

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 10, 1992 to March 31, 1992

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

December 5, 1990 to December 1, 1992

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

In Senate Chamber

Sunday

March 29, 1992

Senate called to Order by the President.

Prayer by the Honorable N. Paul Gauvreau of Androscoggin.

SENATOR N. PAUL GAUVREAU: Let us be in the spirit of prayer. As we approach the close of this wearing and tumultuous Legislative Session, let us reflect upon the meaning of our Legislative service. We come from diverse cultural, social, and political backgrounds. We collectively constitute the rich ethnic, religious, and cultural pluralism that is the State of Maine. We harbor individual perceptions of the relationship between the individual and society and of the responsibilities of each to each other. We too often receive praise for matters to which we contribute little and too often we are criticized for matters beyond our control which don't lend themselves to a prompt resolution.

We are admonished by some for caring too little and by others for caring too much. We are forever joined by the precious insights of each other. We have learned in our mutual requests to define the common good. We are painfully aware of our personal weaknesses and the weaknesses of each other. Our belief in our personal abilities and the integrity of this institution has been shaken and sullied but not destroyed as a result of the cataclysmic events of the past two years.

As we now appear to go forth from this Session, let us contemplate the poignant eulogy of Senator Edward Kennedy for his beloved brother Bobby. Senator Kennedy said some twenty four years ago, "My brother need not be idealized or enlarged in death beyond what he was in life. To be remembered simply as a good and decent man who saw wrong and tried to right it, who saw suffering and tried to heal it, who saw war and tried to end it. Those of us who loved him and who take him to his rest today, pray that what he was to us and what he was for others will someday come to pass for all the world." Let us find in each other the love, strength, and compassion to build for others the kind of world we have sought for ourselves. Amen.

Reading of the Journal of Saturday, March 28, 1992.

Off Record Remarks

ENACTORS

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

An Act Pertaining to the Assessment of Fees on Nuclear Power Plants

S.P. 829 L.D. 2133
(H "A" H-1234; H "B"
H-1294 to C "A" S-610)

Which 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 Improve the State's Fiscal Forecasting Capabilities

S.P. 232 L.D. 586
(C "B" S-733)

On motion by Senator **BRANNIGAN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act Relating to Legislative Confirmation Hearings

S.P. 894 L.D. 2299
(S "B" S-718)

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Because this particular piece of Legislation involves Legislative Confirmation, does it take a two-thirds vote in order to enact it? Thank you.

THE PRESIDENT: It is the Chairs understanding that this deals with the confirmation hearing not whom shall be confirmed. Any statutes that require an individual be confirmed would require a two-thirds vote pursuant to the Constitution.

Senate at Ease

Senate called to order by the President.

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

Emergency

An Act to Reform Unemployment Compensation Guidelines in Maine

H.P. 1486 L.D. 2098
(H "B" H-1298 to C "A"
H-1189)

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

Emergency

An Act to Strengthen the Campaign Finance Reporting Laws

H.P. 1679 L.D. 2356
(S "E" S-717 to C "A"
H-1131; H "A" H-1141)

On motion by Senator **BUSTIN** of Kennebec, 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**, in concurrence.

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-1131) As Amended by Senate Amendment "E" (S-717) thereto, in concurrence.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1131) As Amended by Senate Amendment "E" (S-717) thereto, in concurrence.

Emergency

An Act to Amend the East Pittston Water District Charter

H.P. 1769 L.D. 2452

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

Emergency Resolve

Resolve, to Implement Total Quality Management Procedures in State Government

S.P. 907 L.D. 2327
(C "A" S-731)

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

Emergency Resolve

Resolve, to Establish the Maine Youth Apprenticeship Program

S.P. 970 L.D. 2450
(H "A" H-1301)

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

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Concerning the Bureau of Intergovernmental Drug Enforcement" (Emergency)

H.P. 1629 L.D. 2292
(S "A" S-739; H "A"
H-1186 to C "A" H-1106;
H "A" H-1282)

In Senate, March 28, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1106) AS AMENDED BY SENATE AMENDMENT "A" (S-739) AND HOUSE AMENDMENT "A" (H-1186) AND HOUSE AMENDMENT "A"**

(H-1282) thereto, in **NON-CONCURRENCE**.

Comes from the House, Bill **SUBSTITUTED** for Report and **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE**.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Bill LD 2292, is back before us in nonconcurrence, the other body having substituted the bill for the report. I'm astounded, nobody notified me, nobody told me anything. I happen to serve on that committee, we worked long, long hours on that particular LD and we held long working sessions. Both sides, that were poles apart, came back together in a compromise which we passed unanimously in our committee. I apologize for saying it was unanimous, there were two or three who approved of the whole bill except one clause and that is the confirmation process of the director of BIDE. In order to make it palatable so that we would have a viable working bill, which everybody wants, I presented an amendment striking out that particular clause and this body accepted that. A similar proposal is in the bill of the Senator from Kennebec, Senator Bustin, and she as well, put in the same amendment on her bill from the Audit Program Review Committee. I noticed that now the bill comes back to us in its original form, which tells me that it was a deliberate ploy, and I'm sorry to have to say this, to force the demise of the Bill in another manner. To say that I'm disillusioned, frankly is an understatement. I will not move indefinite postponement but Mr. President would the motion to adhere be in order?

THE PRESIDENT: The Chair would answer in the affirmative.

On motion by Senator **BERUBE** of Androscoggin, the Senate **ADHERED**.

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act to Further Enhance and Protect Maine's Great Ponds"

S.P. 922 L.D. 2369
(C "A" S-719)

In Senate, March 28, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-719) in NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-719) AS AMENDED BY HOUSE AMENDMENT "B" (H-1313) thereto, in NON-CONCURRENCE**.

Tabled by the Chair, pending **RULING OF THE CHAIR**.

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **STATE & LOCAL GOVERNMENT** Bill "An Act to Reform the State Budget Process and Management of State Finances and Fiscal Policy" (Emergency)

H.P. 1299 L.D. 1879

Senator **COLLINS** of Aroostook was granted unanimous consent to address the Senate on the Record.

Senator **COLLINS**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to speak in reference to L.D. 1879. As a part of the committee of conference I served as a member and I did not vote for the report. The report essentially abolishes the bill, which as you may recall, was the investment tax credit bill. The Bill created tax credits for investment and for creation of jobs and job training. It substitutes a study, a study that will occur later in the year and maybe be enacted in time to be effective the following year. I think the thrust of the Bill will eventually pass but I regret it won't pass now. It removes the timeliness of the whole proposition to create investment tax credits, for investment and jobs. Thank you Mr. President.

ENACTORS

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

An Act to Establish a Professional Standards Board for Maine Teachers

H.P. 1316 L.D. 1902
(H "A" H-1289; S "A" S-687 to C "A" H-1223)

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-1223) As Amended by Senate Amendment "A" (S-687) and House Amendment "A" (H-1289) thereto, in concurrence.

On further motion by same Senator, Senate Amendment "B" (S-747) to Committee Amendment "A" (H-1223) **READ** and **ADOPTED**.

Committee Amendment "A" (H-1223) As Amended by Senate Amendments "A" (S-687) and "B" (S-749) and House Amendment "A" (H-1289) thereto, **ADOPTED** in **NON-CONCURRENCE**.

On motion by Senator **BRAWN** of Knox, 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 **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED** 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**, **BOST**, **BRANNIGAN**, **BUSTIN**, **CLARK**, **CLEVELAND**, **CONLEY**, **DUTREMBLE**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **KANY**, **MATTHEWS**, **MCCORMICK**, **MILLS**, **PEARSON**, **TITCOMB**, **TWITCHELL**, **VOSE**, **THE PRESIDENT - CHARLES P. PRAY**

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

ABSENT: Senators None

Senator **DUTREMBLE** of York requested and received Leave of the Senate to change his vote from **NAY** to **YEA**.

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, with No Senators being absent, the Bill was **PASSED TO BE ENGROSSED**, As Amended in **NON-CONCURRENCE**.

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

Emergency

An Act to Maintain the Functioning of the Uniform Commercial Code and Corporate Sections of the Department of the Secretary of State

H.P. 1531 L.D. 2160
(C "A" H-1310)

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.

Emergency

An Act to Create Jobs, Promote Economic Growth and Provide Business Assistance

H.P. 1773 L.D. 2455

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-740) **READ** and **ADOPTED**.

Which was **PASSED TO BE ENGROSSED**, As Amended 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:

COMMITTEE REPORTS

Senate

Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Establish Economic Recovery Tax Credits" (Emergency)

S.P. 960 L.D. 2430
(C "A" S-713)

Have had the same under consideration and ask leave to report that the Senate **Recede from Passage to be Engrossed as Amended** by Committee Amendment "A" (S-713) and **Concur with Passage to be Engrossed as Amended** by House Amendment "A" (H-1299). That the House **Read** and **Accept** the report.

Signed on the part of the Senate:

Senator **MILLS** of Oxford
Senator **TWITCHELL** of Oxford

Signed on the part of the House:

Representative **CASHMAN** of Old Town
Representative **DORE** of Auburn

Representative **MORRISON** of Bangor

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

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

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

Senate

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Amend the Laws Concerning the Maine Court Facilities Authority"

S.P. 831 L.D. 2135

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-744).

Signed:

Senators:

BRANNIGAN of Cumberland
PEARSON of Penobscot

Representatives:

MICHAUD of East Millinocket
MACBRIDE of Presque Isle
PARADIS of Frenchville
CARROLL of Gray
CHONKO of Topsham
HICHBORN of Howland
RYDELL of Brunswick
POULIOT of Lewiston

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

Signed:

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth
REED of Falmouth

Which Reports were **READ**.

