

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

The President requested that the Sergeant-at-Arms escort the Senator from Cumberland, Senator **CLARK** to the Rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the Floor of the Senate.

Senate called to Order by the President Pro Tem.

The following proceedings were conducted after 12:01 a.m., Thursday, July, 18, 1991.

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. 1400

**ORDERED**, the Senate concurring, that Bill "An Act Related to the Office of Substance Abuse," S.P. 90, L.D. 175, and all its accompanying papers be recalled from the legislative files to the House.

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

Which was **READ**.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**, please rise and remain standing in your place until counted.

**ORDERS OF THE DAY**

The President Pro Tem laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Make Changes in the Workers' Compensation System" H.P. 1397 L.D. 1981 (C "A" H-766)

Tabled - July 17, 1991, by Senator **BOST** of Penobscot.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**

(In Senate, July 17, 1991, House Amendment "A" (H-768) **READ**. Senate Amendment "A" (S-477) to House Amendment "A" (H-768) **READ** and **ADOPTED**. House Amendment "A" (H-768) as Amended by Senate Amendment "A" (S-477) thereto, **ADOPTED** in **NON-CONCURRENCE**. House Amendment "B" (H-769) **READ** and **FAILED ADOPTION** in **NON-CONCURRENCE**.)

(In House, July 17, 1991, the Majority **OUT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-766) AND HOUSE AMENDMENTS "A" (H-768); "B" (H-769); "C" (H-770) AND "G" (H-774).**)

House Amendment "C" (H-770) READ.

Senator COLLINS of Aroostook requested a Division.

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.

Senator COLLINS: Thank you Madam President. Ladies and Gentlemen of the Senate. It seems to me that this first reading effectively negates some of the savings, or pushes it further along the line by the language in the amendment. I understand that people that have been injured in the past don't want their benefits cut. I suppose that there are some things in this that are good things that don't effect those benefits. For example, the ability to use medical management on the folks existing in the system is a good thing. There are also some good things for employees. In effect, it increases from two years to three years the time when reinstatement can take place. Those folks that were able and under the system prior should be in favor of that. The fifteen day trial work period also would be advantageous to employees. I guess I would be interested in knowing if I am misreading this, or if there is something that I don't fully understand. I don't pretend to have followed all of the legislation this time. I did my trial work in 1987, and apparently I didn't succeed. I have only been on the perimeter of this effort. It seems to me that there are things there that are desirable that this amendment disregards.

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

Senator CONLEY: Thank you Madam President. Ladies and Gentlemen of the Senate. It is with great interest that I listen to the good Senator from Aroostook, Senator Collins mention a couple of these nice provisions in the Act that will be before us in its entirety sometime later this evening, as applying to workers injured prior to the effective date of this Act. He fails to mention the major provisions in this Act, which will hurt those workers terribly. Terribly! We have passed two major reforms in the last seven years, and there has never been a provision in any of those reforms that were not prospective in nature. Never have we gone back to effect workers injured at a time when a different law was in effect. The reason being is, because insurance companies have insured for injuries relating to how the laws were at that time. For the first time to make this particular provision retroactive to some 40,000 injured workers in this state, it will be the first time that we have ever done it. It will be totally unfair, totally unheard of, never done before! For the Senator from Aroostook, Senator Collins to suggest that doing it is really to help some is a rouse. What is going on, make no mistake about it, is the insurance companies that have been running this state for the past month, finally figured out they missed one. It got by them! They had us by the neck, trying to choke out of us a law that the majority of people do not want in this state.

That Budget was not signed until 3:30 this morning. There was not supposed to be any negotiations, according to our agreement, between the parties before the Budget was signed. Well, I was in

a room for those three or four hours, and all I saw was someone hung upside down and someone shook dry, every coin shook out except this one! They missed it. And now they want it. Its funny how democracy works. The minute the Budget is signed, people start thinking again. People start voting their consciences. This was never discussed in any of those negotiations, and that is why it is before us now, because people started thinking for themselves. We should adopt this. It is the fair thing to do. It is the way it has always been done. Now that we don't have to worry about this Budget not being signed, we can do things like this!

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

Senator CAHILL: Thank you Madam President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. I may be mistaken, but it seems to me that the good Senator from Cumberland, Senator Conley said that we never do anything retroactively as far as injured workers. It is my understanding that in 1987 some of the procedural things did take effect immediately upon signature of the Act.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Madam President. Ladies and Gentlemen of the Senate. The good Senator from Sagadahoc, Senator Cahill is correct. When we dealt with procedures in the past, they were implemented, and they were utilized in the past. We have tried not to in developing a Workers' Compensation Package, to change the number of weeks because that was benefits. We tried not to get into the compensation ability, because there were changing the benefits. We have tried to deal with the process and the procedure, and tried to get as many savings as possible without negatively impacting the injured worker. That is what we have tried to do in this entire process. We have gone from 41 points to 35 points, to 30 points to 26 points. The goal is to try to do as much as you possibly can do to have a system operating as efficiently as possible without changing the benefits that the worker has now. We are not changing the benefits! The retroactivity portion deals with the process! If you have a problem of doctor shopping, or you have a problem where the person has the ability to go back to work, do you still want them on the system? Do you want them to have the safeguards and the provisions that the good Senator from Cumberland, Senator Conley, and the good Senator from Cumberland, Senator Esty, and the good Senator from Androscoggin, Senator Gauvreau, and all the other good people that worked on this, those safeguards that are built in, don't you want to utilize those safeguards to protect the injured worker from being discontinued unfairly, from being treated shabbily, from not taking care of their legal representation? Everything has been done without impacting on that. This has been yeoman's work to get this system recommendations to the level that it is at now. I submit to you, if this amendment is not part of this legislation, if this amendment goes through, you will gut two-thirds of the estimated savings of this particular proposal, and you will, in fact, be supporting a rate increase in the State of Maine

Workers' Compensation System! That, my fellow Senators, will be the truly ironic thing. Think of the many hours, and the many sunrises, and the many dark nights, and the many mosquito bites that we have suffered the last three weeks to come to this point. To come to this point where we are at this particular juncture. Negotiations were done in good faith. They were worked together between the parties involved, and they came to a resolution.

I did not offer an amendment because I was asked to make sure that I supported whatever was dealt with by the groups that were dealing with it, and not to subvert the process. But amendments have been coming down like snowflakes in July! But that's okay. That is the process. I was adhering to the process that whatever the group decided that was fairly represented and the family agreed to it, that is what I would stick to. Believe me, I think that there are other things that could be done. If we are going to be accepting amendments like this on top of the package, I would like an opportunity to offer some amendments to the particular package. But I don't feel that is fair after what we have been through, and what we have struggled through, and what we sweated through to get to this particular point, and then have the whole thing unravel! That is exactly what is at stake here. I think that you should know that. I would hate to think in a hypothetical sense that if we do this it is fair, yes, there is no question about it. If you want to make it fairer, and fairer over here, you can do this and you can do that. But, as far as the negotiations where you put in things and you pull out things, you add things, you dot "i's" and cross "t's", I will tell you, I have never seen as many dotting of the "i's" and crossing of the "t's". It has been an amazing thing for me to watch. It has been an amazing process. It is because of that process that we have come to this particular point, and the whole thing is going to come unraveled at this particular juncture. I would submit to you that it would really be a tragedy to get to this particular point and have this happen.

I can't argue with the good Senator from Cumberland, Senator Conley when he talks about the issues that he is discussing. I can't. But I think that the more important thing here is that if the injured worker who has been rehabilitated, retrained, reeducated, or whatever else, has the opportunity, and that process has all those safeguards built into it to make sure they are not dealt with unfairly. It has all those safeguards. If we were to gut this, we would be back at ground zero and probably less. I leave that in the Senates hands. Thank you Madam President.

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

Senator ESTY: Thank you Madam President. Ladies and Gentlemen of the Senate. Let me say that I am not an attorney or someone who has practiced in the field of workers' compensation, and have only been recently in the past few years exposed to the workers' compensation laws. This has been a very complex process. I can tell you that the intent of this amendment was expected by people on both sides of the aisle. I can tell you that perhaps lawyers or drafters were aware of the exact words that were in the legislation that was passed and drafted. I know

that some Republicans expected the intention of this amendment to be in the law. When I found out that it wasn't in the law, frankly, I was stunned. I am also shocked to hear the good Senator from Penobscot, Senator Baldacci say on the one hand that injured workers would be hurt by passing this, while at the same time, talking about this being two-thirds of the estimated savings. This morning we received information from Commissioner Collins that said our package was estimated in the area of 26 points of savings this year. Two-thirds of 26 is approximately rounding off to 18. 18 points for this piece, and people on both sides of the aisle weren't aware of it? Come on! Does that sound reasonable? It doesn't to me. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Madam President. Ladies and Gentlemen of the Senate. For the information of the good Senator from Cumberland, Senator Esty, what he is referring to is not just one piece of paper, but the piece of paper is the transitional language for the entire Bill. It is the language that makes the Bill operational. I think that the good Senator from Cumberland, Senator Esty, should be aware of the fact that if this is done from this day forward, that there will not be 26% savings. That in fact, the 14.1% that was roughly estimated for a rate increase would probably be largely in tact. It was thought that the transitional language would apply as it has in the past to the process. If you can't deal with this process that is established and the people that are in the process, then you are not going to have the independent medical examination and the language surrounding that, it will be prospected so your savings have changed dramatically. That is really what's at issue. Thank you Madam President.

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

Senator CONLEY: Thank you Madam President. Ladies and Gentlemen of the Senate. While the crowd gathers in the back and plot a strategy figuring out what to do about this unholy mess somehow having cropped up here at the last minute, I thought I would answer just a couple of things raised by the good Senator from Penobscot, Senator Baldacci.

First of all, the Senator from Aroostook, Senator Collins, and the Senator from Penobscot, Senator Baldacci, have talked about procedural safeguards that we might be able to get into place for those 40,000 injured workers that would be effected by this Act. I had a note given to me earlier today that the insurance companies of this state who deal in workers' compensation have frozen all negotiations regarding settlement of workers' compensation cases until they hear the outcome of this particular debate. That sounds like a real procedural safeguard for workers in this state. Insurance companies who are known mostly for their profit motive, are waiting to see what we do here tonight so they can figure out how to hurt workers who were hurt before the effective date of this Act. Does that sound procedural in nature? It doesn't sound like that to me. Those are benefits! And they are going after them, and they are going to use this to take them



away! We have never done that before! It will be the first time that we have ever done it! You can throw procedures up as much as you want. This is not procedural. This is an attempt to cut benefits for people who were hurt before this ever went into law. Is that fair? It is not fair. It is not the way that we have done things around here. The only reason that it is even being talked about in this fashion now is, because we have been held hostage until they got everything that they wanted, except this, because they forgot!

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would like to respond to the Senator from Cumberland, Senator Conley. This is not something that they forgot, this is something that is included under current law, and has been amended by a House Amendment, because they didn't know it was in the Bill, it is not something that we were held hostage to and they forgot to put it in, it is part of the law.

I would like to explain to you where I am coming from on this. I knew that this was part of the compromise from the point that it was mentioned. I questioned if we really wanted to do it or not, and it was never brought up again, except one time last evening, it was mentioned that it was part of it and I let it go, because I felt everybody knew what was in it. I understand that those of you who are concerned about this procedural matter may feel that it is not something that you bargain for when you work on a compromise, but if it was so important, then it should have been brought up time and time again. It was only today that this was brought up. I feel very strongly that we did make a deal on this agreement, like it or not like it, there was a deal made, and I can't back away from this because I knew what this amendment did. Although I did not like it, it was part of the agreement.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Madam President. Ladies and Gentlemen of the Senate. Of all of the particular issues on this perhaps last day of this First Special Session of the 115th Legislature, this has been the most difficult of all to resolve. I suspect that even now at 12:23 past midnight, many members are still not comfortable with what is being discussed. The issue before us is whether to adopt House Amendment "C" (H-770) to L.D. 1981. House Amendment "C" (H-770) would, if adopted, apply in prospective fashion to the provisions of L.D. 1981.

The Legislature, as you know, has been operating at a most extraordinary and unusual fashion over the past four weeks. A fashion I would not recommend to anyone who wanted to operate a Legislature. I think that we have seen the logical consequence of this dysfunctional process. People are fatigued, people are angry, people are irrational. People, because of their fatigue, are making questionable judgments in some circumstances. My good friend and colleague from York, Senator Dutremble, has worked steadfastly, as has my good friend and colleague from Cumberland, Senator Esty, and as has my good colleague and friend

from Cumberland, Senator Conley, on this workers' compensation issue. As I understand the process, we are essentially going to agree upon that which has been agreed. I submit to you that on this issue, people perceive the same event differently. They have no personal knowledge of what transpired. But, I have had during the course of the day had extensive discussions with most of the principle actors in the room at that time. It is my understanding that the good Senator from York, Senator Dutremble, truly does understand that there was some discussion about the effect of this legislation. As you know, or may know now, legislation which is adopted will apply to current cases unless the Legislature inserts an application clause in the legislation which specifies legislative intent on when the legislation is to apply. That is a little known fact that I believe is not known to many Legislators. In fact, in talking to many of the Legislators who were involved in the negotiations, they were surprised, and I believe that many sincerely believe that this legislation would apply only to cases arising after the effective date of the Act. Obviously, the Senator from York, Senator Dutremble, does understand the necessity of application language in the legislation, and I think has a different opinion. We are asked to try to decide what is the most logical sequence of events.

In large part, because this Legislature has been required to work until four, or five, or six o'clock in the morning for a month, people have had difficulty. We have not had the communication one would expect of the Legislature of this magnitude. I do not hold the Legislature responsible for this. There are circumstances beyond our control which have lead us to being here on this 18th day of July.

I will address briefly the comments of the Senator from Penobscot, Senator Baldacci. I think it is factually inaccurate that were the Legislature to opt to make this Bill prospective, rather than apply to current cases, the two-thirds of the perceived savings would be lost. In fact, my understanding of the insurance industry is, that the industry has already reserved for cases which have arisen, and are currently extant. There would be, and there should be significant savings from the major reduction in benefits and procedural rights which we are about to enact sometime today. I just don't think there is any basis to suggest that two-thirds of the savings would be lost if we decided to make a policy choice to defer the effective date of this Bill for cases arising after its enactment, and implementation later on this fall. It is a policy choice for us to make. I think it is fair to say that except for a few attorneys, most Legislators were not aware of the necessity of having application language in a Bill in order for it not to effect current cases. It seems logical to me that most individuals who were discussing this issue truly and sincerely believe that the Bill would only apply in a prospective fashion to cases arising after its effective date. It is a logical interpretation from my point of view of what happened.