Senator **BRANNIGAN** of Cumberland moved that the Senate **ACCEPT** the Majority **OUCHT TO PASS AS AMENDED** Report.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to tell you the reason I did not vote for this piece of Legislation. I oppose extending our debit limit. The limitation on the securities that may be issued by the Maine court facilities authority right now is \$15,000,000 and that limit has been reached. This increases the limit to \$25,000,000 and right now the present budget does not even make the debt service payment that is owed by the judiciary and we will face that in a supplemental by those that will be elected next year. I think it's a wonderful idea but I cannot be on record of increasing limitations at this period in our crisis.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It's not often I get up to rise to defend an Appropriation Committee majority report but this happens to be an issue that is particularly important to York County. The bonds have to be raised, the limit of the cap has to be raised, so that the court system in York County can start preparing a plan of what is a very disastrous situation over there. This does not raise any money, it doesn't send any money out to bond at all, it just allows us to go out and plan. We would have to come back to Legislature to approve any monies, this is not something we're approving right now, if you remember my position on the highway budget. My position is not so distant from what the good Senator from Hancock, Senator Foster's is. I even reiterate what I told somebody downstairs while we were working on this Bill, I would not be opposed to even sending this to referendum when the time comes. I'm not opposed to that at all. I think people should have the opportunity to vote whenever the state borrows

money but what this does is raises the cap to allow us to go out and at least plan for what we're going to do in the future. I had the opportunity to meet with one of the Justices of the Supreme Law Court, I met with Judge Collins and he explained to me how important it was for this Bill to proceed through this legislature and I told him I would pursue that until we were able to pass it. I would hope that you could support this at this time. It does not commit this state to any money. We have to come back to this legislature and get it approved. Thank you.

On motion by Senator **BRANNIGAN** of Cumberland, the Majority **OUCHT TO PASS AS AMENDED** Report **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-744) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act Concerning Fuel Oil and Coal Used in Manufacturing Processes"

H.P. 1755 L.D. 2441

Committee on **TAXATION** suggested and **ORDERED PRINTED**.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

There was objection to suspending the Rules for the purpose of giving the Bill its First Reading, without reference to a Committee.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **REFERENCE**.

Joint Resolution

The Following Joint Resolution: H.P. 1774

JOINT RESOLUTION COMMEMORATING THE 150TH ANNIVERSARY OF THE WEBSTER-ASHBURTON TREATY OF AROOSTOOK COUNTY

WHEREAS, the precise boundary line between Maine and New Brunswick remained a matter of often heated argument for years after the close of the Revolutionary War; and

WHEREAS, the dispute festered and smoldered until 1839, when it threatened to erupt into open warfare; and

WHEREAS, nearly 50,000 troops were readied for action and dispatched to the scene; and

WHEREAS, a temporary agreement between the 2 parties was worked out before the so-called "War of the Aroostook" reached the point of bloodshed; and

WHEREAS, the Webster-Ashburton Treaty, hammered out in 1842 by United States Secretary of State Daniel Webster and English special minister Lord Ashburton, finally settled the question of where Maine's northeast boundary lay; now, therefore be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the Second Regular Session, take this occasion to recognize the 150th Anniversary of the Webster-Ashburton Treaty of Aroostook; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the officials of Aroostook County and the Maine Historic Commission.

Comes from the House **READ** and **ADOPTED**.
Which was **READ** and **ADOPTED**, 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 Restructure State Government" (Emergency)

S.P. 929 L.D. 2384
(H "A" H-1297; S "C" S-704; S "H" S-723 to C "A" S-680)

In Senate, March 27, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-680) AS AMENDED BY SENATE AMENDMENTS "F" (S-715); "C" (S-704); "H" (S-723) AND "G" (S-722) thereto.**

In House, March 27, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-680) AS AMENDED BY HOUSE AMENDMENT "A" (H-1297) AND SENATE AMENDMENTS "C" (S-704); "H" (S-723) thereto, in NON-CONCURRENCE.**

In Senate, March 27, 1992, **RECEDED and CONCURRED.**
Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-680) AS AMENDED BY HOUSE AMENDMENT "A" (H-1297) AND SENATE AMENDMENTS "C" (S-704); "H" (S-723) thereto, and HOUSE AMENDMENT "A" (H-1317), in NON-CONCURRENCE.**

The Senate **RECEDED and CONCURRED.**

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide for a Limit on State Spending and the Creation of Reserves
H.P. 1661 L.D. 2338

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

Signed:

Senators:

BRANNIGAN of Cumberland
PEARSON of Penobscot

Representatives:

PARADIS of Frenchville
CARROLL of Gray
RYDELL of Brunswick
POULIOT of Lewiston
MICHAUD of East Millinocket
HICHBORN of Howland
CHONKO of Topsham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1316).**

Signed:

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth
MACBRIDE of Presque Isle
REED of Falmouth

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

Which Reports were **READ.**

Senator **BRANNIGAN** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This resolution is one of the measures submitted by the Special Commission on Governmental Restructuring. The resolution proposes to amend the Constitution of Maine to impose a limit on state spending and create a reserve fund. I think it is a fine idea and I would urge you to join me in voting for that.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We have an article in the Constitution that limits our ability to spend, that's why we've been negotiating and dealing with problems for the last week. We also have a measure that deals with rainy day funds. It's just a redundancy, that's all it is. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor 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 14 Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

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

ENACTORS

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

Emergency

An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act

H.P. 1748 L.D. 2436
(S "A" S-737 to H "A" H-1255; H "B" H-1266)

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.

ORDERS OF THE DAY

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

An Act Relating to Legislative Confirmation Hearings

S.P. 894 L.D. 2299
(S "B" S-718)

Tabled - March 29, 1992, by Senator **CAHILL** of Sagadahoc.

Pending - **ENACTMENT**

(In Senate, March 27, 1992, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 28, 1992, **PASSED TO BE ENACTED**.)

In accordance with Article 5, Part 1, Section 8 of the Constitution this requires the affirmative vote of two-thirds of the members present and voting. 33 Senators having voted in the affirmative and No Senators having voted in the negative, and 33 being more than two-thirds of the members 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.

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

An Act to Strengthen the Campaign Finance Reporting Laws

H.P. 1679 L.D. 2356

(S "E" S-717 to C "A"

H-1131; H "A" H-1141)

Tabled - March 29, 1992, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (H-1131) As Amended by Senate Amendment "E" (S-717) thereto

(In Senate, March 29, 1992, Under suspension of the Rules, **RECONSIDERED ADOPTION** of Committee Amendment "A" (H-1131) As Amended by Senate Amendment "E" (S-717) thereto, in concurrence.)

(In House, March 28, 1992, **PASSED TO BE ENACTED**.)

Committee Amendment "A" (H-1131) As Amended by Senate Amendment "E" (S-717) thereto, **ADOPTED**, in concurrence.

Which was **PASSED TO BE ENGROSSED**, As Amended, in concurrence.

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

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

Bill "An Act to Further Enhance and Protect Maine's Great Ponds"

S.P. 922 L.D. 2369

(C "A" S-719)

Tabled - March 29, 1992, by the Chair.

Pending - **RULING OF THE CHAIR**

(In Senate, March 28, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-719) in **NON-CONCURRENCE**.)

(In House, March 28, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-719) **AS AMENDED BY HOUSE AMENDMENT "B"** (H-1313) thereto, in **NON-CONCURRENCE**.)

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

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

On motion by Senator **CLARK** of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Amend the Law Regarding the Responsibilities of Code Enforcement Officers to Approve Plans or Technical Submissions by Architects" (Emergency)

S.P. 798 L.D. 1997

Tabled - March 17, 1992, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (S-601)

(In Senate, March 10, 1992, Committee Amendment "A" (S-601) **READ**.)

On motion by Senator **CLARK** of Cumberland, Senate Amendment "A" (S-729) to Committee Amendment "A" (S-601) **READ**.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill has been sitting on the table, the unassigned table for too long now and I would express, publicly and on the record, my appreciation to the committee on Business Legislation for their extended courtesy. Frankly, I was asked to present an amendment to the Bill and it got lost on my desk. Then when we finally developed the amendment we had four or five days getting it together so that the members of the Committee on Business Legislation and I and the calendar and the timing of our sessions, would come together, and here we are this Sunday afternoon. Essentially, Senate Amendment A would remove from the committee amendment the pre-engineered, manufactured structures from the list of exemptions in the architects and landscape architects law.

I offer this amendment because not only do I understand that the Bill, unamended, would allow a manufactured structure engineered by a non-Maine licensed professional engineer to be acceptable in Maine but I was asked by a host of constituents in Senate District 26, and outside of Senate District 26 to present this amendment on behalf of the profession. Not only the profession of architecture but the profession of engineers. The Bill as presented with committee amendment A does not address the engineer qualifications nor does it address, from the perspective of Senate Amendment A, adequately the diverse circumstances under which a pre-engineered structure may be used. Pre-engineered structures include a host of things, and these structures are designed or engineered many times in other states and would not receive appropriate scrutiny from those design professionals in those states. They wouldn't appropriate results by those professionals licensed in the State of Maine to insure that the structures address the particularities of Maine's various safety codes and environmental conditions. More precisely, among those environmental conditions is the weight of snow on the roofs of pre-engineered buildings. A case in point of course is the now infamous case of the North Yarmouth Academy ice hockey rink, which on one fine cold winter day was full to busting with youth hockey league and hockey teams in practice and not an hour after the building had been vacated

during a particularly heavy snowstorm, that same day, the entire structure collapsed and had to be totally replaced. It was a pre-engineered building imported from outside the state.

Essentially, LD 1997, as amended by the Committee, would open up the design and construction of a wide range of building types to vendors and buildings from all over the country. As I mentioned, the term "pre-engineered" implies that the person designing the structure is appropriately licensed by some jurisdiction. The designer could be, in fact, a draftsman, a person who is not a licensed engineer, or have any professional qualifications for that matter and particularly not a licensed architect. There would be no assurance that the structure would meet Maine's safety codes or that it is designed, again as I mentioned, for our climatic conditions. These pre-engineered structures in Senate Amendment A would be exempted if they were not for human habitation. The amendment removes the exemption for pre-engineered manufactured housing and assures Maine's people and the public that we serve, be adequately protected against potentially improperly designed structures and meets the standards of Maine that other structures are required to meet. That is essentially the message that is delivered in Senate amendment A and I submit it most respectfully for your consideration. Thank you Mr. President.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I urge you to oppose this amendment. If this amendment were to pass, a person could be sued for the practice of architecture if they erected a "jiffy lube" type structure. This Bill as worked by the Committee on Business Legislation sought to correct a problem that happened last year. This Bill is rather hard to understand because it applies to the statute. The amendment before you wishes to remove Section "H". It says that pre-engineered buildings will now be subject to, that people can be sued for the practice of architecture if they erect a pre-engineered building and I quote from the statute, "this is amending Title 32, Section 226, subparagraph 2, Technical Submissions construction or development nothing in this chapter may be construed to prevent any person from preparing technical submissions" that means plans, "or administering construction contracts in the erection, construction, or development of" and then you put in here pre-engineered manufactured buildings. This language does not remove these buildings from any public health and safety laws, rules or regulations as defined by the buildings use nor does it relieve anyone who is required by law to contract with an architect from doing so. If I might address myself for a minute to the example that the good Senator from Cumberland, Senator Clark, gave about the unfortunate mishap at the North Yarmouth Academy. That does not fall under this exemption because that building was a habitable structure. If you read your committee amendment, was a building that has as its principle purpose human occupation, occupancy or habitation and that kind of building does require an architect's stamp and does not fall under this exemption of pre-engineered buildings. We're talking about pre-engineered buildings that are basically barns inside that an engineer can figure out the

stresses and snow loads on that do not have to have floor plans that are not schools. This has nothing to do, I state again, with nor does it exempt or remove any pre-engineered building from having to abide by public health and safety laws, by fire marshal review, by regulations defined by that buildings use. I would urge you to vote against this amendment. Thank you.

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

Senator **BALDACC:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would request a division on the motion and speak very briefly in that I appreciate the concerns that the good Senator from Cumberland, Senator Clark, has in representing her district and the people from her district but at the same time I have to stand up for the committee process in this regard and say that I don't think this would be a good amendment for the Bill at this time. Thank you Mr. President.

Senator **BALDACC:** of Penobscot 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. I am under no delusions as to the ultimate disposition of this amendment for I understand that it has been the topic of some discussion, however limited, and considerable scrutiny. And suffice it to say that while I, in my capacity as a State Senator from Senate District 26, am attempting to represent the professionals in my district, that I am articulating the position of the Architectural Association, the Maine Chapter of the American Institute of Architects, who contend that we should continue to respect the laws that regulate the licensure of architecture, which have been in force for now over 50 years. They contend that not only has enforcement been lax but it has been lax to the extent that non-licensed people have been allowed to do architectural work. We all recognize that we've received some calls from our constituents, relative to a law that we passed last June. And that has posed some difficulties for our municipal Code Enforcement Officers. My intent is not in any way to derail the ultimate passage of this Bill, LD 1997, but to place some scrutiny on what is the contention of a number of engineers as well as the Maine Chapter of AIA.

The Maine AIA and consulting engineers in Maine did sponsor the Architects and Engineers task force which drafted the proposed amendments that they could support. And their contention unfortunately, which is the result of the amendment which I present to you, they feel has been largely, well perhaps ignored is too strong a word, but I'm not able to think of another word at this moment, by the committee. The enforcement provision in the June 1991 Architect Statute, that was LD 1738, as amended by the suggestions of the Architects and Engineer task force, is supported by the Executive Committee of the Maine Buildings Officials and Inspectors Association and there was no organized opposition that existed to justify taking out, what they considered, to be the heart of their licensure statute.

When we withdrew, or allowed leave to withdraw on LD 2287, during the third session of the committee on Business Legislation's hearings and their extended work sessions, they had believed that the committee would focus on the enforcement provision and they

contend that, frankly, because of the crunch and the pressure of this session that the enforcement provision was never given the scrutiny that it merited and that the State Fire Marshall's Office among others, did not have a chance to express in testimony their concerns regarding the implications of the exemption for pre-engineered buildings. The new enforcement procedures, they contend, have been working since June and recently the building of a Bangor area motel, for example, were required to redesign their building to correct serious code deficiencies which would have gone on through construction, compliance in general, they believe, as a result of the enforcement that we passed last June, has been steadily improving. They further contend that deficiencies in design and construction should occur before the building is completed, thus a more efficient and less costly application of construction funds and dislocation of plans for the people who own those buildings. Lastly, they submit formally, that the citizens in our State should not be placed in the position of potential human catastrophe due to lack of supervision of the building industry. The method of enforcement as proposed by their task force, this is the combined architects and engineers task force, they contend it should not be returned to what they deem, professionally, as unacceptable or pre-1991. I thank you for your kind attention. Thank you Mr. President.

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

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. Just so that you realize that we're not breaking down the codes and the building standards and all those things that people have to do, I want you to be aware that this group were the ones that first came to the committee a year ago and suggested that we have licensing for landscape architects and that they go through a certification, educational process and we had many people showing up in cut off jeans and tee shirts with their lawnmower's outside wanting to know if the State was now going to regulate them. I appreciate the board and the association's concern, but I do believe that the committee acted, as far as developing public policy, and we have a situation and a problem with the Code Enforcement Officers in the communities and we're trying to correct it. I hope that you would oppose the amendment. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is motion of Senator CLARK of Cumberland, to **ADOPT** Senate Amendment "A" (S-729) to Committee Amendment "A" (S-601).

A Division has been requested.

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

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

4 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion of Senator CLARK of Cumberland, to **ADOPT** Senate Amendment "A" (S-729) to Committee Amendment "A" (S-601), **FAILED**.

Committee Amendment "A" (S-601) **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

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

Senate at Ease
Senate called to order by the President.

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs"

H.P. 1749 L.D. 2438

Tabled - March 26, 1992, by Senator CLARK of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence (Committee on **AUDIT & PROGRAM REVIEW** suggested and **ORDERED PRINTED**.)

(In Senate, March 24, 1992, **READ A SECOND TIME**.)

(In House, March 23, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

On motion by Senator BUSTIN of Kennebec, Senate Amendment "B" (S-743) **READ** and **ADOPTED**.

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

On motion by Senator CONLEY of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Kennebec, Senator Bustin and I have, without barrier, our two separate committees have been working on the DEEP issue once again. You will also see on the calendar that's tabled and unassigned, a competing measure whereby my committee and a majority of my committee, and I've been joined by the two senators who serve on the Human Resources Committee have an alternative proposal for what we hope would improve DEEP. What we have found in our hearings and what I have found in working with Senator Bustin on this issue that to improve the effectiveness of DEEP which is what the title of her Bill is to do and her committee's bill is to do, I think is impossible. I just do not believe that given the people who are working at that particular organization or agency right now that we can improve what is going on with this agency.

I've related to the members of my caucus and I feel it is important to relate on the record here in public what has transpired at that agency since the last emergency budget in December of 1991. At that time a measure was passed which put into place a program which required first time OUI offenders to attend a weekend program. This program had already been in place for second offenders. As part of the budget first time offenders, many first time offenders, were required to go to this program. What was acknowledged during our committee hearings and what Senator Bustin from Kennebec and I came to find out is in fact that program which was put into place for first offenders was not put into place for policy reasons. It was put into place to raise money for the general fund. In fact, \$500,000 goes right to the general fund and never goes to the DEEP program, or to the weekend program for the benefit of those people who seek out treatment. They are seeking treatment, they're required to. They go to get treatment and that money goes right into the general fund. Had nothing to do with whether this program,

this weekend program would be good for first time offenders. In any case, that is what we were hit with. It made the papers some time in January that the DEEP program as we knew it, and I had never received any complaints about the educational portion of the DEEP program, was now totally changed and people who at one time had to pay \$105.00 were now going to have to pay \$415.00. It made absolutely no sense, was not related at all to treatment or to policy.

I put in a Bill immediately upon discovering this since Human Resources is the committee of jurisdiction on this issue. We've had about as much success on straightening out that program as Jesse James' mother had in straightening him out. Every single time a change has been made in the law they take that and come out with something which upsets many of our constituents. I know that this is one program which people in here have had complaints about. Senator Bustin's committee, in this report, which is before the body right now has decided that what they would do is take this program as it was passed at the end of last year and adopt it and say yes this weekend program is good. We're going to use this weekend program then and we're going to keep it and what we're going to also do is hire a couple more people to work down at DEEP to run this program so we know if we run this program like we're proposing to in this Bill which is the Audit and Program Review Committee's Bill, they'll take in 750 additional more people, people who've been convicted of OUI, to attend the weekend program. Thereby it raises the necessary fees to hire more people to work at DEEP. I just do not trust this agency. I believe that they have certified themselves over and over again to be incompetent. To give them these types of tools as would be presented in this law would be to, I believe, make them even more dangerous than they have been for our people in this State.

For those reasons, particularly for the reasons that they will be raising monies and creating new positions and because I adamantly disagree with this program being set up and the way it's going to be set up and would, at a later time when offering my own Bill, talk about a competing measure, I would ask that the body not go along with this report. For the record, and I know Senator Bustin worked hard to straighten out this particular problem, it should be noted that even since December, in the Bill that was passed in December, the budget Bill, requiring these people to go to this weekend program they have had to and will be cancelling three programs between now and June 30. Now that may not seem like much, but what it means is that people you want to have pay \$415.00 to go to a weekend program to get their license back after they've already done two days in jail, can't even go to the program because it's not being offered because of financial problems they've had down in that operation. That is wrong, I don't care what somebody has done, but if you're going to require them to take a program you have to offer it. It has to be available. Things are a mess down there. Probably the best and safest thing we could do is abolish DEEP. If we can't do that, at the very least we should not change it in the fashion that the Audit and Program Review Committee wants to do. They should have a program in place before December. For all those reasons I would hope you will vote against this bill. Thank you.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. On your desk there should be an explanation of what we're doing with the OUI legislation and the different solutions. That's a way to get yourself straightened out other than what you hear from the good Senator from Cumberland, Senator Conley, and myself. I'm sorry that I'm going to have to take some of your time but there is a lot of history behind this.