I do not for a second question the sincerity or the integrity of any of the principles, because clearly people are working in most extraordinary circumstances. It is most unfortunate that we have to make a decision of this consequence, and this magnitude at 12:30 in the morning. That is my

understanding of the situation, and it seems much more logical that a significant majority of the negotiators did, in fact, believe that the legislation would be applying only to cases arising after its effective date. Thank you Madam President.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Madam President. Ladies and Gentlemen of the Senate. I think that I need to have my microphone checked. It seems though each time I am not heard or I don't speak right into the microphone.

We have heard many eloquent speakers before I arose, and I don't want to keep rising, but I think that there is a lot of misinformation that keeps floating around. I know for a fact that it depends on what you hear, and where you are at for the decision that you make. Being one of the hostages who has been in negotiations, and have not been home for three weeks, I want to clearly for the Record respond to my good colleague, the Senator from Androscoggin, Senator Gauvreau, that although I was not at 3:00 a.m. this week, and I believe that it was July 16th which we came in on Monday, but it would actually be Tuesday at 3:15 a.m. when the agreements were made, although I was not on that particular negotiating team, we had sense enough, thank the good Lord, earlier in the afternoon to break our 23 negotiators into several smaller negotiating teams. The negotiating team that I was in reached an agreement, we took our agreements to drafting, and I for one am going to stand by my word. I could put in a lot of amendments. There are a lot of things in this Bill that I don't like I will tell you right now. If we are going to stay and do all of that, I guess maybe that is the point that we are at. I have negotiated in good faith. I feel that I have done my good part from my prospective. I realize that this is a Divided Report. I realize that some of the people sitting in this room are never going to vote for this Bill no matter what we do to it. I am sorry for that.

But, I want to, for the Record, say that my excellent seatmate, the Senator from Cumberland, Senator Conley, made a remark saying, "Never had he ever known of benefits being cut before". Ladies and gentlemen, don't you remember in 1987 the reforms that we did cut? We did cut benefits then, we have done that before. I don't read into this Bill that we are cutting benefits. I want to tell you how I read it from my involvement over the last six months and seventy Bills. I feel that right now forty cents of every dollar is getting back to your injured worker and my injured worker. Everyone in this Chamber cares about the injured worker. We may have different approaches about how we get to the bottom line. But, in my opinion, attorney fees, court cases, and legal fees, I think there is a lot of problem right there that we are trying in this Bill to expedite the process. Yes, the medical coordinator is a new idea, but I think it is an excellent idea. I think that us working together and giving this new system a chance to go forward, if you don't like what we do, we can come back and change it. We will. We will be back here again. I hope that you will. I would like to make the motion to Indefinitely Postpone House Amendment "C" (H-770).

The last thing, Madam President, I know that I keep going back to the same thing, but I guess that I was always told to be honest, to stick by your word, do what you say that you will do. This particular sheet, again on July 16, 1991, at 3:15 in the morning says, "We have also been told that the following three issues are the only three issues remaining on the Table without final agreement; duration, rate reduction, and state fund trigger". Again, in good faith, I have negotiated my part. The other groups have done theirs, and the process that we are talking about, the amendments and whatever.

Finally, I can't help but chuckle, but look at the clock. It is 12:30 a.m., we are now into Thursday, July 18th, and I for one feel badly, because my grandmother was 90 yesterday and probably won't live to be 91, and I could not see her.

Senator **BRAWN** of Knox moved to **INDEFINITELY POSTPONE** House Amendment "C" (H-770) in **NON-CONCURRENCE**.

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

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

Senator **MATTHEWS:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would urge this Body to reject the pending motion to Indefinitely Postpone this amendment.

As one of the rank and file that has not been part of these discussions on workers' compensation, but someone, as I am sure all of you in this Chamber, tries to do the right thing, and the fair thing. I guess that I would ask those that support the postponement of this amendment how we work in this country. Do we change the game in midstream? Maybe here at almost 1:00 in the morning we ought to have injured workers here, because there are some people, many people in the middle of the State House being paid very well to be here. But the injured workers are not here, those that we are about to write out of a terrifying process that they are already into, and change the game on them. This is a basic issue, it seems to me, this is an amendment of fairness. It is a Democratic issue with a little "d". The person that is sponsoring this amendment has been a part of this process. I happened to hear the discussion in the House this evening on this amendment. It is a basic issue of fairness. That is how I see it. Think about the people that you are effecting if you don't accept this amendment, and don't vote against Indefinite Postponement. Think about the people that aren't here.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by Senator **BRAWN** of Knox to **INDEFINITELY POSTPONE** House Amendment "C" (H-770) in **NON-CONCURRENCE**.

A vote of Yes will be in favor of the motion by Senator **BRAWN** of Knox to **INDEFINITELY POSTPONE** House Amendment "C" (H-770) in **NON-CONCURRENCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BALDACCI, BERUBE, BRANNIGAN, BRAWN, CAHILL, CARPENTER, CLEVELAND, COLLINS, DUTREMBLE, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, THERIAULT, TWITCHELL, WEBSTER

**NAYS:** Senators BOST, BUSTIN, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PRAY, TITCOMB, VOSE, THE PRESIDENT PRO TEM - NANCY RANDALL CLARK

**ABSENT:** Senator PEARSON

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRAWN** of Knox to **INDEFINITELY POSTPONE** House Amendment "C" (H-770) in **NON-CONCURRENCE, PREVAILED.**

On motion by Senator **PRAY** of Penobscot, the Senate **RECONSIDERED** its action whereby it **FAILED** to **ADOPT** House Amendment "B" (H-769).

Senator **WEBSTER** of Franklin requested a Division.

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

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would like to ask someone in the Senate if they could respond to a concern that I would have with this amendment. One would assume that this amendment, as written, could be prone to abuse. Assuming what has been mentioned previously by the Senator from Cumberland, Senator Conley, an injured employee would receive expenses incurred, as it states in this amendment, incurred by the employee conducting the exploration of positions, etc., would it not be possible for a individual currently, or in the future of the system, decide that he wanted to take a trip from Franklin County to York County on an excursion looking for employment, perhaps for the weekend, and have that reimbursed under the Workers' Compensation System?

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to the good Senator from

Franklin, Senator Webster. If the proposed law is passed, is it not subject to abuse by potential employers who would send an employee off on one or two excursions a week to seek jobs with no reimbursement, for instance, from Fort Kent from the District of the good Senator from Aroostook, Senator Theriault, down to the good Senator from York, Senator Dutremble's District to the Town of Biddeford, and that individual would receive no reimbursement, and if he failed to go, that he would lose compensation?

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Madam President. Ladies and Gentlemen of the Senate. It would seem to me that the necessity of this amendment is in question, considering the fact that is the way that I understand the current law, and the proposed law. The Workers' Compensation Commissioners would have the ability through rules to reimburse for legitimate costs. My only concern would be that we ought to be careful not to put any law on the books that would allow employers or employees to abuse our system. Perhaps members of this Senate have not heard from their constituents, but many of mine feel that we often times pass laws here in the Legislature that are too easily prone to abuse by people who would do that. I am not insinuating that anyone would, particularly someone that was legitimately injured. But why couldn't the Insurance Commissioners, who under law, or under this proposed law, why couldn't they make rules that would allow this without having this law?

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

Senator **CONLEY:** Thank you Madam President. Ladies and Gentlemen of the Senate. As the good Senator from Franklin, Senator Webster knows, law is always stronger than rules. If he is not aware, I can tell him that one idea which started all of these negotiations and discussions is the Administration's absolute mistrust for the Chairman of the Commission and those other Commissioners. It is strange to me that one would suggest, particularly from the Minority Party, that we ought to leave this rulemaking for him to decide. It flies in the face of the absolute opinion which the Administration has expressed throughout these negotiations over the course of the last month.

The second item is, and this I direct to the good Senator from Franklin, Senator Webster, because he is from a very rural county, this provision does nothing for me and my constituents in the County of Cumberland in Portland. There are many jobs right in that area which injured employees can be sent to, to be interviewed and to look at, all kinds of different occupations. It is only in the rural counties where there are very limited numbers of employment opportunities that the insurance company is going to take advantage of that person and send him or her all over the state. That is why this provision is extremely important. Without this, there is no guarantee that he or she will be reimbursed for those expenses. This is just another way that I am trying to help you out in rural Maine.

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

Senator **BUSTIN:** Thank you Madam President. Ladies and Gentlemen of the Senate. I have listened to the rhetoric long enough. I have watched defeat after defeat of the workers of this state and this Senate. I am terribly disappointed. The Senator from Franklin, Senator Webster, is questioning the integrity of that injured worker going to a job site to try to get a job. That is just wonderful! If we have an injured worker, and believe me we have some right in the back of this Chamber, they are sitting there. You know what one gets right now? A zero paycheck. Do you know why? The evaluation process to even decide whether a claim is valid or not has been postponed twice! Could the good Senator from Franklin tell me how that person, who is getting no paycheck, is going to go look for work in Franklin County if they live in Cumberland County? Are you going to tell me how that worker is going to be able to get to that work site, to be interviewed for the job? I wonder how that is going to happen. Of course it conjures up all kinds of squeeze plays that the poor people of this state live with every single day of their lives. Do you send the child down to get the quart of milk? Or do you send the child down to get the pound of hamburger? If you don't have both, you can't make the gravy for the hamburger to put on the potato to have some nutrition. That is really wonderful, that we could stand here and argue about the fact that injured workers should be reimbursed for their expenses to get a job. That is indeed wonderful.

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

Senator **CARPENTER:** Thank you Madam President. Ladies and Gentlemen of the Senate. I question no ones integrity whatsoever. I do question the amendment. I don't believe that it was written by a lawyer, even though there are parts in it that probably could have been. I question paying all reasonable expenses. It is just too open ended. What are reasonable expenses? I assume that you are saying so much per month, so much for shoe leather, I am not sure what. If an automobile breaks down, should that be repaired? The amendment is not definite enough. In the form that it is in right now, there is no way that you should vote for it. It is just another one of these full employment acts for lawyers, trying to determine exactly what is meant by reasonable expenses. I urge you to vote against it. Thank you.

Senator **BUSTIN** of Kennebec moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.

Senator **BUSTIN:** Thank you Madam President. I haven't spoken a great deal on this Bill. I haven't interfered with the Committee process. I attended some of the meetings. I have heard the arguments that were said in the caucuses. I have tried to grapple with this issue. I have, in fact, been grappling with this issue since 1982. I, in fact, worked the issue in 1985 and voted against it, and

again in 1987 and voted against it, and in 1991 I will vote against it.

Before I go any further, I would like to make a quote, and I beg your indulgence, even though it is 12:50 in the morning on July 18, 1991, but I need to have my say. Not because of me, but because of the workers of this state. I am going to start reading from an article, and I am not going to tell you who it is from until the end, but I bet some of you will know what it is. "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it NOW, deserves the love and thanks of man and woman. Tyranny, like hells, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly; 'tis dearness only that gives every thing its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed, if so celestial an article as FREEDOM should not be highly rated. Britain, with an army to enforce her tyranny, has declared that she has a right (not only to TAX) but 'to BIND us in ALL CASES WHATSOEVER,' and if being bound in that manner, is not slavery, then is there no such thing as slavery upon earth. Even the expression is impious, for so unlimited a power can belong only to God...

I have as little superstition in me as any man living, but my secret opinion has ever been, and still is, that God Almighty will not give up a people to military destruction, or leave them unsupportedly to perish, who have so earnestly and so repeatedly sought to avoid the calamities of war, "...and you can substitute workers or anything else that you want in those words,..." by every decent method which wisdom could invent. Neither have I so much of the infidel in me, as to suppose that He has relinquished the government of the world, and given us up to the care of devils; and so I do not, I cannot see on what grounds the king of Britain can look up to Heaven for help against us; a common murderer, a highwayman, or a housebreaker, has a good pretense as he.

'Tis surprising to see how rapidly a panic will sometimes run through a country. All nations and ages have been subject to them: Britain has trembled like an ague at the report of a French fleet of flat bottomed boats; and in the fourteenth century the whole English army, after ravaging the kingdom of France, was driven back like men petrified with fear; and this brave exploit was performed by a few broken forces collected and headed by a woman, Joan of Arc. Would that heaven might inspire some Jersey maid to spirit up her countrymen, and save her fair fellow sufferers from ravage and ravishment!...

...I call not upon a few, but upon all: not on this state or that state, but on every state; up and help us; lay your shoulders to the wheel; better have too much force than too little, when so great an object is at stake. Let is be told to the future world, that in the depth of winter, when nothing but hope and virtue could survive, that the city and the country, alarmed at one common danger, came forth to meet and to repulse it. Say not that thousands are gone, turn out your tens of thousands, throw not the burden of the day upon Providence, but 'show your faith by your words,' that God may bless you. It matters not where you live, or what rank of life you

hold, the evil or the blessing will reach you all. The far and the near, the home countries and the back, the rich and the poor, will suffer or rejoice alike. The heart that feels not now, is dead: the blood of his children will curse his cowardice, who shrinks back at a time when a little might have saved the whole, and make them happy. I love the man that can smile in trouble, that can gather strength from distress, and grow brave by reflection. 'Tis the business of little minds to shrink; but he whose heart is firm, and whose conscience approves his conduct, will pursue his principles unto death. My own line of reasoning is to myself as straight and clear as a ray of light. Not all the treasures of the world, so far as I believe, could have induced me to support an offensive war, for I think it murder; but if a thief breaks into my house, burns and destroys my property, and kills or threatens to kill me, or those that are in it, and to 'bind me in all cases whatsoever,' to his absolute will, and I am to suffer it? What signifies it to me, whether he who does it is a king or a common man: my countryman or not my countryman: whether it be done by an individual villain, or an army of them? If we reason to the root of things we shall find no difference; neither can any just cause be assigned why we should punish in the one case and pardon in the other. Let them call me rebel, and welcome, I feel no concern from it; but I should suffer the misery of devils, were I to make a whore of my soul by swearing allegiance to one whose character is that of a sottish, stupid, stubborn, worthless, brutish man. I conceive likewise a horrid idea in receiving mercy from a being, who at the last day shall be shrieking to the rocks and mountains to cover him, and fleeing with terror from the orphan, the widow, and the slain of America.