The allegation has been made that DEEP is in deep trouble, that it is a fiscal mess and that it can't be straightened out and the best thing we can do is probably eliminate the whole program and go back to zero. Well the problem, if you go back to zero is, it would probably create a hole in the budget. It would in fact because of the fees that you collect create that hole, so you can't do away with the program. You have to resolve it in some way. Senator Conley's way is to go back to the original DEEP program which, in fact, didn't work. We got so many calls and it doesn't work for exactly the same reason that Senator Conley says it doesn't work. People who try to fulfill their requirement and don't pass the objective test of saying you don't need additional counseling have to go on to additional counseling and then you get calls from your constituents saying they're holding me hostage on my license because I keep having to do counseling. In fact, that's what the Bill I presented to you does. It helps to alleviate that problem and it also helps, in a very real sense, to keep the program going.

What happened in the December budget because of the requirement that the agencies cut their budgets, was that they raised the fee for the programs and said that there would no longer be a first offender program. They would just collect the fee for the evaluation test, slap you on the hand and let you go on your way. Besides that they raised the fee above what it would cost to run the program for the second offenders and the aggravated first offenders. They took that money, to the tune of \$300,000.00 in '92 and \$500,000.00 in '93 and put it into the general fund, which flowed back into the office of Substance Abuse to pay for treatment programs or running the Office of Substance Abuse or whatever it was. At that time I protested vehemently about doing such a move. I agree wholeheartedly with Senator Conley, you do not raise fees to pay for other programs. If you get into trouble with alcohol while you're driving, you're required by law to meet certain obligations and those obligations require a fee to meet them. You should not raise money to pay for something else and not deliver the service for that. I am absolutely in concert with Senator Conley on this. What we did was, in fact, take \$108.00 out of that raised fee to pay for whatever was needed over in OSA. That meant that we had to reduce the number of people delivering the service. That's why it's in such chaos. We found out that because of whatever is going on there that there is a number of reasons why we had to cancel the three programs. They were told by OSA, you have to cancel.

This bill restores two positions. It restores the counselor position so you can run the program. A Bill you just passed a couple of days ago restored some money to be able to run those three programs that are cancelled and it puts the first offender program into the whip program. It gives a measurement tool of the assessment test to determine which ones have to go to Whip and then onto

counseling and which ones only go to Whip and cannot be mandated to go onto counselling. That's the good part of this Bill. If this Bill does not pass and Senator Conley's Bill does pass then what you will be looking at is an extinction of the DEEP program. If that happens then somebody better be prepared with amendments or a new Bill to correct the OUI laws because we won't have any. You will have about 1200 people in August that won't have their licenses because they cannot fulfill DEEP because there won't be a program to fulfill it with. There you have it, I hope you support the amendment. Thank you.

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

Senator GILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. Excuse me if I sound like Senator Carpenter instead of Senator Gill today but I would urge you all to go along with the good Senator from Cumberland, Senator Conley, on this issue. I can't express strongly enough the frustration that we found working in our committee with this program. Every time we tried to obtain answers we were given incorrect information. It's a group of people that are running the program that really need guidance and assistance to run this program. I think the good Senator from Kennebec, Senator Bustin, has worked and tried to provide an opportunity for a better program here but it just hasn't worked out in this Bill as far as I'm concerned. I know how much work her committee has put into this area.

Ever since I've been on Human Services, it seems that we have had legislation come forth trying to deal with upgrading DEEP through the many years and we're still in a position where the program is not successful. We, in fact, are being forced to put additional monies in to create those three additional programs. The good Senator from Cumberland, Senator Conley is absolutely right, it's unfair for people who were convicted and mandated to go to a program to have no program to go to and I'm not sure whether it's malfeasance or just inappropriate shifting of funding here but there is a problem there and we have to correct that problem before we go any further and I would ask that you vote with him against this Bill going through. Thank you.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I kind of wish that the Senator on my left, the good Senator from Cumberland, Senator Gill's voice had continued to leave her but unfortunately it hasn't and so I am forced to get up again. I want to correct one thing she indicated that it was either malfeasance or a lack of money and it really is lack of money, it is not malfeasance. Let me correct the record on that, there couldn't be a better program, and I have attended that weekend program, believe me. Not because I was picked up for drunken driving but because I was interested to find out what the program was all about. That was two or three years ago and it was an excellent program. If you're going to convince anybody who has gotten into trouble with alcohol and drug abuse, you're going to convince them through that program. You're not going to convince them with a first offender program where they can go and watch movies. I've heard too many people in my district who have just laughed at me for that first offender program. The second offender makes you

think. It is an excellent program and they're running it despite the fact of lack of money.

The fact of the matter is, and in the Bill that I'm proposing to you, we've called for a special audit. The state auditor shall issue a separate special purpose audit report based on agreed upon procedures of the office of Substance Abuse and the Driver Education Evaluation Program including a review of the programs participation and federal maintenance of effort requirements for substance abuse programs. We're doing everything in this Bill, from what the Audit and Program Review Committee was able to find out, needed to be done. We need to have such a program, the people who are working there cannot, because of a budget crisis, be blamed for having people taken off that program. It never should have happened. Anybody who did that action was told what would happen and it did happen. We must correct it and this is the way that you correct it. I am not saying that in the final instance this is the end all and be all but it certainly is a chance for us to take a look at the program. That special audit is due back before the Appropriations and the Audit and Program Review Committee by July 1, 1992, a few short months from now. I don't know how much more responsible my committee can be. It's vitally important. We really need to understand that if we're going to have OUI laws, we need to be able to have the programs where people learn about why they got into trouble. New Jersey has done a lot of that, being able to present their programs. David Bragdon, who is the program Director for the National Commission on Drunk Driving, said "New Jersey's program also appears to work because it is well funded as frequent sobriety check points and extensive rehabilitation for drivers." Now ours is not even an alcohol rehabilitation program, but it points those drivers in the right direction if you will, and gets them started on the right road. I just can't tell you how important it is to do that. Another thing that I would like to read from a commentary by a Senator Harold E. Hughes. recovering people need to join the debate, "better prevention and treatment efforts should be the major attack on drunk driving in the United States, think of it, 20 million of us never use and never threaten anyone with drunk driving. In the next 5 years we can take another 20 million drinking drivers off our highways with adequate education and treatment opportunities. If any politician at any level wants to reduce health care costs, alcohol related traffic deaths, court costs, the high school drop out rate, unwanted pregnancies, the spread of AIDS, crime, the danger of street drugs, domestic violence, sexual violence, and more then they should insist on improved public prevention and treatment programs. Those opportunities would improve the economy, increase jobs and productivity and make our nation a much safer and enjoyable place to live." We cannot look at this just circumspectly, we have to look at it in, pardon my pun, a very deep manner. We have looked at it in depth and we will continue to look at it. This is a program where it allows us to have that program come back to us and continue fine tuning it and I urge your adoption. Thank you.

The Chair ordered a Division.

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 **PASSAGE TO BE ENGROSSED AS AMENDED**, in

NON-CONCURRENCE.

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED**, 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, KANY, MATTHEWS, MCCORMICK, MILLS, RICH, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, PEARSON, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER

ABSENT: Senators None

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, with No Senators being absent, **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**, **FAILED**.

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:

SENATE PAPERS

Resolve, to Transfer Certain State Lands to the Maine Veterans' Home

S.P. 973 L.D. 2459

Presented by Senator BALDACCI of Penobscot Cosponsored by Representative DUFFY of Bangor, Representative MORRISON of Bangor and Representative STEVENS of Bangor

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Committee on **ENERGY & NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

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

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to ask a question through the Chair. As a member of the Council, I do not recall voting on this matter. I would like to see a record of the vote. Thank you.

THE PRESIDENT: The Chair would advise the Senator that this Bill has been introduced by 8 positive votes. The Chair will provide a copy to the Senator. The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would just like to know what this Bill does. Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the possible transference of the land where a potential for a Maine Veteran's Home would be located. It is on State property and the State property would have to be transferred. It is next to Eastern Maine Technical College on the Hogan Road side. It is described in the Resolve. 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. As a member of the Aging Committee we had a debate here several weeks ago on an amendment I offered which would require that any home built would be located in either Washington/Hancock County or in Franklin/Oxford County. I remember that amendment was defeated. It is my belief the majority of veterans would prefer to have it located in one of those areas.

Senator WEBSTER of Franklin moved to REFER to the Committee on **ENERGY & NATURAL RESOURCES**.

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

Senator VOSE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like a Division on that motion because quite frankly I don't feel that the Energy & Natural Resources Committee is the proper place for this Bill. I think it should be referred to the State & Local Government Committee. Thank you.

Senator VOSE of Washington requested a Division.

Senator MCCORMICK of Kennebec moved to Table 1 Legislative Day, pending the motion by Senator WEBSTER of Franklin to REFER to the Committee on **ENERGY & NATURAL RESOURCES**.

Senator CLARK of Cumberland moved to Table Until Later In Today's Session, pending the motion by Senator WEBSTER of Franklin to REFER to the Committee on **ENERGY & NATURAL RESOURCES**.