There are cases which cannot be overdone by language, and this is one." I will read that again. "There are cases which cannot be overdone by language, and this is one. There are persons too who see not the full extent of the evil which threatens them, they solace themselves with hopes that the enemy, if they succeed, will be merciful. It is the madness of folly, to expect mercy from those who have refused to do justice; and even mercy, where conquest is the object, is only a trick of war, the cunning of the fox is as murderous as the violence of the wolf; and we ought to guard equally against both...

I thank God that I fear not. I see no real cause for fear. I know our situation well, and can see the way out of it...By perseverance and fortitude we have the prospect of a glorious issue; by cowardice and submission, the sad choice of a variety of evils - a ravaged country - a depopulated city - habitations without safety, and slavery without hope - our homes turned into barracks and bawdy-houses for Hessians, and a future race to provide for, whose fathers we shall doubt of. Look on this picture and weep over it! And if there yet remains one thoughtless wretch who believes it not, let him suffer it unlamented..." That is an exert from Common Sense by Thomas Paine, talking about the Revolutionary War. That is what that is about. That is where we are right now. We are at a place where we are being held hostage. We are having something shoved down our throats. We are all sort of sitting here and taking it. I can't take it anymore.

I have to speak up and tell you, and I am hunting for that particular piece of paper that I don't seem to find in front of me at the moment, but what I wanted to quote to you is from the Record in 1987. I would be saying exactly the same things today as I said then, and that is, you will not realize the savings. We said in 1987 that we were going to realize 65 points in benefits. I think that we have raised it 87%! It is not going to happen! You are not going to have the savings, pass these amendments or don't pass these amendments that you think that you are going to have, because the system is basically a flawed system. Sometimes you can come in here and you can fix that flawed system, and you can make it work for you, but we have tried in 1985, in 1987, and here we are again in 1991, trying again with the same flawed system, with the same flawed changes, and it isn't going to work, again!

I will quote, now that my good seatmate, the Senator from Kennebec, Senator Matthews found my remarks. It is on November 19, 1987, and I am only going to quote part of that. "And what about this fresh start proposal? What this proposal entails is guaranteed profits for the insurance industry and the threat of huge rate increases for small businesses.

The overriding concern for all of us should be the health and safety of our constituents. I know this process has been hectic. We are all under tremendous pressure." Here we are again, in 1991, doing the same thing.

"For those of you who think that this package is the end of the workers' compensation story, I have bad news. This issue will be back. Benefits will come under attack again. History has proven that once you give in to the ultimatums, ultimatums will continue to be issues. The insurance companies will be back, asking for more. It is only a matter of time.

I want you to know that we do not have to give in to blackmail. There are other vehicles to head off this crisis. You can join me in voting "no", resist strong arm tactics, and continue to say that the health, safety, and welfare of Maine citizens remains your paramount concern."

There are many things that we can do. I know that the good Senator from Washington, Senator Vose, has some suggestions. I have passed out, and you have on your desk a Resolve that I have asked for your input on. I haven't done anything formally on that, because I realize what is going to go on. I have got two amendments that I would love to put on this Bill, but I am not going to, not when I have seen what is going on here tonight. I am not going to waste my time, let alone yours. But I am telling you, we are making a grave mistake. We do have a chance to fix it, though, as Thomas Paine has said. We do have the vehicle to fix it. We do have the ability to fix it. But what you must do is to take the time and the effort with the right people, to come up with a system that is going to work for Maine. I happen to believe that system is an extended health benefit system, an unemployment disability compensation system, and the rest of it is subjugated. There is a lot that goes into those three, what appears to be simple items, and they are not simple items. But it is a way to make the system equitable for both employers and employees alike. We

all have a stake in it. We all belong to this issue. We all must solve it together. This isn't going to do it.

I have no doubt that this is going to pass. I have no doubt that we are going to be back here fixing it again. If not in the fall, it is going to be in January. If not in January, it is going to be in July. It doesn't matter, we are going to be back fixing it, and fixing it, and fixing it until we do it right. I would like to end with this one quote, and it is from Thomas Jefferson, "I tremble for my country when I reflect that God is just."

Senator PRAY of Penobscot requested a Division.

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.

Senator PRAY: Thank you Madam President. Ladies and Gentlemen of the Senate. I wish to address this Body first of all as the Senator from Penobscot, from Senate District 5, and separate myself from other obligations and responsibilities that I have for a moment. My tenure in this Chamber started out with the assignment of the Labor Committee, which I served on for about a decade. It was back to the future in many instances and many ways. I hear a lot of the emotional debate that always comes to me on labor issues. I would have to say that there is probably no other issue that really reaches into my own personal fiber, because I am the son of a mill worker and son of a school teacher. My father, I think that I have told this story before, was involved in an accident where he lost fingers back in a time period when the company retrained him, and gave him a new occupation. He worked for that company until his death. But obviously, as the good Senator from Kennebec, Senator Bustin read to us from excerpts of writings giving us some significant evaluation of our history, and where America has come from, and obviously, as we sit here in this Chamber, participating in the greatest democracy in the world, we all have some emotion tied to these types of issues. Labor issues, and the strength and the fiber of the working men and women of this state, as well as this country, it is something that is always near and dear to me. I like to consider it my roots, and a segment of our society that I never want to forget.

I think that I have also shared with you that one of books that I'm reading at this time, which is a book from Irving Bernstein, "A Caring Society", which is the history of the American worker from 1933 to 1941. A significant period in our history, and the history of the American workers, and how they in many ways were the principle architects of the economy that we have today. It is a transitional period that we have gone from the industrial base of the American economy into an informational age in which we became a world economy, based upon those individuals in that time period coming out of the great depression.

The proposal that is before us today, and the pending motion this morning, and the pending motion to Indefinitely Postpone the Bill, I have some grave reservations about. I have reservations about my own particular position on this issue, and to some degree, being one of the principles involved in creating the document that is before us. There are a

lot of things in this document that I don't like. There are a lot of things in this document that I think improves the system. As the good Senator from Kennebec, Senator Bustin referred to, we always tinker with the system. In my tenure we have been tinkering with the system for quite some time. But that is part of the process. As our cultural society evolves, we in a democracy, elected by our constituency, are allowed to evolve with the process and change the process on a continuing basis, to address the changing economy that we are constantly trying to evaluate.

The proposal that we have before you at this time addresses a problem. The good Senator from Kennebec, Senator Kany had mentioned on several occasions, that during the Public Hearing process, that what she heard in the audience were businesses, large and small, that said there is something wrong with the system and the process. She also heard from Maine workers. Men and women who talked about the problems of the system. The good Senator from Kennebec, Senator Bustin, herself, referred to people in this Senate Chamber as watching their government at work. Not always beautifully. Not always the way that we want it to come out, or the ways that they want it to come out, but nevertheless open in public debate of how that process and system should be. But those individuals also said that there is something wrong with the system. It isn't working right. What the Labor Committee and the Banking and Insurance Committee attempted to do is respond to the competing interests, which in many times are a common interest, but they come from different perspectives to that in an attempt to resolve that in many, many areas.

I have to agree with some of the comments made from the good Senator from Cumberland, Senator Conley, as well as the good Senator from Kennebec, Senator Bustin as to this process and how we got to where we are. But we have resolved part of that. State Government is back to work. The hostage situation is no longer with us. Some of the concepts that are before you, some conveniently say that it is in there because of that situation. But many of those points were agreed to prior to the so-called hostage situation. Some of the points that had developed since then, and the way that the process is supposed to work, is to allow each and every member on this floor not to represent their Party, not to represent their Governor, but to represent their constituents. That obviously has on many occasions torn at us, because we each have constituents who review this from a different perspective. It does make it difficult. I think that we do need to do something about workers' compensation. We need to take this proposal in the process that is allowed to us, and improve on what we have to both sides.

The amendment that we were debating at this particular time that the good Senator from Kennebec, Senator Bustin moved Indefinitely Postponement on, was one that was near and dear to me, because I represent a large rural area of the state. I can see abuses on the other side of the coin, to those employees who are sent around this state to seek employment opportunities, and to be removed from the list. I think that we need to remember that this is in many ways a compromise. A compromise that both sides gave. I do share the concerns that many people have

that it is not a perfect document. I suspect that we will never see a perfect workers' compensation document. I would hope that we would keep the issue alive, and continue the debate, and allow each and every one of us as individual members representing our constituents, to cast our vote to how we believe it is best for our constituents. With that, obviously, that means that there will be many amendments that each of us will have to address. I hope that each of us take that evaluation that this is a process that does work. We win some and we lose some. People are impacted no matter which way we vote. Some gain. Some lose. But each and every one of us are trying to do our best for our constituents.

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

Senator **BUSTIN:** Thank you Madam President. Ladies and Gentlemen of the Senate. I appreciate the good words from the Senator from Penobscot, Senator Pray, who I respect dearly, and I concur with many of his remarks. I would, however, indicate that if we didn't have the Bill, we wouldn't have to worry about the amendment, because the present law would stay. I think it would be a foregone conclusion, and I could understand, certainly I would support the amendment that was before us if the Bill had to go through, I certainly would support that amendment. A point of fact that has been mentioned is that we do have a problem in workers' compensation. I have never once denied that we have a problem in workers' compensation. We certainly do, or we wouldn't be sitting here this morning when we were supposed to have adjourned almost a month ago. I am not unaware of the problems. I think that approaching the problem under the threat of a gun is not the way to come to good decisions. I think it is obvious, with the many times we have had to stop debate, to resolve questions of who understood what in the development of this Bill.

I was told that I should vote for this Bill because the one good thing in it is that you are finally going to get a state fund. No questions. You are going to get a state fund. Of course I didn't see the Bill until this afternoon, and I read it. There is not a "must" or a "shall" in there. It is all "may". There isn't a state fund in this Bill! There never was a state fund in this Bill! There is an outline of a state fund, and there is a suggestion of a state fund, but there is no state fund in this Bill. I knew when I read this Bill that it wasn't anti-retroactive. It doesn't say anything about people being grandfathered. So of course it is retroactive! Of course when this Bill becomes law, that is when it all starts. The people that are now under workers' compensation are going to be covered under it. That is why you need the amendment that we just defeated, because it is going to hurt those very workers who are getting the benefits now. But yet there was a dispute as to what was actually in this and what wasn't, by some very good, intelligent, hard working people who were in dispute, what was actually in this Bill. That is what I am talking about. Of course workers' compensation deserves and should have our attention. It certainly needs to be worked out, both by the employers and the employees.

I am so bad in my approach to this, so bad, that I even think, and please, maybe the "R's" should close their ears on this one, I think that even government should participate in it by real dollars. Do you know what we have done throughout the years? We have had businesses accept the health care of this nation. Businesses are not responsible for the health care of this nation, and shouldn't be, and yet, in their good-heartedness, and their need to protect their workers, they have done it. I think it is time that it has stopped. I think it is time that government looked at the issue of the health care of its workers, and participated in it. Maybe it means a universal health care policy, I have said it on this floor before. Business cannot be expected to carry all of the burden. On the other hand, we can't expect to let businesses out there, and I don't think that there is a great many of them, who have poor safety records, who will tell a supervisor that they won't put a safety measure in when you are laying a pipe because it costs more than the premium that they have to pay if there is an accident. We cannot afford that. That is subjugation. There is a way to fix this for both the benefit of the employer and the employee.

Why don't we get on with it and get rid of this Bill, and set up a mechanism to have something real presented to this Body. Thank you.

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

Senator **TITCOMB:** Thank you Madam President. Ladies and Gentlemen of the Senate. This may have been the longest time that I have sat in one sitting and not gotten up to speak. Frankly, I have been writing down little notes, some of them I have crumbled up and thrown away because they didn't seem to make a lot of sense. A couple of things that have made sense this evening that I think has merit to speak on, is a perception problem that I think some of us are having on this whole issue. I think it is a perception problem where some members within the Chamber, and out in the halls look at this issue as a "we and they" or a "them and us" attitude. It is almost as if the workers of this state were a separate entity, or we were a separate entity from them. That, in fact, is not the truth, because "we and they", or "them or us", or whatever way you want to say it, we are all the same. We are all the working people of the State of Maine. I have been very troubled as I have sat here tonight, and I have listened to different speakers, and on a couple of occasions heard reference with what I believe is an unbelievable disregard and disrespect for the integrity of working people in the State of Maine.

I heard the good Senator from York, Senator Carpenter, make reference to the horrible possibility that monies could be used to maybe repair the car, a justifiable expense would be to repair the car. Or the Senator from Franklin, Senator Webster made reference to some sort of a vacation, or a trip from one end of the state to the other and use money as an excuse that would be taken somehow from insurers. I am really offended that workers can be painted in a picture as if they suddenly become separate from people in this state when they become injured. People that are injured on the job are out of work, they are out of money, they are out of luck, and

probably they are out of courage. The last thing that we need to do is to inflict on them this stigma that they would misuse or utilize the system to their own personal best interests aside from seeking a job.

Over the last few weeks, especially the last week, I have seen workers confronting Legislators, and lobbyists confronting Legislators, and lobbyists confronting workers, some sort of a separation that I think is very unhealthy for the State of Maine. The working people of Maine are represented by people who work in paper mills, and people who work in the Legislatures, and people who are managers in big corporations. We are all the same. We are all the working people of the State of Maine. I think tonight as we vote on these issues, we should look to each worker with the greatest degree of respect. We certainly talk about that in our campaigns for office. Let's demonstrate that tonight.

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

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

Senator **KANY:** Thank you Madam President. Ladies and Gentlemen of the Senate. We all understand that the legislation before us may not be perfect in anyone's eyes. In fact, some of us thought that we had an almost perfect Bill that we sent to the Governor earlier, and it was vetoed. This is a far greater improvement than I had hoped that we could get from what now exists. The system is very flawed. The system was created to limit the liability of employers and to create a no fault system where workers who were injured on the job, or became ill from the work place, could get their medical bills paid quickly, and be compensated for lost wages due to that injury or illness. It is simply not working well for anyone. There are many delays. The injured workers feel that they are treated as criminals. Employers believe that they pay premiums that are outrageously high, and get very little in return. In fact, their premiums are about the highest in the country. Our accidents and our injuries are about the highest in the country. The severity is the longest, and we do a mighty poor job of getting people back to work. A mighty poor job. Though this Bill is very flawed, I am sure that we have made great strides. Finally, we have focused on safety! Because if we could cut those accidents in half and the severity of those accidents, we cut the whole cost of the system in half! We have incentives there for those employers who are willing to invest in a safe work place. And those who have in the past will finally be rewarded with their safety credits and many other things.