Senator MCCORMICK of Kennebec requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator CLARK of Cumberland to Table Until Later In Today's Session, pending the motion by Senator WEBSTER of Franklin to REFER to the Committee on **ENERGY & NATURAL RESOURCES**.

A Division has been requested.

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

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

30 Senators having voted in the affirmative and 1 Senator having voted in the negative, the motion by Senator CLARK of Cumberland to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending the motion by Senator WEBSTER of Franklin to REFER to the Committee on **ENERGY & NATURAL RESOURCES**, **PREVAILED**.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of the Laws" (Emergency)

H.P. 1547 L.D. 2185

Tabled - March 28, 1992, by Senator CLARK of Cumberland.

Pending - Motion by Senator DUTREMBLE of York to **RECONSIDER** its action whereby the Bill **FAILED OF PASSAGE TO BE ENGROSSED**

(In Senate, March 26, 1992, **ADOPTION** of Committee Amendment "A" (H-1192) as Amended by House Amendments "L" (H-1216), "N" (H-1219), "Q" (H-1222), "T" (H-1228), "U" (H-1230), "FF" (H-1252), "OO" (H-1275), AND Senate Amendment "E" (S-708) thereto, **FAILED**. Subsequently, **RECONSIDERED**. Bill **SUBSTITUTED** for Committee Report. Subsequently, **FAILED OF PASSAGE TO BE ENGROSSED**.)

(In House, March 25, 1992, **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1192) AS AMENDED BY HOUSE AMENDMENTS "D" (H-1206), "L" (H-1216), "N" (H-1219), "Q" (H-1222), "T" (H-1228), "U" (H-1230), "FF" (H-1252), "OO" (H-1275), AND "PP" (H-1279) thereto FAILED**.)

On motion by Senator **DUTREMBLE** of York, the Senate **RECONSIDERED** its action whereby the Bill **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **SUBSTITUTED** for the Committee Report.

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "L" (S-748) to Committee Amendment "A" (S-1192) **READ**.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the amendment that you all have been briefed on. The amendment deals with \$20,000,000 that we have been working on. I ask for a division on this amendment.

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

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 Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like an explanation of what is in Senate Amendment "L" (S-748). I have not had a chance to read it entirely. I would appreciate if we could have some idea of what is in it. I understand that in caucus we have been told what is in it but I have not had a chance to read the words. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We did discuss this at length and I'm not sure I'll be able to discuss it in any more detail. The statement of fact has delineated in pen various statements. One deals with the \$2,000,000 that's been achieved by a closer examination of the abandoned property program. We changed the recommendation for a reduction in the work week of state employees from three hours to one. We have a reappropriation and appropriation dealing with some \$1.4 million that we had taken. We have changed cycle A and cycle B fiscal payment, moving those as we said before one week. In one case rolling them forward one day and eight in the other. Increments of one percent increase in Maine State Retirement System only for those who are new employees after this July 1. We continue the two and three percent salary adjustments downward for those who make over \$50,000.00. We are asking, or ordering really, the state, putting the state in the position of allowing this pre-tax count, something that's very advantageous for many employees in many companies and

will be for the State of Maine. We will have one closure day in 1992-93, either immediately following or before a holiday on agreement between the workers and the state. There will be just under one percent across the board reduction with several exemptions. In summary what this is what is in this proposal.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I urge you to vote against this amendment. As I understand it in the little time I've had to absorb it, this amendment will cut the pay of state employees by 10.4 percent. It will cut the pay of new state employees by 11.4 percent because there is a one percent, a tax on employee contributions to the Maine State Retirement System, although many things are exempted from that one percent across the board, and I am grateful to the committee for the consideration of higher education and social services and our poorer citizens for that, what is not exempted from that one percent across the board cut are already very delicately and thinly funded services to our elderly citizens, especially home base care for the elderly, purchased social services for the elderly and congregate meals which has already been cut to a very thin level, these services for the elderly have not been exempted from the one percent across the board cut. Further, I believe that in so far as this contains a repealing of the agreement reached by the administration and the unions on furlough days taking the place of the seven percent pay cut, in so far as that agreement is supposed to carry through FY 93, I believe that we will be in court if we pass this amendment. Further I believe that many parties agree that we will lose in court that this budget is balanced on a gimmick that is supposed to buy us time for as much time as it takes the representative of the state workers to put together a lawsuit to stick up for a contract that we, ourselves, signed. I believe this budget is balanced on a gimmick. For all those reasons and many more, I urge you to oppose Senate Amendment L. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First of all, and I wasn't clear with the Senator from Kennebec, Senator McCormick earlier in the day probably but the items that she has enumerated dealing with the elderly and poor have been exempted under payment provided. They have been taken out of the base amount. I want to assure her of that. That is not part of our reduction. We've done everything we can to preserve those both in the budget as we originally presented to you in this cross the board piece. I would like to make a strong, strong pitch for getting this job done. I've said this before and I still mean it, I believe the people of this state have sent us here. Even though they may not agree with many of the things we do, many of the things that are in the major pieces of legislation like this that we present, many will agree with some of the things, probably no one would agree with all of them, I don't and you don't. The fact is we're sent here to do a job, the job is to balance this budget and to do it in a way with respect and dignity. I believe that this is the best we can do under these very very difficult circumstances. I would urge you to join with me in doing this job and getting our work over with. Thank you.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I couldn't agree more with the good Senator from Cumberland, Senator Brannigan, about the need to get the job done and the need to get it done in a very circumspect manner. What we have been given as parameters are artificial parameters. We have been told that we can only move in a very, very, very narrow crevice in order to solve this problem when, in fact, there are many ways to solve this problem and because of those barriers, those artificial barriers, we are kept from even considering them. We cannot consider tax exemptions, we cannot consider raising taxes, we cannot consider video terminal display games, we cannot consider alcohol premium increases and we cannot consider cigarette tax increases. We cannot consider any of those things. All we can consider is either putting people out of work and putting them up on the public dole or asking them to work for no money and still deliver the services that people seem to want in this state. That's all we seem to be able to do. Those are artificial barriers that have been put before us, and they've been put before us, not by any of us but by the Chief Executive of this State because he promised a seven percent increase in salaries in a 3-year contract and now he wants us to pay for it through our budget process. That was an agreement that he made with his employees and I do not understand why we want to stand here and accept that.

Why we can't solve this budget crisis with the available monies that we can access through any number of things. I can tell you, I'm the one who put in the alcohol premium bill when I was a freshman legislator here. It raises, on 1% of pure alcohol, \$2.5 million each year. Five cents gets you there, or almost there, what is the problem here? I do not understand this type of reasoning. I do not understand why we want employees to work to deliver the services that we all acknowledge we want and ask them to receive less pay, work more hours and give up all kinds of things.

I got a letter from a person, who by the way is a non-union person, who says he's always wanted to do his job and he works for Soil and Water Conservation. They cut everybody out of his office but himself so he answers the phone, does the mail, does the outside work and he helps the constituents and whatever because he believes in his program and he believes in his work. He gave back the furlough days without any pay. He says in his communication to us "I'm no longer willing to do that, I'm willing to give a day's work for a day's pay but I'm no longer willing to do that." Now that's only reflective of what other people feel. Your employees that you have delivering the services that we fund out of this legislature have been working those furlough days, have been working those reduced work weeks and have not been charging you for it. That's real, and they've done it because they believe in what they're doing and they believe that people need those services that they give them. That is the real sad part of what's going on here.

I was given a book by my spouse and it was called Clear Thinking. I said to him, "you know sometimes my thinking gets muddled and I really think that I need something to clear that up" and he says, "I've got just the book for you." I've only just begun reading it and I wish I had had it before so that I

could maybe think clearer in this process. The first story or illustration that they give is about a construction job and it's about a robin that dropped into a crevice that was only 30 inches deep but none of the construction workers could figure out how to get that robin out and continue on with their work. They weren't willing to kill the robin, just leave it there, in order to finish their work. They thought of everything and could not get it out. A 10 year old boy came by and he said let me have a chance at it. He thought about it and thought about it and then he figured it out. What he did was keep putting a little amount of sand in that hole and as the sand went in the bird adjusted it's feet. As the sand built up, it built the bird up. He got the bird out. That's called clear thinking. I don't think we have clear thinking here now. I think what we're trying to do is have a construction job without even bothering with worrying about the robin i.e. the employees, in the crevice, and that is the tragedy and I wish you would vote against this amendment. Thank you.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the hard work of the good Senate Chair of the Appropriation's Committee, Senator Brannigan. There is no question in my mind, in probably all of our minds in this chamber, that Appropriation's is the toughest committee to serve on especially when times are as tight and as awful for many people as they are. We've been given a prescription which isn't quite as horrible as the one we had before but I guess my problem with voting for this budget today is that in my ten years of service in Augusta, eight years in this body and two in the other, I have always maintained, and always preached the importance of respect for collective bargaining. I have talked to striking workers, at the time, at IP, I have been to union meetings and rallies in my home town for paper workers when problems happened at Scott, I've also been a strong fighter for economic growth and development in the business community, and you can be both, you can do both, but I have always maintained that we have a process. This legislature follows a process, and we are a country of law, laws that are not just expediently thrown out the window when problems confront us.

What I'm being asked to do as I see it tonight, is to step over that line just a little bit and step on collective bargaining. It's not a big giant leap but it's a crossover over that line. I can't do it, and I won't do it. I respect Senator Pearson and Senator Brannigan, Senator Foster and the Appropriation's Committee, but sometimes we have to make tough choices. That's why we're here. I wish I could vote for a budget as the good Senator from Cumberland, Senator Brannigan mentioned. I believe we have that responsibility and I agree with that. I cannot do something that I believe in my heart, and in my soul, is wrong. And I will not vote for this budget. Thank you.

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

Senator **MILLS:** Mr. President may I ask a parliamentary question. What is the motion before us?

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **ADOPT** Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192).