I won't go through the Bill in its entirety. I just want to focus on a couple of things, including the return to work where this Bill would allow Maine to be the first state in the country in which there would be an automatic trial work period, when a worker felt well enough to try to return to work. There would be a fifteen day period in which if it didn't work out well, the worker could immediately resume the benefits. We also have looked at discrimination. We have prohibited black lists. We

have tried to involve the employer much more to make certain that the employer knows more of what is going on, and is more involved in a hands on way in prevention and managing the care of an injured worker. We finally looked at the medical aspects of this system and created a medical coordinator and independent medical examiners to help with the system, to look over utilization of costs and other appropriate things. We are encouraging occupational health training for our primary care providers so that they can get workers back into appropriate jobs quickly. We are doing all kinds of things like that, including 24 hour health coverage pilot projects.

I urge you to keep those things in mind as you to vote. I urge you to please vote in opposition to the pending motion which is Indefinite Postponement.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

A vote of Yes will be in favor of the motion by Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BUSTIN, CONLEY, ESTES, MCCORMICK**

**NAYS:** Senators **BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, CAHILL, CARPENTER, CLEVELAND, COLLINS, DUTREMBLE, EMERSON, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MILLS, PRAY, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER**  
**THE PRESIDENT PRO TEM - NANCY RANDALL CLARK**

**ABSENT:** Senator **PEARSON**

4 Senators having voted in the affirmative and 30 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** Bill and Accompanying Papers in **NON-CONCURRENCE, FAILED**.

Senator **CONLEY** of Kennebec requested and received leave of the Senate to withdraw his motion for a Roll Call.

House Amendment "B" (H-769) was **ADOPTED**, in concurrence.



Senator **BRAWN** of Knox moved that the Senate **RECONSIDER** its action whereby it **ADOPTED** House Amendment "B" (H-769), in concurrence.

Senator **BOST** of Penobscot requested a Division.

Senator **BRAWN** of Knox requested a Roll Call. Subsequently, the same Senator requested and received leave of the Senate to withdraw her request for a Roll Call.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by Senator **BRAWN** of Knox that the Senate **RECONSIDER** its action whereby it **ADOPTED** House Amendment "B" (H-769), in concurrence.

A Division has been requested.

Will all those in favor of the motion by Senator **BRAWN** of Knox that the Senate **RECONSIDER** its action whereby it **ADOPTED** House Amendment "B" (H-769), in concurrence, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator **BRAWN** of Knox that the Senate **RECONSIDER** its action whereby it **ADOPTED** House Amendment "B" (H-769), in concurrence, **FAILED**.

House Amendment "G" (H-774) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **MILLS** of Oxford, Senate Amendment "A" (S-474) **READ**.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Madam President. Ladies and Gentlemen of the Senate. Would the good Senator from Oxford, Senator Mills, please explain Senate Amendment "A" (S-474).

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Oxford, Senator Mills.

Senator **MILLS:** Thank you Madam President. Ladies and Gentlemen of the Senate. This amendment would require that the savings from the Bill, that we will hopefully enact with this amendment attached to it, will require that the rates on the insurance for the companies would go down a percentage of 20%. The savings that we have heard the Bill would generate at this point is approximately 26%. I, along with many people who have been in these Chambers in the past, or other Chambers in this Legislature, voted for Bills that we were told we were actually voting for workers' compensation reform, and we ended up going home and telling people that we voted for workers' compensation reform, and we found out a few months later that what we actually voted on was a price increase to the Workers' Compensation Package and to the businesses. I feel if we are being told

that this is actually going to be a savings of 26%, that we should put it in the Bill that this will be passed on to the businesses of this state, so that people know when this Bill passes, they will be seeing at least a 20% savings after a years time in their insurance rates. That, to me, makes me feel comfortable in voting for this Bill, so what had happened in the past won't happen to us again when we voted for the reform packages that weren't really reform packages. I hope that this will be incorporated into the Bill, so that myself and others will feel comfortable in supporting this Bill.

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

Senator **COLLINS:** Thank you Madam President. Ladies and Gentlemen of the Senate. As much as I would like to see an immediate 20% reduction in the Workers' Compensation Bill, I have to suggest that the Legislature ought not to be the regulators in this instance. We have a Bureau of Insurance whereby we have a vehicle that establishes rate making, and we ought to be using it for that particular purpose. I am sure that the good Senator may recall that once upon a time, we did pass a law that reduced rates, and shortly after that, the insurance companies began to withdraw from the State of Maine, and decided that they really didn't want to write workers' compensation insurance. It seems to me that the proper vehicle for establishing rates continues to be the Bureau of Insurance where they have financial analysts, accountants, attorneys, actuaries, and insurance experts. It is their job based on the data presented to them to make those judgment calls. It is not unlike the Public Utilities Commission, which establishes rates for the utilities. As much as it is an attractive proposal, and appealing, it is not the appropriate way to arrive at rates, and I am sure that after careful thought, the good Senator will recognize that we have a Bureau of Insurance established for that purpose, and Legislators ought not to write into the statute a particular reduction in the rates. I hope that you will oppose the amendment. Thank you.

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

Senator **BRANNIGAN:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would ask the Senator from Aroostook, Senator Collins or others, what about the statement of intent of this amendment? What has been done to make sure that we get what we are paying for? I understand his argument. I made it in my own caucus, because I was House Chair of Business Legislation when we did do that 10% rollback. No one has come up with a better idea. Do you have a better way that we can say that there will be value? We must have value from what is being done. Otherwise, there is no reform. Whether you care about workers or not, and I believe that we all do, there is no value unless it reduces rates. The members of your negotiating party must tell us how they are going to be passed on, and how they are going to be translated. It must be more tangible than a hope in our Superintendent. Thank you.

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

Senator **COLLINS**: Thank you Madam President. Ladies and Gentlemen of the Senate. I share the concern of the good Senator from Cumberland, and I, too, feel that we ought to have these rates passed through as they occur. But I don't think that we are capable or competent to make judgment calls on things that are out in front of us until they have, in fact, been put in place. We know that there are certain advantages, and the actuaries have established a possible reduction that may occur if we translate this into law. But it seems to me that these things have to be judged individually on the merits at the times of the filings. It seems to me that in addition to the things that I have mentioned, there are other options. For example, interveners, and if you have looked at some of the recent cases before the Bureau of Insurance, you will note that business has been very active in intervention in the most recent cases. I expect that to continue because they have a vested interest in that. I think that the Attorney General has taken an interest in this. There is an advocate now that gets involved in the rate making process representing the state. I think that we have made some forward movement with respect to the quality of what happens at the Rate Hearings. I can't give any magic words whereby I can say that this will occur. I can assure him that if it doesn't occur, that I think you will find a lot of people in the state, particularly in the business community, that will be right back to the Bureau suggesting that they have made errors. There is an appeal process, as the good Senator knows, whereby it can be taken to the court if the rulings of the Bureau of Insurance are not satisfactory. I don't have any magic words that it will come to pass, but I can tell you that this is not the way to do it, and I think that the good Senator is aware of that. Thank you Madam President.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Oxford, Senator Mills.

Senator **MILLS**: Thank you Madam President. Ladies and Gentlemen of the Senate. I think we have to stop and ask ourselves why we have been here for so many days after a Workers' Compensation Package was worked out and passed by a majority, and then vetoed. I think that the message that I continually heard was, that there was not enough savings in the Workers' Compensation Package that was passed out of this Body and by the House, and placed on the Governor's desk. I was continually told that the reason why was because of the point system, that there was this magical point system out there that we did not reach high enough, and now we had to go back to the drawing board, and we were going to go over the point system because the points were going to tell us the reductions that were going to be in this package if we ever passed it.

Now I am told that they have a figure, but it is not a concrete figure, and we can't lock that figure in. I feel that is conflicting information. We have been told over and over again that we have to have these savings, and we need to have them. I am told that there is a 26% savings in this package. I am not asking for that. I am asking for only 20%. I think we have to ask ourselves, what if there is not

a 20% savings? What will happen then? I think that the good Senator from Aroostook, Senator Collins is correct. I think that people will be coming back here if we don't have that 20%. They won't be saying give back what you just passed, they will be asking for more, which is exactly what happened that time from 1987. We didn't have people going in and asking them to give back what they gave in 1987, it was to ask for more because we didn't go far enough. I think that is probably what will happen again if we don't have a 20% savings. The biggest thing to me is, that I want to make sure that when we pass the Workers' Compensation Package, that we are going to make sure that it is not the insurance industry, it is not the doctors, it is not the lawyers that are going to be seeing the savings, it will be the businesses, the small businesses, not the large ones that for the most part can self-insure, but the smaller businesses of this state that should see those savings. I hope that this is what we will do by putting this amendment into the Bill. That is why I hope that you will support this amendment, so that it is actually written into the Bill that there will be savings passed onto those businesses. It is the reason that I have been told that we have been here all this time, and I want to make sure that it is written into the Bill. Thank you Madam President.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER**: Thank you Madam President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to one of the members of the Banking and Insurance Committee. It is my understanding that this proposal was brought forth to the Committee and was soundly rejected. It is a very simplistic idea, and it sounds like a good idea, but I understand that members of both political Parties, and the Banking and Insurance Committee, and the Labor Committee, looked at this idea and rejected it for some reason which I do not know. I would like to ask someone on that Committee who was involved in those negotiations explain to the membership tonight why this did not appear to be a good idea. Thank you.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY**: Thank you Madam President. Ladies and Gentlemen of the Senate. Though I am not a member of the Banking and Insurance or Labor Committees, I have spent a fair amount of my time in caucuses with the members of those Committees that I feel that I should be granted honorary membership. But, nevertheless, to respond to the good Senator from Franklin, Senator Webster's question, first of all there was no other proposal submitted to the Committees. The proposal pending before us now offered by the good Senator from Oxford, Senator Mills, was not presented to the Joint Committee's for consideration of this item. The proposal that is basically before you at this time is an offshoot of a proposal that I had made earlier when I became acutely aware that there was no assurances, there was nothing in the legislation proposed by the Administration or in the discussion about pass through's. It has already been stated here this evening, and I can remember numerous comments made about the Budget. You may have confused this. We spent so much time talking about workers'

compensation while the Budget was going through, the conversations and comments were often referred to the necessity of offsetting the increases in taxes of this state, as proposed by a member of the Republican Party on behalf of the Governor. As I stated the other day, that was because we recognized a necessity not only to cut government, but to raise revenues because of the economic downturn that is facing the state at this time. There had to be a pass through of reduction of rates in workers' compensation. I was totally shocked and surprised when near the end of it there had been no proposals for a pass through.

I had originally proposed four, 6% increases, with the first one beginning in October when this law would become effective, and each six months thereafter, an additional 6% reduction of rates for the next two years, or a 24% reduction in the accumulative, but it is obviously larger than that when you calculate the fact that the 6% would be on top of the 6%. Overall, since you are working from a whole figure, you use a hypothetical figure of 100, you reduce it by 6%, 6%, 6% and 6%, and you really come down to a 23.4% reduction from the whole figure of 100. I did that, because as has already been commented, having been one of those who was told that the 1985 Reform and the 1987 Reform was going to bring significant reduction in rate increases, we saw just the opposite happening.

I was very concerned to hear as we neared the end of the Budget negotiations in getting the Budget passed, that one of the concerns raised, and I heard it by the opposing political party on live broadcast, saying that one of their concerns that they had was that we were going to mandate a reduction in rates. I thought it was a little hypocritical after everything that we had been hearing. I had proposed my original amendment saying that we would have a reduction of 24% over that time period, because in reality, many of the things in this legislation that are going to cause savings are going to occur over time. The savings do not occur the very first day that this Bill becomes effective. But the recommendations accumulate over time by the Bureau of Insurance.

I did receive later in today's session, that was referred to earlier under the Memorandum of Agreement, one of the items that we were going to receive, the good Senator from Cumberland, Senator Clark mentioned that I had never received the report pursuant to the second item of the Memorandum of Agreement as to what the impact was going to be of the work that the Banking and Insurance and Labor Committee had done. I do have now in my possession, which I received at, and I will use military time, at 22:25 hours yesterday, for those of you who are not aware of military time, that translates to 10:25 in the evening, a document that had been faxed to the Governor's Office, addressed to myself and to the Speaker of the House at 4:41 in the afternoon. Somewhere six hours later I received the letter, but I realize that it is a long ways to the second floor, and sometimes it takes a little while to deliver these things. The letter is signed by Richard Johnson, who is the Property and Casualty Actuary for the Bureau of Division, Department of Professional and Financial Regulation, of which states upon there most recent review of the Workers' Compensation Package endorsed by the Legislature and the Governor,

my initial evaluation, very key words, my initial evaluation indicating that the savings will be in the area of 26%. It goes on to explain that this is the punitive result of evaluating over a dozen law changes from an actuarial prospective, obviously something that necessitates, as the good Senator from Aroostook, Senator Collins, points out as to the potential savings that are here.

I spent a fair amount of time running back and forth between the third floor and the second floor last night, discussing this pass through provision, and the implications that this would have to the overall rate structure, because I also want to be sure that it is my businesses as well as your businesses that gets the rate reduction, not the insurance companies from Connecticut and Delaware, and wherever else they are across this country, but Maine businesses. The people that we are here representing. The people that the good Senator from Franklin, Senator Webster talked about that was so important to lower the rates that they would be able to provide jobs for Maine people. That we needed this offset. The language that is in this proposal that the good Senator from Oxford, Senator Mills, is now attempting to amend, states though, because I feel comfortable in having participated in the drafting of this, not with the Chief Executive, although we did plagiarize a little bit from some earlier proposals, and went back and forth, but we also added to it to make it more effective than what we felt comfortable with what the Administration had, the Superintendent of Insurance shall in the workers' compensation proceedings, authorize pursuant to Private and Special Laws in 1991, Chapter 16, in subsequent rate proceeds, order appropriate reductions in the workers' compensation rates to reflect the impact of this Act. That was basically the language that we had received from the Administration. We added to that, that the Superintendent shall report to the Legislature rather the percentage reductions attested to by the Bureau of Insurance Actuary as a result of this Act, is adequately reflected in the reduction of these proceedings. For the purpose of this Record, I want to make it perfectly clear that in that last sentence, that there is adequately reflected in the reduction of these proceedings, means the reduction of rates. A reduction of rates, so that we would have in all honestly, soundly based upon the action that this Legislature takes, savings to Maine businesses, of which I hope would mean more jobs for more people. I think that this is a significant part of the legislation. If there are not savings, then the rest of the legislation in all honesty is worthless. It is worthless to Maine businesses. It is worthless to Maine people. It is worthless to those individuals who have been hurt, who through the sweat of their brow, and the pain in their back, and the callus in their hands, are trying to make a living and a profit for Maine employers.