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The reason that I asked that is it seems like a lot of people are talking about voting for the budget. I guess I don't want to get on to that subject too much whether you want to vote for it or not. It seems to me the question before us now is acceptance of this amendment or not. As our previous speaker just mentioned and others, they feel this may be better than the budget and I don't understand why then, people would not be voting at least for this motion. Then if they want to vote against the budget, fine. If they feel this is a better amendment than the original package, I don't understand why they wouldn't at least vote for the amendment to get us to that stage. Thank you Mr. President. I appreciate the time.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In answer to that specific question, it is for me and I expect some of the other speakers who spoke before me, it has to do with your collective bargaining law. Not your collective bargaining contract, your collective bargaining law. This amendment does not verify what you say in your collective bargaining law. If what you want to do is do away with collective bargaining then do that. Put a Bill on the table, have it discussed, talk about collective bargaining. Don't talk about it in a budget document.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **ADOPT** Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192).

A vote of Yes will be in favor of the motion to **ADOPT** Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192).

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 **BERUBE, BOST, BRANNIGAN, BRAWN, CAHILL, CLARK, CLEVELAND, COLLINS, DUTREMBLE, EMERSON, FOSTER, GAUVREAU, GILL, HOLLOWAY, KANY, MILLS, PEARSON, RICH, THE PRESIDENT - CHARLES P. PRAY**

NAYS: Senators **BALDACCI, BUSTIN, CARPENTER, CONLEY, ESTES, ESTY, GOULD, LUDWIG, MATTHEWS, MCCORMICK, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER**

ABSENT: Senators None

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, with No Senators being absent, the motion by Senator **BRANNIGAN** of Cumberland, to **ADOPT** Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192), **PREVAILED.**

On motion by Senator **ESTES** of York, Senate Amendment "K" (S-742) to Committee Amendment "A" (H-1192) **READ.**

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I offer Senate Amendment K and would like to explain very quickly

what this does. Senate Amendment K will establish a select commission on education finance. It will be an eight member commission, representing two people from the Legislature, some one from the State Board, and the Commissioner of Education. There will also be representation of superintendents and schoolboards, presentation from teachers, one each and two members at large who have expertise in education finance. I believe this is going to be one of the most critical studies that has to be done before the next legislature convenes in January.

We have essentially put our funding formula in suspended animation. I am convinced it will never, never be revived. To sit and do nothing until the next legislature convenes and to force this type of activity that this commission would be doing on the Joint Standing Committee on Education in the next legislature would be an impossible task that I am afraid would lead to a lot of fighting that we saw back in early January when we finished up our Special Session and made our decision on how we were to disperse the \$16,000,000 worth of cuts that had to be taken in this current year. The reason that the funding formula is in suspended animation is because it has been a spending funding formula and not a cutting funding formula.

Last year in total we reduced education funding by \$86,000,000 below the certified cost and began to untangle the funding formula as we have known it since 1985. This year the figure is \$95,000,000 below certified cost. It is broke and it can't be fixed and I think this is one of the most critical studies that has to be made between adjournment of this legislature and the convening of the next. I urge your support and I would request a division.

Senator **ESTES** of York requested a Division.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just wanted to say that I agree partially with the good Senator from York, Senator Estes, that this study is very necessary. At this point in time when we are giving up services and taking away money, it's already been taken away and I'm speaking for myself specifically from the geographic isolation that I cannot support this amendment and in the division I would hope you would vote against this amendment.

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to explain the funding. The funding does not unbalance the budget at all. In order to come up with the \$85,000 that this study will cost, I went and looked through all the line items of the education portion of the budget. I could have gone to any other department or agency and raided money there but I felt that it had to come from within. I've looked and looked over the last three days for an alternative: surplus revenues, which originally in December had been dedicated to revenue sharing and was then subsequently rededicated to a hardship fund by an amendment that I had put on a Bill in early January. That has been wiped out. That's gone. It's not there. There is no take there whatsoever. I even looked at the tax revenues that would be raised from taxing flea markets and that money has been taken to balance the budget. I think it's fair to go within education. One of these adjustments is geographic

isolation. It was originally budgeted at zero by the Governor in his proposal. A quarter of a million was put in and I'm asking for \$50,000 out of that line. On the other item on reimbursement to private schools, for text books and travel, that figure was originally zero in the Governor's budget. It was budgeted by the Appropriation's Committee at \$201,000.00 and I've asked for only \$35,000 out of that account. Those accounts are not wiped out. They have better than 75% of what they were originally budgeted. I think this amendment is for a Commission to come back with a new formula and recommended funding levels for FY 94/95. It is a very important task that needs to be accomplished. Thank you.

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

Senator MCCORMICK: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to support this amendment and I do so as a high receiver. There was a little bit of discussion amongst some of us high receivers as to whether any look into the school funding formula is in our interest. I believe that it is so I guess I want to urge the high receivers here, the Senators who represent high receivers, to vote in favor of this amendment. I do not believe the school funding formula as is can withstand the pressure that is on it by the inequities that are built into this formula regarding the differential speed of growth from one part of the state to the other. I believe there's many interesting and productive ideas that are being floated about the Maine School Funding Formula and that this amendment on the part of Senator Estes, from York, merely seeks to involve the legislature in this discussion. I submit to you that to this date there is no formal vehicle for legislative involvement in this very, very important discussion. Thank you.

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

Senator BRANNIGAN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I move the indefinite postponement of this amendment. I do that regretfully as I did a day or two ago. I second the intent of this kind of study and certainly the knowledge and the prophecy behind it regarding the school funding formula but the funding that we have in education right now is a delicate balance with the formula with high receivers, low receivers, people who are in isolation, people who are in private schools, who are teetering on the edge of dumping their kids into public schools and I really feel, myself and I believe other members of Appropriations, would not support that. I hope that you will support my motion of indefinite postponement.

Senator BRANNIGAN of Cumberland moved that Senate Amendment "K" (S-742) to Committee Amendment "A" (H-1192) be **INDEFINITELY POSTPONED**.

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

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. First I would request a division on the motion to indefinitely postpone and I would urge that you vote against it. Second, I'm going to be very blunt, those two accounts, in my opinion, in this tough economic situation that we're facing for State Government, amounts to nothing more than pork barrel. The districts came in at a zero budget level and they were recommended by the

Education Committee at a zero level budget and they were put back in, I have no objection to them being in there. They are being funded at FY 92 levels and I don't think it's unreasonable for a cut to take place so that the study can be funded. Next year if you don't have a recommended new funding formula that has been well conceived, it is going to be a big black hole that this legislature is going to be facing. If you think that the feeding frenzy that we had when we tried decide whether we would go with the straight percentage cut or the feeding frenzy, excuse me the straight percentage cut or the 50/50 back in early January, you haven't seen anything yet. So I urge you to oppose this motion.

Senator ESTES of York requested a Division.

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

Senator PEARSON: Thank you Mr. President, Ladies and Gentlemen of the Senate. I do not consider the support of private schools, whether they're Catholic, Baptist, or getting the busses there to be a pork barrel in this state. I just simply don't. I think if they are not supported as much as we can, constitutionally that is, that we would have a massive unloading onto the public schools in this state and then you would see some problems.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "K" (S-742) to Committee Amendment "A" (H-1192).

A Division has been requested.

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

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

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "K" (S-742) to Committee Amendment "A" (H-1192), **PREVAILED**.

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "H" (S-720) to Committee Amendment "A" (H-1192) **READ**.

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

Senator BRANNIGAN: Thank you Mr. President. Ladies and Gentlemen of the Senate. A day or two ago I indefinitely postponed House Amendment "PP" (H-1279) which had several errors in it and needed to be corrected. Part of that, however, was a piece we had put in for the Bath Childrens' Home. This amendment restores that part of it. Thank you.

On further motion by same Senator, Senate Amendment "H" (S-720) to Committee Amendment "A" (H-1192) **ADOPTED**.

Committee Amendment "A" (H-1192) As Amended by House Amendments "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275) AND Senate Amendments "E" (S-708); "L" (S-748) "H" (S-720) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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 Chair recognizes the Senator From Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I just want to remind

the body that not only have we attached Committee Amendment L to the budget Bill but in this current document that you are looking at and looking to vote on you have a seven percent permanent rollback of the State employee raises. A permanent roll back of those wages. That means that from now until time immemorial you do not get back that seven percent, even though there is a side bar agreement existing that took care of the funding of that seven percent for FY 92 and 93, it was signed by both parties and it is a legal document. The seven percent was a part of a contract and we are rescinding that contract. There have been legal actions taken that have been won on that seven percent of violating the contract. The Attorney General, as I understand it, and I'm sure the good Senator from Cumberland, Senator Brannigan, can articulate this better than I can because I was not present, indicates that it is arguable whether or not there is a court case on that seven percent. The seven percent was a negotiated item and is now being taken away permanently by neither member of that negotiating team. It's something that you want to consider because what you're building into this budget document with that is other legal fees that will be required to fight that case. It doesn't seem that we are relying on anything but fluff and air to pass this budget. I think we ought to get real here, I think we ought to put forward a budget that we can all vote on and we can all agree on that will help us raise the revenues that we need to get us by these terrible fiscal times. Thank you.

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

Senator MCCORMICK: Thank you Mr. President. Ladies and Gentlemen of the Senate. Let's put a human face on this budget. Let's start at the top and work our way down. In part BBB on page 10, section BBB deals with the three percent cost of living salary adjustment for people making over \$50,000 a year. Let me just point out a little inequity that we create when we do this. A person making over \$50,000 who has gotten a three percent adjustment in the past year is now subject to lose it. This puts them, if they started at \$51,000, down at \$49,470, remember that number \$49,470.00. That actually puts them lower than a person who is making \$49,900.00 who, because they are under the magic number of 50,000 is not subject to the cut. That is the kind of inequity that drives employees crazy and creates ill will and believe me we don't need any more morale busters around here. Now let's go to the other end of the scale. If we pass this budget people in range 3 and 4 positions, which for instance is Highway Worker 2 and below, with 5 years experience, that have families of 4 will actually be put under the poverty line by this change that we are contemplating making. They will be put into poverty by the actions of those of us here tonight. Thereby, of course, causing an increased cost to the state.