Let me also share with you my prospective that the Maine work ethic is a real work ethic. If you don't believe it here, leave the State of Maine and go anywhere else in this country, and ask them what they would give for someone who comes in from the State of Maine. I have traveled this country extensively in my military days, and since that, and I hear nothing but positive stories about Maine people working in Connecticut, and Tennessee,

Mississippi, out in the Western states, Kansas, California. People think a lot of Maine laborers because they do put in a good honest days work. Hard work. They are productive. Of course we always end up having to address legislation based upon a few individuals, because Maine also has a lot of good employers. We have a lot of small businesses of which the employees and employers relationship is almost like family. But we also have a few that abuse it. They abuse the people that work for them.

One of the significant and interesting things of understanding the workers' compensation costs is, that we need to understand what the cost of that system is. Obviously, the hour is late, or early, depending on the prospective of the time of day, but there is no more significant issue that faces this session then this one. I want to share this with you. Under the insurance expense; 9% of the total cost of workers' compensation, 9% is production expense for the insurance industry, 6.6% is general expense of the insurance industry, 4.8% is taxes, 5.9% is adjustors expense, 1.6% is insurance companies legal expense. The adjustors expense of those who prepare all the legal work, you need to remember that figure of 5.9%, because I am going to come back to that in a moment. Medical expenses; 11.9% are physicians, 6.4% are hospitals, 4.7% are other medical expenses. Then the last category that we have are the indemnity claims, which goes to the injured worker, the costs that are related to the injured workers; 1.8% for deaths, 7% for permanent totals, 4.3% for impairments, 3.8% for employees legal expense, and 36.9% goes to wage losses and rehabilitation, and 0.3% goes to accessment. These figures come from the Bureau of Insurance. They put them into different categories and classifications. What I just gave you and the three categories that I gave you, the insurance expense, the medical expense, and indemnity claims, is a realignment that I did.

I told you that I was going to revisit the 5.9%, which is the adjustors expense. We talked to this proposal in other sections in reference to the legal expense of employees to great extent, 3.8%. 3.8% of the overall cost goes to the legal profession who guarantees and ensures that injured workers are treated right. Insurance companies spend a combined total of 7.5%. There is nothing in this Bill that I know of that deals with that expense. Almost double, by one-tenth of a percent less then double the expense of attorney costs to injured workers goes to the other side, because when you add the adjustors to the legal expense, you have to remember employee legal expense. There is nobody preparing and adjusting that work, that is all lumped in together. The insurance industry conveniently separates the two of them so it makes it look as if their legal expense are a lot less then what employees expenses are.

We are talking about a 26% potential reduction in the cost of the premiums, based upon the legislative proposal that was actually evaluated the other day. 22.5% of this expense is the insurance industry, 23% is the medical expenses, and 53.8% to the indemnity claims to those individuals who are hurt in the system of the process. But almost all the 26%, the most significant part comes out of that indemnity section, injured workers. A fair proportion out of the medical expense, the 23%, less than a quarter of the expense of the overall costs out of the medical

expense. It is almost nil out of the 22.9%, and by the way, the 22.9% should really be 27.9%, because we have a 5% underwriting fee that comes back and goes to the agent who underwrites the policies, if we want to add them since they are part of the insurance industry, it is really 27.9% of the cost to the insurance industry, and we ask nothing out of that one quarter of the expense of the operation of workers' compensation.

I think that the intent of the amendment offered by the good Senator from Oxford, Senator Mills, is on target. But, I have to disagree with that amendment because I think that it is not good legislation to put it into the statutes. I think that we need to hold the Bureau of Insurance, the Commissioner of Professional and Financial Regulations, as well as the Chief Executive who runs the Executive Branch of this government, who is entrusted with the authority and obligations and responsibilities of setting the rates, to be held accountable, and that we pass the policies that impact on those, that the rate settings are determined by them. I would hope that we would not support the amendment offered by the good Senator from Oxford, Senator Mills, though I support his intent wholeheartedly, I think that his heart is in the right place, emotionally he is in the right place, but technically, we need to allow the adjustment of the authority to sit where it is. We should not be changing public policy based upon questionable administrators.

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

**Senator MCCORMICK:** Thank you Madam President. Ladies and Gentlemen of the Senate. I, too, desperately desire workers' compensation reform. Businesses in my District desire it. So I want to vote for this Bill. In the last seventeen days, we have had this state shut down by a Governor who said he had to have so many points on workers' compensation. He had to have it. Right now he had to have it. Not next biennium, not next year, but right now immediate savings. Then when we get to the crunch time, which has been the last couple of days, we have seen nothing but back peddling on that from the Administration. All of a sudden, these points are not necessarily going to be right now. They have got to be made in time, maybe in the next biennium. But this is from the same man who shut this state down because he had to have these savings right now. My businesses would like to have these savings right now, too. I would like to have these savings right now.

We continually had in all negotiations a little actuary, brought in by the Bureau of Insurance. I have never met this man, many articles have been written about him, he is now a very famous person. I can see him as sort of gnomish little person who sits in the corner, sits with a calculator, and just calculates all day long, calculus and high math. He has been calculating the points of every single proposal that is on the table, points, percentage, savings, immediate savings, over and over again, and now we get down to the crunch time, and all of a sudden, there is no immediate savings. Not only that, but the two parts of this Bill as I read it, that would give actual savings to businesses in my

District, have been opposed by the Governor, and the people of the Minority Party in this Body, and those two provisions are a triggering of the State Fund, and this provision that the good Senator from Oxford, Senator Mills' amendment is proposing to beef up. So I wonder. I have to ask why. Why do we find ourselves in this situation? How come, after weeks of having to have savings, and having to have points, having an actuary sit right there, saying that this is worth this much, this is worth that much, all of a sudden, we have no points guaranteed, and we have the Governor backing away from the two things that guarantee immediate savings to Maine businesses.

What we have now instead is the Governor saying, trust the Superintendent of Insurance, trust him. Well, that is not good enough. That is not good enough for what this state has been put through. It is not good enough for what state workers have been put through. It is not good enough for my employers who need immediate savings now. That is not good enough to just trust! Trust does not equate into points in my mind. I am not an actuary, but that is what I think. This actuary that Mr. Edwards has over at the Bureau of Insurance, it turns out he is not even a certified actuary, which we began to understand since he was clearly acting in a partisan nature. I believe if we all looked up the oath of office of a certified actuary, that is probably prohibited. It is probably not allowed. He would probably lose his certification if one acted in the way that this actuary has acted.

In the most recent rate case we had on workers' compensation, we had a public advocate coming in saying that the insurance industry deserved a 0.9% increase, a less than 1% increase in rates. We had the insurance companies come in and say that they needed a 30% increase in rates. Where do you suppose Mr. Edwards came down with his uncertified actuary? He came in with a 15% increase in rates. That is what we will get if we trust the Superintendent of Insurance Office. I bet you that the actuarial services used by the public advocate are certified actuaries. I will bet you.

That brings us back to what is before us today. We have a Bill, a reworking of workers' compensation yet again. I was not here in 1987 as many of you were, but I do remember it well. In 1987 we acted to cut benefits 40%. We had to do it. We had to do it for immediate savings. And what happened. Did we get those immediate savings? No. You know the story. You know the answer. There has been a 60% increase in the rates since then! As much as we all want to do the right thing, we need to do something that works. The only way to do something that works, is to pass Senator Mills amendment, and to put something in the statute that guarantees savings to the businesses that count, and that is the amendment that is before you today. Thank you very much.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Madam President. Ladies and Gentlemen of the Senate. I am tempted to ask for a Roll Call so we can bolster the ranks a little bit, but I think that the Senator from Franklin, Senator Webster would ask me to offer it repeatedly.

I really didn't think that we would debate this at all. I thought that this would be offered and go under the hammer. This is something that I had thought up until this evening was very basic to this whole issue. The very fiber of the issue of workers' compensation reform, the very reason why 10,000 state workers lost almost the equivalent of two weeks pay. I thought that is why we were here. I guess not! I am really quite startled.

I have heard in recent days references to being held hostage, and linkage, and so forth and so on, and I heard reference the other night on television by a member of the Minority Party, that it really didn't matter in the final analysis what it was that was going to shut state government down, what it was that would be held hostage in the end. It could have been the Tax Package, it could have been the Budget itself, it ended up being workers' compensation. I listened to that, and I thought that perhaps this person misspoke. But now I realize that there is another agenda here. It is to effect tangible pain on injured workers, reduce their benefits even though it has been said on the floor tonight that there are no reductions in benefits, to squabble over whether they should be reimbursed for expenses when they have to travel from one end of the state to the other in order to apply for a job that has been mandated. Those things that are tangible, and trade them off for the intangible. Savings that really aren't there. We don't know tonight, ladies and gentlemen of the Senate, whether the savings are 2%, 5%, 10%, 20%, or 26%. What we do know is, that we are here tonight, this morning rather, away from our families on the 18th day of July, away from our jobs, because we have been held here by this Governor to address this issue. And I, as most of the members of this Chamber, as reflected in the vote on a Indefinite Postponement of the Bill and all of its accompanying papers earlier in the evening, obviously, support workers' compensation reform, and we support it being done in a meaningful fashion. But meaningful by my definition is being able to go back to my District and say, "Yes, there were some things that were uncomfortable for me. Yes, I think that workers to a degree, some workers took it on the chin, and I didn't like that, but the spirit of compromise prevailed. I can tell you with all certainty that true, meaningful, tangible savings will be coming your way as a result of our labors." I can't tell them that now unless we adopt the amendment as offered by the Senator from Oxford, Senator Mills.

Earlier in the evening the good Senator from Aroostook, Senator Collins, said that one of his chief concerns was that the Legislature in effect ought not to micromanage this, and we ought to leave it up to the regulators, and the regulator in this instance being the Bureau of Insurance. But he went on to say a couple of minutes later that, of course if the savings are not realized by the formula as adopted by rule through the Bureau of Insurance, then those business people that have been stocking the halls of this Legislature for the last six months will come back. But who will they come back to? Not the Bureau of Insurance. They will come back to this Legislature. The Senator from Aroostook, Senator Collins, confirmed that by his own words. This is where the decision is going to be made. I feel far more comfortable with the decision being made in this Chamber than I do in relying on the questionable

figures that have come from the Bureau of Insurance. Figures that have fluxuated continuously, ebbed and flowed, second only to the figures that have come out of the State Planning Office that have put us in this predicament in the first place.

It is my contention if the insurance companies who are obviously bristling at this amendment, for some reason, if they want to pick up their marbles and go home, I have no objection to that. If that is the case, I am certain that the Governor would see fit to call us into Special Session to address that. At that point, we could revisit the issue, which is looking more and more attractive to this Senator of a real live state fund.

The Senator from Franklin, Senator Webster, labeled this as a simplistic idea. I don't believe that it is simplistic, but I do believe that it is simple. It relates to cause and effect. This Bill should relate to real, meaningful savings. Those savings, ladies and gentlemen, are jobs. At least as defined by those who have pushed this Bill to this place tonight. Real jobs.

I have grown tired of continual references of the \$300 million Tax Package that the "Governor is faced with, that the Democratic Majority is putting on his desk". The irony is just too much there. But then to continually associate this tax increase, which has now been signed into law, with real savings, commensurate level of savings to Maine employers, that now, we know rings hollow. We now know that is really not what this was all about. I talked to a business person in my District earlier today, and I told him about this, he is an individual who has been calling me on a regular basis and telling me, "You have got to vote on the Workers' Compensation Package, you have got to vote for the strongest set of reforms, you have got to put people back to work, you have got to allow my company to realize some of those savings as a result of our continual emphasis on work place safety, etc., do the right thing, do the right thing". I shared with him this morning that it now appears that there are a number of people, particularly in the Minority, who are unwilling to put those savings in statute! That's what is real! How many people in this Body, in our respective Joint Standing Committees, when we are faced at the end of a long grinding session, and we have a Bill before us that is of questionable merit, but we like the sponsor of the Bill, the sponsor comes up to us and says, "I know that you are not going to be able to pass this Bill. I know that you are not going to be able to hold over this Bill, but could you write a letter on my behalf?" What does that mean to each of us? Zip! It is a gesture. It means that we like that person, that although we didn't care for the Bill, we want to make certain that they have something to carry home with them to show that they at least made the effort. Letters are not enough for me, ladies and gentlemen of the Senate to bring back. I am not going to be able to show that employer a letter and pass the straight face test. I simply don't know what members of this Body who are opposed to this very simple amendment are afraid of.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Madam President. Ladies and Gentlemen of the Senate. I rise only because I am not sure where the comments that were cast off to in reference to accepting a letter from the actuary, or putting specific rates into the statutes. I stand here, and all that comes to my mind is the desire to put some faith into it. I don't do that necessarily with a whole lot of confidence.

But I guess that the best parallel that I could share with the good Senator from Penobscot, Senator Bost is, that we attempt to establish educational policy. Would I want this Body to predetermine a grade that a student may receive based upon the policy that we pass? That we are going to have certain students get an "A", or a "B", or a "C". In certain areas we recognize that there is another level as we attempt to establish public policy, and we try to say that we have to have a system of government, of separation of Executive and Legislative Branch establishing public policy, and the Executive Branch to implement that. I think that this is one of those instances, and the language that is in the current Bill requires rate reduction. I read it a dozen times. Probably two dozen times. It requires rate reduction. It requires the Superintendent of Insurance through their actuary to report back as to what that rate reduction was, how it applies, not only in this particular rate case, but in all future subsequent rate cases as well. The impact that this particular piece of legislation will have on the future.

I have heard a lot of people blame the downturn of the economy and the loss of jobs in Maine because of the workers' compensation crisis in Maine. We have also received the bulletin of how California has a worse system. I have been in other states, and I have been told by Legislators in Louisiana that large companies in their state said they had the worse workers' compensation system. We know, despite the rhetoric that we heard earlier, we knew all along that rhetoric was just rhetoric. It was political rhetoric. There is a recession going on in this country. Obviously, numerous variables enter into the impact of Maine's economy, as well as the nations economy. Workers' compensation in many instances became the favorite whipping boy. As the good Senator from Penobscot, Senator Bost says, "You have got to keep the message very simple for people to understand it on some occasions". There are some who have attempted to not deal with the complexity of the issue, but to try to make this a very simple message. Cut benefits and you will cut your cost. It is us against them. That has been the message that has been going out for the last year or two or better, and I think that we have attempted to appropriately frame the complexity of the issue, and where many of the faults lie.

We need to deal and recognize the complexity of that issue. But we also need to hold those who are obligated and responsible. That's right. We are the ones on the front line. We are the ones that our constituents turn to and ask us, "Why didn't our rates go down? You voted for legislation and said that it would go down." Of course we know the standard lines, the partisan lines for those Democrats who messed around with it and changed it,

so we didn't achieve all of it. You can fool almost anybody if you repeat it enough times. God knows how much money was spent by special interest groups in trying to paint a false picture as to what the problem really was. Again, I will point out that over 27% of the cost of being ignored, is a very insignificant part of that proportion.

I appreciate the good words of the Senator from Penobscot, Senator Bost, similar to the sponsor of the amendment. I know that their intent is to hold them to the fire. Hold them right where they held us to the fire. Let's try to paint them into the corner and portray them for what it really is, because the point game from day one has been a sham. A sham that has been portrayed on all the people of this state. We know that, because if you want to, I have several folders here, and I can pull out different dates of which the actuary said on one date that the point value was ten. Two weeks later the point value was twelve. A little bit later the point value was some other figure. It was constantly in the flex. Any one of them can stand up and stand before the various Committees, or before us as individuals and tell you why those figures changed. But reality is, the point system is a sham. What we need to do is try to address in form the best Workers' Compensation Package that we can, representing the diversity of the interests of this Chamber and of this Legislature. There is a lot of give and take in that process.

I firmly believe that the current language that is in the proposal should have a rate reduction. If it didn't, I would have a new Superintendent of Insurance, because I would ask for his resignation. I would get a real actuary. But we will have to face that question long before they will.

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

Senator **MATTHEWS:** Thank you Madam President. Ladies and Gentlemen of the Senate. I am deeply perplexed as the previous two speakers, the Senators from Penobscot, Senator Pray and Senator Bost. What bothers me about this is that one point score that really hit home, it hit midship, and it was real. It was pain, it was suffering and the pain of those 10,000 workers that were held hostage by the Minority Party in this Chamber, and the Governor. My question is simple, and maybe simplicity is not the thing. But why, if it didn't mean anything in actual point dollar savings to business and industry, why, members of the Minority? And why, Governor McKernan did you use those state employees? Why have you used the injured workers in Maine? Where are they going to turn if this means nothing? These state employees that are back to work are going to feel the implications and the suffering for months, and months, and months. Many of them years! I will never forget that, or forgive. That is real hurt, and pain, and anguish. And what for if it meant nothing!

I will be supporting the good Senator from Oxford, Senator Mills amendment. It is amazing to me. This has been a sick game, with innocent human lives as the victims. Once again, victims again, the injured workers. For what! My businesses in my

District also want workers' compensation reform, and like the good Senator from Penobscot, Senator Bost, I spoke to businesses today on the phone, and they want it in writing! They also feel like they were lead to the cliff. How many more thousands will go over the cliff before we are done playing games? I rest it squarely on the Minority Party in this Chamber and the Governor. That hurt. Those wounds won't go away. Not today, not tomorrow, not next year.

Senator **WEBSTER** of Franklin requested a Division.

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

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would ask it directly of the Chamber of Commerce if they had a microphone, but they don't. Has anyone here discussed the amendment which has been out, or at least the concept that has been out for several hours now with the Chamber, and could you share with the Body what that response was?

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would first like to say that the good Senator from Penobscot, Senator Bost probably has as much contact with his Chamber of Commerce as I do with mine. I have not talked to them about this issue. I would only like to say that this concept is not new. The good Senator from Penobscot, Senator Pray has been talking about this measure for several days, if not longer. The current proposal before us, the Bill that came out of Committee with a majority vote, incorporated the concerns of the good Senator from Penobscot, Senator Pray. The language was between him and other interested parties, including the Governor. This is not a new concept. I said before and I will say it again, it is a simplistic approach to a complex issue, but I think it is fair to say that at least my Chamber of Commerce has no knowledge of this.

I would like to commend the good Senator from Penobscot, Senator Pray, for bringing his concern to the attention of those people who were negotiating, and for his willingness to work on language that is currently in the Majority Report. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Madam President. Ladies and Gentlemen of the Senate. The good Senator from Franklin, Senator Webster, reminded me that I have just as much access to my local Chamber of Commerce as he does to his, and several other words of congratulations to the other Senator from Penobscot, Senator Pray, but you didn't answer my question. I think that perhaps I should have been clearer about it. The Chamber of Commerce that has been an ever present lobbying force in this Legislature, could somebody please tell me how they feel about putting cost savings, real cost savings in statute to their

businesses that they represent, and that have been paying them quite handsomely to be down here for these last few months?

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by Senator **MILLS** of Oxford to **ADOPT** Senate Amendment "A" (S-474).

A vote of Yes will be in favor of the motion by Senator **MILLS** of Oxford to **ADOPT** Senate Amendment "A" (S-474).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BOST, CLEVELAND, CONLEY, ESTES, ESTY, MATTHEWS, MCCORMICK, MILLS, TITCOMB, THE PRESIDENT PRO TEM - NANCY RANDALL CLARK**

**NAYS:** Senators **BALDACCI, BERUBE, BRANNIGAN, BRAWN, CAHILL, CARPENTER, COLLINS, DUTREMBLE, EMERSON, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, PRAY, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER**

**ABSENT:** Senators **BUSTIN, PEARSON**

10 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 2 Senators being absent, the motion of Senator **MILLS** of Oxford to **ADOPT** Senate Amendment "A" (S-474), **FAILED**.

Which was **PASSED TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (H-766) and HOUSE AMENDMENT "A" (H-768) AS AMENDED BY SENATE AMENDMENT "A" (S-477) thereto, and HOUSE AMENDMENTS "B" (H-769) and "G" (H-774) in NON-CONCURRENCE.**

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

On motion by Senator **PRAY** of Penobscot, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

**Emergency**

An Act to Amend Certain Provisions of the Laws Contained in Public Law 1991, Chapter 591  
S.P. 788 L.D. 1984

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:

**ENACTORS**

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

**Emergency**

An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine  
S.P. 154 L.D. 366  
(S "A" S-470 to C "A" S-286)

Comes from the House **FAILING OF ENACTMENT**

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 signed by the President in **NON-CONCURRENCE**.

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

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



**ENACTORS**

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

An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies  
H.P. 1166 L.D. 1707  
(S "B" S-452 to C  
"A" H-498)

An Act to Amend the Minimum Requirements for Emergency Medical Technicians  
H.P. 1230 L.D. 1794

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

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**Emergency**

An Act to Encourage Business Investments  
H.P. 1211 L.D. 1769  
(S "B" S-445 to C  
"A" H-603)

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.

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

**ENACTORS**

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

**Emergency Resolve**

Resolve, to Establish the Commission on Comprehensive Energy Planning  
S.P. 292 L.D. 774  
(S "B" S-472 to C  
"A" S-205)

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

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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:

An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and Transferring its Essential Functions  
H.P. 1210 L.D. 1768  
(S "A" S-473 to C  
"A" H-690)

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

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A Division has been requested.

Will all those in favor of **ENACTMENT**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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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:

An Act to Amend the Fees for Lobster and Crab Fishing Licenses  
S.P. 787 L.D. 1983

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

**Emergency**

An Act Relating to Average Final Compensation for Purposes of the Maine State Retirement System  
S.P. 786 L.D. 1982

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:

**ENACTORS**

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

An Act Relating to the Education of Homeless Students  
S.P. 466 L.D. 1249  
(H "A" H-767)

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

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

**ENACTORS**

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

An Act Related to the Office of Substance Abuse  
S.P. 90 L.D. 175  
(S "D" S-420 to C  
"A" S-359)

Which 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:

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Make Changes in the Workers' Compensation System"

H.P. 1397 L.D. 1981  
(S "A" S-477 to H  
"A" H-768; H "B"  
H-769; H "G" H-774;  
C "A" H-766)

In House, July 17, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-766) AND HOUSE AMENDMENTS "A" (H-768); "B" (H-769); "C" (H-770) AND "G" (H-774).**

In Senate, July 18, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-766) AND HOUSE AMENDMENT "A" (H-768) AS AMENDED BY SENATE "A" (S-477) thereto AND HOUSE AMENDMENTS "B" (H-769); "G" (H-774) in NON-CONCURRENCE.**

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

Senator **DUTREMBLE** moved that the Senate **RECEDE** and **CONCUR.**

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is important for the Senate to Recede and Concur on this, because otherwise we would be killing the Workers' Compensation Bill, and I don't think that anyone wants to do that. It is unfortunate that the provisions that seemed to be in disagreement are those that people wanted to compromise on, and I am speaking particularly on the portion that dealt with retroactivity on procedural rules. I know that at one point it was offered to members in this Body and to the other Body, that the date of July 1, 1991, be the date that we set forth, but that wasn't acceptable to some people. I thought it was a great compromise on this particular matter, but I guess that went on deaf ears in some minds. I understand that even the proposal to make this retroactive to August 1, 1991, had been proposed, and I guess that they may be falling on deaf ears, also.

But to make sure that this Workers' Compensation Package continues on its way, I think that we should Recede and Concur, and I request a Roll Call.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **DUTREMBLE** of York to **RECEDE** and **CONCUR**.

A vote of Yes will be in favor of the motion by Senator **DUTREMBLE** of York to **RECEDE** and **CONCUR**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

**NAYS:** Senators **BUSTIN, ESTES**

**ABSENT:** Senator **PEARSON**

32 Senators having voted in the affirmative and 2 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DUTREMBLE** of York to **RECEDE** and **CONCUR**, **PREVAILED**.

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

Senate at Ease

Senate called to order by the President.

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

**ORDERS**

**Joint Order**

On motion by Senator **CAHILL** of Sagadahoc the following Joint Order:

S.P. 785

ORDERED, the House concurring, that Bill, "An Act to Allow Agencies to Amend Legislative Agendas to Accommodate Unforeseen Events," S.P. 779, L.D. 1975, and all its accompanying papers, be recalled from the legislative file of the First Regular Session of the 115th Legislature to the Senate.

Which was **READ**.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**, please rise and remain standing in your place until counted.

Will all those opposed please rise in their places and remain standing until counted.

14 Senators having voted in the affirmative and 13 Senators having voted in the negative, and 14 being less than two-thirds of the Members present and voting, the Joint Order **FAILED PASSAGE**.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

On motion by Senator **CLARK** of Cumberland, the Senate **RECONSIDERED** whereby the Joint Order **FAILED PASSAGE**:

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting.

Will all of those members in favor of **PASSAGE**, please rise and remain standing in your place until counted.

Will all those opposed please rise in their places and remain standing until counted.

26 Senators having voted in the affirmative and No Senators having voted in the negative, and 26 being more than two-thirds of the Members present and voting, the Joint Order was **PASSED**.

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

On motion by Senator **BOST** of Penobscot, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

An Act to Make Changes in the Workers' Compensation System

H.P. 1397 L.D. 1981  
(C "A" H-766; H "A"  
H-768; H "B" H-769;  
H "C" H-770; H "G"  
H-774)

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

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A vote of Yes will be in favor of **ENACTMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BOST**, **BRANNIGAN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**, **THE PRESIDENT** - **CHARLES P. PRAY**

**NAYS:** Senators **BUSTIN**, **CONLEY**, **ESTES**, **MILLS**

**ABSENT:** Senators **BALDACCI**, **BERUBE**, **BRAWN**, **GOULD**, **PEARSON**

26 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 5 Senators being absent, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senator **WEBSTER** of Franklin moved to suspend the Rules, and to send forthwith to the Governor.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **WEBSTER** of Franklin to suspend the Rules, and to send forthwith to the Governor.

A Division has been requested.

Will all those in favor of the motion by Senator **WEBSTER** of Franklin to suspend the Rules, and to send forthwith to the Governor, please rise in their places and remain standing until counted.

Will all those opposed please rise in the places and remain standing until counted.

27 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator **WEBSTER** of Franklin to suspend the Rules, and to send forthwith to the Governor, **PREVAILED**.

Senate at Ease

Senate called to order by the President.

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate on the Record.

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We just passed a Workers' Compensation Bill that passed almost unanimously, which will not do any where near what some of us had wanted a major piece of legislation like this to do.

I would like to publically thank the Senator from York, Senator Dutremble, for his efforts and his willingness to meet the agreement that was offered and signed by the President, and the Speaker of the House, and the Governor on the 14th of July. I would like to read into the Record for the membership that this agreement was far from upheld. Section C says that the Governor will sign the Budget, which he did, and the joint leadership and the majority of each political Party, and all members of leadership will vote for the Workers' Compensation Package. A package, as far as I can see, as long as I have been here, and I remember last year debating the Bill on Solid Waste from the good Senator from Kennebec, Senator Kany, stood in the center of the floor and said that this is a package that is agreed on by the majority of the Committee, and we can't open that package up. Needless to say, that is not what happened here today. We opened the package, and we took everything out. A package that would have saved

jobs for the people of this state. I question now if we will do that. We might get, when we are all said and done, a 6%, or 8%, or 10% savings, which is better than what we would have got if we hadn't gone through this exercise. What concerns me is, this package that we passed will have long term benefits for the people of this state, long term, way beyond the time that we are out of this economic downslide, we will have reform, and another 500 or 1,000 jobs will leave the state.