My last human face I would like to put on this is a constituent of mine from Winthrop who is a single mother with 2 kids in college. This cut is going to force her to choose between continuing the process of first time owning a house or pulling one of her kids out of college. To the Senator from Cumberland, Senator Brannigan, who I respect greatly but who has told me that the seven percent salary reduction really doesn't matter because people never got it before, it does matter. For instance it matters very

much to this person because bank loans are given based on what a person makes on paper and also, we have been told, the cycling, the eight day push of the pay period isn't really a cost to state employees even though we are booking \$3.8 million, count it \$3.8 million. It's not really a cost to state employees because they're going to get it back, yeah in 1994 they're going to get it back. Meanwhile they don't have it. That's \$3.8 million spread over 13,000 employees that they don't have. Are we paying them interest on this loan that they're giving us? I don't believe we are. Maybe we should look up to see if this is in violation of some usury statutes. I just wish that you would consider the human face of what we're doing here, I don't believe it's fair, I think it's going to create even more ill will on the part of our employees who, believe me, have been trying to give more and above what they can and make up for the time lost by furlough days by working harder and longer. I have heard of them, sure you have all of you who have State Employees in your district that something snapped with this. You can mess with this and you can mess with that, but when you mess with compensation, when you mess with something that people have had to count on in making their monthly budgets then you have gone too far and the morale I think is going to come back and hit us. The lack of morale we cause by this action if we pass this budget will come back and hit us in the you know where. I really would urge you to vote against this budget at this time. There's got to be a better way. Thank you.

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

Senator FOSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. It's not our intention to put anyone making \$50,000 on the lines of poverty. I can't believe I heard that. It was not the intention of the Committee to lay off 1000 State Employees that would have put them in poverty. I want the record to reflect that will not happen to the good Senator from Kennebec, that when she stated anyone making \$50,000 by this action would be put in poverty. Thank you.

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

Senator MCCORMICK: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would just like to make clear to the Senator from Hancock, Senator Foster, that this is not at all what I said. Had she been listening, I was talking about the inequity of personnel policies created by our policies in section triple B and I was talking about range three and four employees making \$13,000 and \$14,000, they who have families of four would be put below the poverty lines by these action that we take here today. I think it's important for people to note that not every state employee makes \$50,000, far from it, many people make \$13,000. Thank you.

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

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. These are indeed trying times and I'm sure nobody finds much joy in some of the things that we have to do. It's interesting, however, to note there are sectors of Maine's economy, other than State Government, that are suffering a greater blow than those that are working for it. In Northern Maine, where I come from, Loring Air Force Base is shortly to be closed

down, and some eight to ten thousand people will lose their jobs. There will be no debate about it. There will be no advocates to spread the word on the drastic measures that may accompany this. It will be a fate accompli. In the private sector there are paper mills that are laying off people every day. I read the other day of a layoff at Scott paper, layoffs at Millinocket and at Madawaska, by Fraser Paper Company. These are difficult times, but this body is charged with trying to make some semblance of accommodation here there and to do the best it can to produce by law a balanced budget. It has indeed been painful and I'm sure particularly to those people to who are unfortunate enough to serve on the Committee on Appropriation's and Financial Affairs. I admire them for their tenacity and for the things that they are attempting to do in the face of considerable difficulties.

Having said that, I'd like to say one other thing, that there are those who have mentioned during the course of debate the other proposition which is, increasing revenues. Just last July this body, in order to help a difficult situation in the budget at that time, added taxes to the tune of \$300,000,000 for the biennium. We increased personal income tax, we increased corporate income tax, we increased sales tax, all of the broad based taxes that Maine has. We even added a snack tax. When I hear people suggest that we should do more in the way of enhancing revenues through increased taxation or by changing our laws relating to tax exemptions, in either case those create an additional tax. I don't think the people of Maine want nor can they afford additional taxation. I'm hopeful that the pain of this recession will end soon. I think it's important that we do the things we need to do to encourage an end to the recession, I think it's important to have a budget for the State Of Maine. I'd hope that we would have one tonight or tomorrow at the latest. Every day that we continue here increases the cost of State Government. In fact, I suppose if we stayed here long enough, there would have to be a budget amendment that would reflect that increased cost. It seems to me we are at the point tonight where we ought to act affirmatively and responsibly on the budget proposal that is before us. 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. As you may have noted earlier in the evening, I cast a vote in support of Senate Amendment L which represents the position of the Appropriation's and Financial Affairs Committee on the most recent compromise offering to the Legislature regarding this years budget contretemps. I took my action seriously. As you may know I voted a few days ago and spoke strongly in opposition to the budget compromise. Quite frankly I still feel that we are asking more of State Employees at this time then we should, because I do not believe truthfully that we have carefully and exhaustively explored all possible revenues. My concern, quite honestly is I'm sure your concern as well, is not solely with the State employees. Although, to be sure, State employees are going to undergo tremendous financial distress. Many of them are clearly undercompensated and the burden we're putting on them will only add to their misery, a fact that we all know and the members of the Committee on Appropriations are all to familiar with. We also are

clearly impeding the ability of our state employees to do the job they want to do which is to serve Maine people and provide essential services to protect our environment, to advance our justice system and to provide social services to those in need. Let's not forget that ultimately all Maine people will lose as a result of this budget, however, we don't have much of an alternative it seems to me. I considered, strongly, carrying the fight forward, insisting that we put on the Governor's desk a Bill which would in fact, scale back the State's tax exemptions. I still believe that would be the appropriate course of action to take, however, I have no doubt the Governor would do precisely what he told us he would do, which would be to veto that Bill, and that would put us in the posture.

THE PRESIDENT: The Chair would advise the Senator that reference to what the Governor may do on legislation is not proper in debate in the Senate.

Senator **GAUVREAU:** Thank you Mr. President and I apologize to the body for straying from the topic at hand. I'm attempting to explain my rationalization for my vote on the Bill before us. It's my view we do not have the capacity to generate additional revenues due the political configuration of the Maine Legislature and other offices in this building. I believe that we have little room in which to move. My concern is that if we do not have a budget, Maine people and state employees will be harmed even more. I would like the members of this body and for that matter the members of the audience who listen to our debate to consider that. To consider precisely what that means. Every one in this room, I think, is fully aware of what happened 17 days in the month of July 1991. I can recall the poignant presentation of the Senator from Kennebec, Senator Bustin explaining a circumstance on one of our state parks. A person was near death as a result of our inability to provide essential state services. I think that type of circumstance is likely to arise again if we don't have a budget. I cannot now and I will not speak on the futility of the American experiment of divided government. It's not working. The reality is, we have to produce a budget. I don't see any other viable option available to me. Those who have spoken have spoken most eloquently and most passionately regarding their opposition to this Bill. If they can present this body with a viable, politically palatable strategem which will pass this body and perhaps other offices, I would certainly wish to take that action. Frankly, I don't understand where we have any other option. I believe that members on the Committee on Appropriation and Financial Affairs have acted responsibly. They have given us a budget which is the best they can do with the resources they were allotted. I do not believe the budget we're being asked to vote upon tonight adequately addresses the needs of Maine people. It does not. I believe we should do more to identify additional revenues by the means of scaling back tax revenues and tax exemptions. I do not believe it's possible given the present political configuration of the Maine Legislature and other offices. For that reason I will be voting in the affirmative on the engrossment on the budget tonight. Thank you Mr. President.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Rarely, in fact almost never, do I stand up in opposition to the good

Senator from Androscoggin, Senator Gauvreau. I am going to miss him terribly, you want to talk about a brain drain. That is what this senate is going to see when Senator Gauvreau leaves it. It will indeed be a brain drain and its very disheartening to me. I hope he will forgive me for the words I am going to utter now because I'm going to say that the ends do not justify the means. The end does not justify the means and that is what we are talking about now. Because we are not allowed or because we choose not to have a two-thirds vote in this body to pass a budget with the adequate funding mechanisms in it, we say it's okay to take it away from working people. We say in this budget that it is okay to take away fair representation to the employees in this state. We say that its okay for employees not to be represented. That it is okay for another body to determine their fate. When we do that Ladies and Gentlemen of the Senate, when we do that we begin destroying the very fabric that America is all about. I've many times given you the speech from the time I first came here on Samuel Gompas and labor. Maybe I'm too old and maybe alot of people in this chamber don't remember learning their history as I did in Standish High School and at D.C. Teaching College in Washington, D.C. about the labor movement. Maybe we don't remember that. I remember those lessons well and I've remembered them all my life. That's what I see this budget doing. I see this budget destroying the very fabric of what American working men and women are all about. That's what we ought to be thinking about in this budget. The ends do not justify the means. We have to find another way. That other way is for twenty four members of this body to say "yes" to a budget that is fair and fair to everyone.

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

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED** 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 BERUBE, BOST, BRANNIGAN, BRAWN, CAHILL, CLARK, COLLINS, DUTREMBLE, EMERSON, FOSTER, GAUVREAU, GILL, HOLLOWAY, KANY, MILLS, PEARSON, RICH, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BALDACCI, BUSTIN, CARPENTER, CLEVELAND, CONLEY, ESTES, ESTY, GOULD, LUDWIG, MATTHEWS, MCCORMICK, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER

ABSENT: Senators None

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, with No Senators being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

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

On motion by Senator PEARSON of Penobscot, **RECESSED** until 8:45 in the evening.

After Recess
Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act Concerning the Regulation of Electronic Video Credit Machines by the State Police"

S.P. 423 L.D. 1135

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "B" (S-745)**.