The good Senator from Kennebec, Senator Matthews talks about on the floor of this Senate, time and time again about single mothers and the poor people in his District. I can assure you that there will be a lot more people in this state, a lot of mobile homes will be returned, a lot of people won't be feeding their children what they want, because they won't have the kinds of jobs that meaningful, immediate reform would have given us. We have got a long term savings here. There is no question about it. And I hope that the Governor signs it, but it is not going to have the shot in the arm that this economy needed to create the kinds of jobs and keep the kinds of jobs that are necessary.

The good Senator from Kennebec, Senator Bustin talks about her concern about state employees. I share with you that my family has state employees. She has, indeed, her constituents back to work. But, in all the years I have been here, I have always found that when some one looks you in the eye and states that this is what is going to happen, then it happens. There was something happening here for the last two days that forever and ever damaged this Institution. I will never again believe when somebody looks me in the eye and says, "I am going to do this", I will never believe that when somebody says, "We are going to come to an agreement and we are going to hold to it. We are not going to gut this legislation with unfriendly amendments." I cannot estimate what the savings are, I am not an actuary, but I can tell you one thing, the savings are not going to be enough to be the shot in the arm that this economy needs.

I will tell you this, there are some winners and there are some losers. The winners left two hours ago. Those high paid lawyers who make all kinds of money off this system, millions and millions of dollars off this system. They won! They know that they won. What happens? We changed the system and in some ways we hurt workers, so that those people could go home and keep their lifestyle. We have done that! So they are a winner! The people of the State of Maine are losers.

Members of this Minority Party won, whether we won or lost it doesn't matter, but what we won was, that we did what we believed in. I am proud. I said this three days ago, I am proud, and will always be proud when I stand for what I believe in. I have stood here on this floor dozens of times, and have been the only person to do what I believe is right. The good Senator from Cumberland, Senator Conley, can understand that, because he has done the same thing, and so did his predecessor. I used to give Senator Andrews a hard time in this Body, because I used to say, "You know Tom, you and I stand for what we believe in", but on this issue, this week, we did what was right. If the people of Maine don't like

the fact they don't have jobs, and we didn't do anything fast enough to keep those factories in the state, they know who to blame.

There are other winners and other losers. The good Senator from Cumberland, Senator Clark and I had an agreement. I take pride in both agreements. The first agreement that we worked out began with her and I. This scheme to have a temporary Budget and do what we did, it all broke down. I have been telling my constituents and the people in this state that there was never a real interest in doing anything about workers' compensation reform. We got some reform because the Majority Party had no choice. It is the only way that it would have happened. I am convinced of that. I regret what this past 24 hours has done to this Body and this Institution. I am upset that the good Senator from Cumberland, Senator Clark, would agree to do the things in this agreement and vote to gut the Bill.

I can't tell you the amount of respect I had gained for the Senator from York, Senator Dutremble for doing what he believed. I respect anyone who ever does what they believe. This man held to his agreement, and I respect him for that, and I ask each of you to remember that, because that is what this process is about. When you look someone in the eye and say that you are going to do something, you do it. I only hope that I haven't put him in an awkward position by saying this, because I do believe that is the kind of person that I want to deal with when I am here in the Legislature.

This Legislature, unfortunately, is becoming very close to being completely controlled by special interest groups, and that concerns me. It ought to concern the public as well. When somebody suggested to me two and one-half weeks ago that we should cut workers benefits rather than change lawyers fees, I am wondering what is going on here. I am wondering that, because that is what I believe most people in Maine would want. People in this state need to take a look at what is going on in this Legislature. They need to look at the reform package that we passed. When the good Senator from Penobscot, Senator Bost goes home, I hope that he doesn't tell his people, as I have been telling for months would happen, he voted for workers' compensation reform. What he did is that he voted for something. Sure. We all voted for something that will save 10%, maybe it will save a few jobs and maybe it won't, but it won't do what it should have done.

I was born in the night, but it wasn't last night. I won't ever forget sitting across the table with members of this Legislature and reaching the agreement and having the rug pulled out from under my legs. The people of this state would be appalled if they knew the way that this process worked.

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**THE PRESIDENT:** The Chair would advise the Senator from Franklin, Senator Webster, to show proper decorum in the Chamber.

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Senator **CLARK** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **CLARK**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Good morning. It is important that a response be made to the good Senator from Franklin, Senator Webster, and while I understand his frustration, perhaps even outrage at the proceedings in this Maine Senate during the wee hours of this morning and late last evening, I must remind the Senator that those of us whose actions were pledged by our Presiding Officers and our Governor, feel that they have acted in good faith, representing in large measure the diversity of our caucus as illustrated by this Majority Leader and by the Assistant Majority Leader. It is also necessary to remind Senators in this Maine Senate, as well as those who may be listening, and the people of the State of Maine, that the Democratic process is never so contained and in agreement that leaders can bind their members at least on this side of the aisle. The process is forever open to the fluidity that is represented by the varying positions on controversial issues, namely workers' compensation. There is a vast difference between the package as advocated by the Senator from Kennebec, Senator Kany, in a previous session on Solid Waste Management, in which the Senator from Franklin, Senator Webster, cast a single "Nay" vote. The package was presented to us during yesterday and today with a Divided Report, yes, significantly Majority Report, but with a very significant Minority Report. There are members of my caucus who feel so strongly about this issue, representing the sweeping diversity within our caucus, that I, or our Presiding Officer, or my esteem colleague, the Senator from York, Senator Dutremble, would preclude their access to the process, is a concept that I cannot support and would not support, for I champion their diversity. I champion their contributions to the process.

My assurance to my colleague across the aisle, the Minority Leader, the Senator from Franklin, Senator Webster, was ever one of calm confidence that the Bill would ultimately pass with a vast majority vote as has been evidenced here today. There are styles of leadership that are as diverse as a composition of our two caucuses within this Chamber, as evidenced by the continuation of a process that my colleague, the Senator from York, Senator Dutremble and I, have exercised insofar as possible, not consistently, but almost all the time, if that is good enough. One would represent one major faction within our caucus, and the other would represent the other faction, if you can divide them between two, and you can if there is a question in which one would vote yes and one would vote no.

I make no apology for that process to the members of this Senate, to the highly respected members of the Minority Party, to my colleagues and leadership across the aisle, or to the constituents I was elected to serve, or the citizens of this state. It has served us well, and it was, in fact, observed by those who preceded me to this office, whether Democratic or Republican. I don't stand this morning making excuses for the diversity and the access to the process by members of my caucus, for I am proud of their contribution. I am proud of their differences. I am proud of their ability to grasp the issues, and continue to present alternatives in

an attempt to achieve their objective. Many times their objective is not complimentary to my objective, but it certainly does allow the learning process to proceed.

If there is nothing else to be said by this process, in fact, there are a lot of other very positive conclusions to be made in this process, one can say that it is indeed a learning process. All of us, whether we have liked it or not, have learned a great deal about workers' compensation, recognizing that a vital issue to our state has been addressed, and that we know, as we know in all moments of impending adjournment, that there is another hour, there is another day, and there will be many more sessions whether we occupy these seats or not.

To divert just a little bit, I would extend my gratitude to those who have served us so well in this indeed trying First Regular Session and First Special Session of the 115th Legislature. I am aware of a deep and conscious indebtedness to you all, and to those of my colleagues who generously elected me to this position of leadership, and to my Presiding Officer, you have, as always, earned my respect and my affection. Thank you Mr. President.

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

#### RECALLED FROM LEGISLATIVE FILES

Bill, "An Act to Allow Agencies to Amend Legislative Agendas to Accommodate Unforeseen Events" (Emergency)

S.P. 779 L.D. 1975

(**RECALLED** from the Legislative Files, pursuant to Joint Order S.P. 785, in concurrence.)

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.)

Which was, under suspension of the Rules, **READ TWICE**, without reference to a Committee.

On motion by Senator **CAHILL** of Sagadahoc, Senate Amendment "B" (S-471) **READ** and **ADOPTED**.

Which was, **PASSED TO BE ENGROSSED, As Amended**, without reference to a Committee.

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

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Senator **DUTREMBLE** of York was granted unanimous consent to address the Senate on the Record.

Senator **DUTREMBLE**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I have had an opportunity over the last fourteen years to listen to a lot of comments by some very good Senators, and I do want to comment on the comments made by the Senator from Franklin, Senator Webster, who questions the integrity of the Democratic leadership as a whole, because when anyone challenges the President, or challenges the Majority Leader, they challenge all of leadership, because we stand together.

The events that brought us to the point where someone would even consider challenging, whether or not we worked in good faith, was caused by events that brought down state government in the State of Maine as we know it. It will never be the same. The good Senator from Franklin, Senator Webster was absolutely correct when he said that. It will never be the same. But that is not what transpired in the last 24 hours. It is what has transpired in the last month. From the time that we sat across from the Appropriations Table and voted unanimously for a Budget, and from the time we came up here and it wasn't passed, that is when it started, not in the last 24 hours.

I appreciate the good Senator's remarks on my behalf, but I really don't need them, nor do I want them. I really don't! I did what I had to do because of the situations that we were all placed under by the Governor and the Minority Party. Not something that I am proud of at all. During this whole process, the Maine Senate and the House of Representatives was insulted, degraded. We were brought to the point where people were brought to the hospital for this new style of government that was forced upon us in the last month. I have no pride in that at all. None! Absolutely none! 15,000 people out of work so that we could pass what we just passed here this morning. 15,000 people whose lives and families were effected so that we could pass what we did this morning. You know what? If we had passed the Budget on June 30th, it would have gotten us close to where we were this morning. We never would have had to go through this whole mess. If we had just followed the process the way that it was supposed to be, we would have gotten there. But we were not allowed to do that.

What has happened along the way? Things that I haven't seen here in 14 years. I have seen people that have worked tirelessly. The good Senator from Cumberland, Senator Esty, on his Committee. The good Senator from Kennebec, Senator Kany. The good Senator from Cumberland, Senator Conley. The good Senator from Androscoggin, Senator Gauvreau. And everybody else who worked tirelessly, hours and hours, who questioned themselves on this issue. I certainly questioned myself on this process along the way many times. We questioned each other. We had situations that occurred in this Senate that I have never seen before. Why? Because of what happened in the last month. I would hope that every one of us would take a good look at what we have done to the process.

I can still stand here, and I believe stand with the members of my Party and still say that we stood proud along the whole way. Maybe the end result isn't what it would have been if we had gone through the normal process, but I can say that the President,

and Majority Leader, and the members of this Senate who are in my Party held on and abided by the agreements.

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Senator **GAUVREAU** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I suspect, like many of you, the tenure of the remarks deposited by our friend and colleague, the Senator from Franklin, Senator Webster, have left many of us surprised and stunned, and even perhaps offended.

I find myself in concurrence with the remarks of my friend from York, Senator Dutremble. It is clear to me that people would not have behaved the way they had, had they not been under such incredible fatigue and stress over this past month. We will all have a chance upon the adjournment of this session to pause and reflect how much damage has been done to the process and to the faith of Maine people in this government and their elected Representatives. But unlike the Senator from Franklin, Senator Webster, I do not find bad, and evil, and mistrust in my fellow men and women, much to the contrary. I am proud of the love for their state which our Representatives have shown, and their deep and abiding commitment to their own personal principles.

The Senator from York, Senator Dutremble and I do not always agree on issues regarding workers' compensation, but I can think of no person in this Legislature for whom I have higher regard than Senator Dutremble, because he does, in fact, abide by his principles. He eloquently and forcefully advocates for those causes that he believes in, as do my other colleagues in this Legislature. We have spent the last three weeks working until four or five o'clock in the morning, not because we are power hungry or engaged in political bickering, quite to the contrary. We are taking this moment in our lives to express to each other what we deeply believe in and cherish on the topic at hand today, workers' compensation, there are clearly deeply held convictions by many members.

Before I came up today, I had a chance to go to my office. I don't think that the Senator from Franklin, Senator Webster included me in the category of high priced lawyers, but I spent the first hour and one-half trying to get an injured worker money that he has been entitled to by Commission order for the last thirty days. The insurance company who owes him that money and has failed to pay him. I have filed forfeiture petitions, I have filed motions, I have done all I can. This person has lost his house, he has lost all of his belongings. He filed for bankruptcy two days ago. There is no more enjoyable part of my practice than representing injured workers. Not for the pursuit of money, but because I happen to believe in helping my fellow person.

I don't for the life of me understand, and never will understand why people cannot appreciate that although we may have different values or perspectives, we are acting honestly, and not acting

out of vile motives. This phenomenon is mischievous, and now carried over to the press. The press looks not for what is good in people, but for what is bad. I think that the people of Maine have been done a disservice. Democracy is not always easy. We all know that. But I don't question the sincerity of anybody in this Chamber. Although I certainly question the wisdom of the tactic used by the Minority to advance its prospective on workers' compensation, I, for a moment, question the sincerity and honor of the members of the Minority in this Chamber.

There are aspects of this package which offend me to my very core. On Page 55 of L.D. 1981, lines 24 through 27, we see the section on Automatic Discontinuances, Subsection H. About three o'clock in the morning on Monday of this week, I thought we had negotiated language which assured that injured workers, who were subject to automatic discontinuances, and would be given a 21 day hiatus, an opportunity to challenge an insurance companies automatic suspension, by filing in a timely fashion a written objection with the Workers' Compensation Commission. Somewhere between Monday morning and today, which I think is Thursday morning, the 21 day protection was removed in Section H. It was removed apparently in other negotiations. I do not chose to stand and question the integrity of my colleagues. Somewhere in the bargaining and the process, that language that I had fought hard for was lost. I don't like that, in fact, I detest that, but I do accept that.

Perhaps only the Senator from Cumberland, Senator Conley and I really know the actual application of this Bill, because we have had an opportunity to have life experiences directly relevant. We have, in fact, practiced some workers' compensation cases. Although I have had many outraged comments about attorney involvement in the process, I have no doubt that this Bill will probably increase attorney involvement in the process. For example, in the area of Automatic Discontinuances, you will likely have injured workers without council, or given certified notice by mail that they are being discontinued automatically. They will then have to secure council to come into the process. There are many portions of this Bill that will be very difficult to administer. That will, in fact, increase delay for injured workers.

I suspect that if the Legislature had considered workers' compensation reform, working under ordinary business days, having a chance to exchange drafts, and engage and study the meaningful discussion and dialogue, we could have and would have produced a better product. We are laboring under an environment in this state which reached, in my view, nearly hysterical proportions dealing with the costs of workers' compensation. We all know for some companies, workers' compensation insurance premiums are an excessive cost. In fact, at a clear impediment to economic expansion. But that is not true for most businesses in our state. If we take a look at the average percent of payroll that we spend on worker's compensation, we find that 2.7% of payroll, the amount of money the average company in Maine pays on workers' compensation, is hardly an onerous burden. Yet, we are functioning in an environment where business believes that workers'

compensation is the single, greatest evil that has faced us. We are asked time and again to reduce benefits to injured workers, or go after those horrible doctors or horrible lawyers, because they are the ones that are really driving up the cost of the system. Maine is, I believe, among the lowest five states in the country in terms of the amount of money paid to attorneys representing injured workers. 3.7% of dollars spent in the system go to pay for attorneys for injured workers. I make that comment only because I really sincerely wish that members of this Chamber, and members of the interest groups lobbying on this package, would take the time to carefully and intelligently review the actual factual situation, and not simply advance back to their own particular causes.

Let me repeat. There is no question that we have markedly different prospectives on appropriate approaches to workers' compensation. But just because a member of this Chamber may have a view that differs from mine, doesn't allow me to question the motives, or the integrity, or the honor of that other member. Perhaps because of the fatigue of the moment, the Senator from Franklin, Senator Webster, made comments that would not reflect his actual thoughts. I would certainly expect and hope that to be the case. I would hope that as we come to the end of this session, we do so with a respect for each other and the contributions that we have made to this process, and carry at least that amount of positive aspect into the summer, and into the next legislative session. If we are to succeed in our endeavor to represent the interests of Maine people, we are going to have to renew the respect for the process and respect for each other, which is so vital to our task of forging principled and fair compromises to reflect the diversified interests and views of Maine people. Thank you Mr. President.

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Off Record Remarks

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Senator ESTY of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator ESTY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would just like to say that the good Senator from Franklin, Senator Webster, has just given an outstanding speech. It is truly one of the best political speeches that he has given in this Chamber. Let's make no mistake about it. This was not a speech of frustration or a speech of anger, but purely a speech that was meant to posture politically.

We just passed a Workers' Compensation Bill that is about to be signed by the Governor with full support of both Parties, with few exceptions. According to the Superintendent of Insurance and the Commissioner of Banking and Regulations, it had approximately 26% savings, approximately \$130 million. There were minor changes made today. Minor changes. Let me talk about one of them that seemed to be of concern. The grandfathering clause that was inserted because of fairness that members who were



negotiating on both sides thought was in there, it was assigned no points in savings on all of the point sheets that we saw over and over again. I stand here stunned to think that now that kind of an amendment would be called gutting, when it wasn't even hardly mentioned. I can't find my most recent points sheet, there have been so many of them. The July 3rd one that I found quickly had 33.6%, it is not even mentioned. I don't believe that it was mentioned in this mornings, either.

What we are hearing here is the beginning of round two. Workers' compensation has been such a good issue for the Republican Party, that they can't wait to come back again and get more, and more, and more. As we have been saying right along, it never ends. It doesn't matter how much we give, it never ends. Let us not be fooled by this. We have passed an important piece of legislation that no one is thrilled with, but everyone has learned to live with, and is significant in its savings. It wasn't enough for some. It was too much for others. But let us not refer to it as insignificant or not important. If it was truly that, perhaps you should not have supported it.

That was a terrific speech for the Rotary Club, but it doesn't wash in the Maine Legislature. Let's go home reasonably unhappy. Thank you Mr. President.

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Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate on the Record.

Senator **CAHILL**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think that everyone here will agree today that if nothing else, this Legislative Session goes down in history for being one of the most difficult. We have all gone through some very unpleasant times, and made particularly very personal sacrifices. For me it was very difficult when I had to call the Sheriffs Department to come to my house and protect my property and my children because I had to be here all night. That was a very difficult thing for me to do, and I did not think I would ever see the day when I thought I would have to have police protection for my children because of the stand that I took here in the Legislature.

On the bridge the other day someone was picketing and they said, "Pam Cahill pit viper". My son came home, he had ridden his bike to see the launching, and he said, "I don't know why they called you a pit viper, you don't even like snakes". Hopefully they are young enough that the damage of these threats will be forgotten.

I had a phone call last night from a friend, a business person in my District that said, "Why in the world did you consider passing the Budget before you got workers' compensation?" I said very simply, "Because we had an agreement, and at some point in time, someone has to give, and you have to go by an agreement". Unfortunately, I think that areas of that agreement were not upheld. I do feel badly, because I felt that we had an agreement to deliver a workers' compensation package that the majority of

the Committees on Banking and Insurance and Labor had agreed on. I thought that it was moving along fairly well. At three o'clock yesterday morning it was a tough task, and at four o'clock when the Budget was finally signed, I figured that we would come in, and having been around long enough to realize it would be a full day, I didn't realize it would go well into the next day. But it has, and I think a lot of things have been said, whether they should or should not, I think it is unfortunate.

I will stand up every time for jobs, Senator Esty of Cumberland, because that is what my Party believes in. We believe that every man and woman deserves an opportunity to work in the state, and hopefully raise their children, and have a home, and I will stand up and ask for more jobs every single time.

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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 Allow Agencies to Amend Legislative Agendas to Accommodate Unforeseen Events" (Emergency)

S.P. 779 L.D. 1975  
(S "B" S-471)

In Senate, July 18, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-471)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-781)** in **NON-CONCURRENCE**.

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

Under suspension of the Rules, ordered forthwith to Engrossing.

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Senator **BOST** of Penobscot was granted unanimous consent to address the Senate on the Record.

Senator **BOST**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I truly regret that we have gotten to this point, but I feel an obligation to respond to the good Senator from Franklin, Senator Webster. I only wonder how the vote would have been different had he chosen to give that speech, that very eloquent address, prior to the vote to enact the Workers' Compensation Bill. I will leave it to this Body to speculate.

I think as Senator Esty from Cumberland eluded to, and I thought we would have to wait a few days for us to see it, but ladies and gentlemen of the Senate, we haven't even left the First Special

Session of the 115th Legislature, and we have heard the "stump speech" of the Republican Party and the Governor of this state. We have heard it line for line. The Democrats didn't do enough. The Democrats when asked to create jobs feel short. The Democrats when asked to provide true meaningful cost savings, failed. We were left with no other option but to hold State Government hostage. I can hear it now. I have never heard such political dribble on this Senate floor.

I asked the good Senator from Kennebec, Senator Bustin, when she was behind my seat just a few minutes ago, I said, "Should I respond to this? I am at a loss for words". She said, "You have to respond to that kind of stuff. You have to respond. You can't let words like that go unchallenged." I was embarrassed for the Senator from York, Senator Dutremble, to be put in a position that he was put in, damning with fake praise the divide and conquer routine, you have done a great job. He has done an extraordinary job. But to do that, and by omission exclude many members of this Chamber who have worked tirelessly over the past few weeks and months, is an insult. I never thought that I would see it.

I will tell you what is really unfortunate, and I am sure of the prospective of the good Senator, it is really unfortunate when all is said and done, that the grand strategy to link workers' compensation to the Budget was a failure. It is today. It will be tomorrow. It will be when you take it on the road, folks, it will be. It did nothing but expose, particularly in the last 24 to 48 hours a political strategy that failed, dismally. When the good Senator from Franklin, Senator Webster says, "That this Institution has changed and been damaged forever", I agree. But it has not been for anything that we have done through amending a Bill to make it more palatable to the majority of this Legislature. It has been because of a flagrant attempt of rule by the Minority.

The document that we have in front of us, I didn't have a great deal to do with it. I expressed my opinions. I had reservations. I don't like a lot of what I voted for, but that is the spirit of compromise. You take, you give, you emerge with a product that nobody genuinely likes. I thought that this was what this was all about.

I am sorely disappointed. I thought the wounds that we have created through the work and the final passage of this Workers' Compensation Reform Package were enough. But we had to reopen them one more time just for good old times sake. I am sorry to have seen it. I am glad that I had a chance to respond.

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At this point, a message was received from the House of Representatives, borne by Representative **GMADOSKY** of Fairfield, informing the Senate that the House had transacted all business before it and was ready to Adjourn, Without Day.

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Senator **VOSE** of Washington was granted unanimous consent to address the Senate on the Record.

Senator **VOSE**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I thought it would be interesting that on the questionnaire that I put out the other day, for those of you wishing to retire, perhaps in Eastport, that now that the sun has risen, Eastport saw that before anyone. We were the first to see that sun. I did promise my wife when I came home, and was going to have a nice vacation, that I would never (grunt, grunt, etc.) again. I think that anybody that heard those grunts probably knew what I was talking about, but I won't use those words any more this summer.

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Senator **SUMMERS** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **SUMMERS**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be very brief, I know it is pretty early. My first session in the Maine Legislature has been a very educational one. It has been one that has been very difficult. I have learned a lot of things. I have learned a lot of things the hard way. I believe whether we were talking about the Bill I introduced regarding the pay raise, or any other issue, or the workers' compensation issue, I did so with conviction, because I believed it was the right thing.

In the last few minutes I have heard a few different views espoused. Some that I didn't agree with, particularly the remarks from the Senator from Penobscot, Senator Bost. I have heard a lot about the new "stump speech" for the Republican Party. I have heard a lot of speeches in the last few days. I have heard about the "gang of thirteen", and I have heard about how the Minority Party tried to rule, and I have heard about the process breaking down. I really think that when I think back on things, it takes two people to strike a deal. You talk about thirteen people holding 15,000 people hostage, we stood up for what we thought was right, and I would do it again, because I believed in what I was doing. We didn't do it alone. We didn't hold the people out alone. We take our responsibility, our share of the blame, if that is the proper term, but it also works both ways, Senator. I heard a "stump speech" for the last three weeks. I take personal exception to that.

They talk about the process reaching the lowest point, I think it probably reached its height. Because when you have one party control, and rubber stamp legislation year after year, eventually somebody stands up to it, it is not pretty, but it happens. That is the process. The process didn't reach its lowest until a few hours ago. I am still proud of everybody in this Chamber that stood up for what they believed in. Thank you Mr. President.

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

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

July 18, 1991

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it failed to enact An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine (EMERGENCY) (S.P. 154) (L.D. 366) (S. "A" S-470 to C. "A" S-286).

Sincerely,

S/Edwin H. Pert  
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

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**

An Act to Allow Agencies to Amend Legislative Agendas to Accommodate Unforseen Events  
S.P. 779 L.D. 1975  
(H "B" H-781)

On motion by Senator **BOST** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senator **WEBSTER** of Franklin moved to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **WEBSTER** of Franklin to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

The Chair ordered a Division.

Will all those in favor of the motion by Senator **WEBSTER** of Franklin to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

2 Senators having voted in the affirmative and 15 Senators having in the negative, the motion of Senator **WEBSTER** of Franklin to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is my Bill, and I apologize for holding up the session for it, it seemed important at midnight, it doesn't seem quite as important this morning at 6:00. I hope that a lot of people have gone home, they are now driving their cars, they are tired and have had very little sleep, and I wouldn't want it to be my responsibility to get someone killed because of this, and I hope that we don't pursue this any further.

Senator **BOST** of Penobscot requested and received leave of the Senate to withdraw his request for a Roll Call.

This being an Emergency Measure and having received the affirmative vote of 17 Members of the Senate, with No Senators having voted in the negative, and 17 being less than two-thirds of the entire elected Membership of the Senate, the Bill **FAILED ENACTMENT** in **NON-CONCURRENCE**.

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

Senator **CONLEY** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Seeing a frown on your face, I think it is an appropriate time to rise. I was hoping that I could have gotten up after the good Senator from Washington, Senator Vose. About the only thing that I like to do better than drink beer is laugh and make other people laugh. Senator Vose from Washington County has always been great company to both make me laugh and to be a person he is easy to laugh, too.

The only thing that I got from advice from my father in coming the Legislature was that no matter what else goes wrong, do not lose your sense of humor. That has been kind of tough during the past few weeks, but I still have fought to try to keep that, and I am just hoping that we can get out of

here with whatever little humor remains and get home and try to work on it a little bit.

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Senator **TITCOMB** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **TITCOMB**: Thank you Mr. President. Ladies and Gentlemen of the Senate. As we are all discussing our own prospective on what has taken place over the last couple of weeks, I wanted to in a matter of just a few seconds share with you my own personal prospective on the value of what I feel has taken place in the last couple of weeks. I would like to do that on the Record, because I think it is important for the people of Maine to know that this Body recognizes the value of citizen input in the process. Each of us has a definition of what our own personal role has been. But in spite of the fact that I think for some people it has been very uncomfortable, I believe what has taken place here in this building of State Government, that in fact, belongs to the people, what has taken place here in the last couple of weeks with the people of Maine, has been exceptionally important. The role of the people of this state have chosen to take in the setting of policy that will effect them, is not only extremely important to them, but also to us, and to the role of democracy in our government. I would ask us as we build up our own self-esteem, and as we set up for campaign speeches to come, and all the things that we have done, and we haven't done, and paint ourselves as what we think our constituents would want us to be, that we not forget that each of us must be accountable, and we are up here for the citizens of Maine, and that the price of liberty is indeed vigilance, and I would commend publically, on the Record, the citizens of Maine that took the time to come up and input the process so that the democracy that we have in this state doesn't belong just to us, it also belongs to them.

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

**ORDERS**

On motion by Senator **DUTREMBLE** of York the following Order:

**ORDERED**, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was **READ** and **PASSED**.

The Chair appointed the Senator from York, Senator **DUTREMBLE**, to deliver the message. The Assistant Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator **DUTREMBLE** of York reported he had delivered the message with which he was charged.

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On motion by Senator **CLARK** of Cumberland the following Order:

**ORDERED**, that a message be sent to Governor John R. McKernan, Jr., informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was **READ** and **PASSED**.

The Chair appointed the Senator from Cumberland, Senator **CLARK**, to deliver the message. The Sergeant-At-Arms escorted the Senator to the Governor.

Subsequently, Senator **CLARK** of Cumberland reported she had delivered the message with which she was charged.

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Senate at Ease

Senate called to order by the President.

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On motion by Senator **VOSE** of Washington at 6:14 a.m. on Thursday, July 18, 1991, the Honorable **CHARLES P. PRAY**, President of the Senate, declared the First Special Session of the 115th Legislature, **ADJOURNED SINE DIE**.