Signed:

Senators:

BRANNIGAN of Cumberland

PEARSON of Penobscot

Representatives:

HICHBORN of Howland

PARADIS of Frenchville

CARROLL of Gray

RYDELL of Brunswick

POULIOT of Lewiston

MICHAUD of East Millinocket

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

Signed:

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth

MACBRIDE of Presque Isle

REED of Falmouth

CHONKO of Topsham

Which Reports were **READ**.

Senator PEARSON of Penobscot moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Senator FOSTER of Hancock requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator PEARSON of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A Division has been requested.

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

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

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator PEARSON of Penobscot, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "B" (S-745) **READ**.

On motion by Senator BRANNIGAN of Cumberland, Senate Amendment "A" (S-746) to Committee Amendment "B" (S-745) **READ** and **ADOPTED**.

Committee Amendment "B" (S-745) As Amended by Senate Amendment "A" (S-746) thereto, **ADOPTED**.

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

Senator CAHILL of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**.

A Division has been requested.

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

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

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, the Bill **FAILED** of **PASSAGE TO BE ENGROSSED AS AMENDED**.

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:

SENATE PAPERS

Bill "An Act to Encourage the Development of Business and Infrastructure through the Extension of State Tax Increment Financing"

S.P. 974 L.D. 2460

Presented by Senator **COLLINS** of Aroostook (GOVERNOR'S BILL)

Cosponsored by Senator **BOST** of Penobscot, Representative **CASHMAN** of Old Town and Representative **KERR** of Old Orchard Beach Committee on **TAXATION** suggested and **ORDERED**

PRINTED.

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

On motion by Senator **COLLINS** of Aroostook, Senate Amendment "A" (S-750) **READ**.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This amendment makes clear that the State Tax Increment Revenues may not displace revenues raised by the municipality with the Tax Increment Financing District. It makes clear the State Tax Increment Revenues may be spent only on Development Program costs. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-750) **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, As Amended**.

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

PAPER FROM THE HOUSE

House Papers

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

Bill "An Act to Require that Administrative Cost Reductions Be a First Priority in the Event of Revenue Shortfalls"

H.P. 1776 L.D. 2458

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

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

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

Joint Order

The following Joint Order: H
S.P. 1777

ORDERED, the Senate concurring, that the following specified matters be held over to the Third Special Session of the 115th Legislature:
Banking and Insurance

SP0857, L.D. 2181

An Act Regarding Workers' Compensation Rate Proceedings and Rate Hearings

HP1571, L.D. 2218

An Act to Revise the Workers' Compensation Laws

SP0965, L.D. 2442

An Act to Deregulate Workers' Compensation Insurance

Voluntary Market Rates and to Establish the Workers' Compensation Employers' Mutual Fund Labor

HP1735, L.D. 2423

An Act to Reform the Workers' Compensation System

State and Local Government

HP1573, L.D. 2220

Resolve, to Establish A Unified Department of Children and Families

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

Which was **READ**.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I request a division on the joint order. It seems to me that this workers' compensation issue is important enough we should have acted on it and I feel sad to say the least, that another few hundred workers will not have a job because of our lack of action. I would like to be at least, personally be on record as in opposition to this measure that we should be acting on this now and not delaying it.

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

THE PRESIDENT: The chair recognizes senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First of all let me say I appreciate my former colleagues who are ready to get up and remind this body exactly what has gone on with Workers' Compensation. I agree fully with the good Senator from Franklin, Senator Webster that Workers Comp is an important issue and has been for the last 10 years. He as well as all of us in this body know that we have tinkered and toyed and tried to fix, reform and restructure to the point where we are now. I think just about everybody in this state agrees that something had to be done and it seems that something is being done, very positively I might add. The Blue Ribbon Commission is something that is supported by labor, by business, by insurance companies, by anybody who has anything at all to do with Workers Comp. It is a good positive step because it is going to be a impartial, non-political step. We're not going to have to worry about one side or the other, trying to play the emotions and fears of people on this body.

Second, we have had the Workers' Compensation group who made a presentation to the banking and insurance group, to the Labor Committee, to the Governor, to the members of leadership, who came out with a real positive solution for us. They have a taken non-political step that may lead to the eventual solution to our problems. We have non-political people who have volunteered their time, who spent hours and hours, weeks and months working on trying to find a solution. They presented one to us and for us to meddle and tinker again when we are

on this very positive road is just not the thing we should be doing right now. Yes, people are all very concerned with it. I think we should keep it on the non-political role that it is now, because then maybe, just maybe we'll really resolve it.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I support the words of the fine young senator from York, Senator Dutremble. In addition I just wanted to call the attention of the Senator from Franklin, Senator Webster to a Bill that has been printed perhaps he has not had a chance to review yet. It's L.D. 2457. It just came out earlier this evening and it would really delay the fresh start surcharges on Workers' Comp. It is an emergency Bill and if you wish to act tonight or tomorrow, this is your opportunity. This Bill is really here at the request of a variety of businesses who believe that the surcharges from freshstart are not only unnecessary, they are faulty and wrong and there is indeed no deficit, no deficit at all. There has been overreserving for unreported, unincurred accidents and frankly they believe it is a farce and for that reason we are doing as the good Senator, Senator Dutremble suggested and waiting until after the Blue Ribbon Commission reports, reevaluates the actual deficit and the need for any freshstart surcharge. In addition I would like to point out the Bill listed in order is sitting there literally waiting to be enacted. We do have a very sick insurance market and it must be remedied before the year ends. If we need to act even before the Blue Ribbon Commission reports we can do so within a day and that is one reason why it is essential to hold that Bill over until that time. Once again, if you wish to act you can do so and there is a Bill for you that will enable you to help the businesses of this state.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the words of two colleagues who spoke previously to my speaking here now. In good conscious I would have to admit I would not have proposed the concept of this Blue Ribbon study commission, although, I find it frustrating we had to resort to this type of proposal. For ten years indeed, we have been dealing with the subject. I remember when Senator Pierce from Waterville, Kennebec County who ran for Governor in 1982. He said "if I had been elected, my number one priority would be to change Workers' Compensation law." For ten years the Legislature has been unable to do it and I have no illusions that we are going to wait because that is the easy thing to do. When I go out and I start working on oil furnaces this summer and I run into people who lost their job because some factory closed and moved to New Hampshire or Connecticut. I can say at least say in good conscious I was willing to say "hey I'll make the decision before some Blue Ribbon Commission tells me what to do. I went through the July shutdown of last year. I'm not an expert on this issue. There are others including Senator Kany, Senator Brawn and others who have spent hours on this issue. I know Ladies and Gentlemen of the Senate, that we could act because without question, no one here in this chamber, no one in this state could argue that a few hundred, if not a thousand more people in this state

will not have a job come September while we are studying this thing. I can't in good conscious be a part of it. That is why I would ask for a division.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First of all I don't expect the Blue Ribbon Commission to tell us what to do. That is not what the Blue Ribbon Commission was set up to do. The Blue Ribbon Commission was set up because this body had really reached the point where trying to resolve workers' comp had become a political issue. There is no question about that, no question about that at all. We are even hearing some of that rhetoric a little bit now. I am hearing people say I'd rather go out and save my jobs and save my jobs for my people. Well there is not a Senator in this room who does not believe that. I would like to go through the list of things that we have done in the last 10 years and I've been involved in most of those things. When I hear someone say that we should just ignore this tonight because it's the easy thing to do. I beg to differ. We've done much more than an easy thing. I don't think anybody in this room would call what we went through last year because of Workers' Comp easy. What we went through in 1985 and 1983 wasn't easy. That was real reform, real restructuring and the good Senator from Aroostook, Senator Collins was part of those reforms and was in the same committee with me when I was chair of that committee. We did some real work down there. We didn't ignore the situation.

Let me tell you something, I was with alot of you last year and I'm sure you remember that. We hurt people last year. Don't make any mistake about it. When you tell somebody you lose an arm and we are not going to recompensate you for that, we hurt those people. When you've reached that point then it's time to get it out of this body. When you pass a law that says we are going to split families up and you work down here in Biddeford, Maine and she can find a job in Presque Isle you've got to go know matter where your family is, we have hurt those people. That is the point we've reached last year and some people even pushed that a little bit further. Well excuse me. I don't think we can go any further, not us. Anything we do now is political and mostly because of what happened last summer. Let's not derail this Blue Ribbon Commission before it even starts. It's starting fresh, everybody is in support of it. The general public seems to be in support of it and the newspapers seem to be in support of it. Why do we want to derail or even mess with it by blowing it all by what we might be doing here like we did last summer. If we are really concerned about it, let's concentrate our efforts by encouraging these people to do the right job.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. When the senator from Franklin, Senator Webster got up just now I don't know if you noticed it but his words sounded different than they did six months ago. They were the words of someone using workers comp as a political tool and they sounded different. Last week something happened in this building that ended that forever, I believe. That something was the report by the labor management group to nearly everybody, the Governor,

the Banking and Insurance Committee and that report, I don't know if you noticed it or not that report was of such a moment that it was literally as if a sweet wind blew through this body and took the clubs labeled Workers' Comp out of everyone's hand. Workers' Comp is no longer a political tool. It will no longer get embroiled in partisanship and I think we have that Committee to thank for that and it's going to be a whole different ball game from now on. I intend to vote for this resolution and I hope the Blue Ribbon Commission listens very, very carefully to the labor management group and in fact, I wish that some of the \$100,000 that were given to the Blue Ribbon Commission could be given to the labor management group who have done the incredible amount of work they have done on \$5,000 of passing their hat within their meetings. In fact, I think we are going to see happen in this state what they found in their chosen state which is Michigan, which is that no changes come to the Legislature on workers comp but that they come through a labor management group that is so inclusive of all concerned in Michigan that it has 600 hundred members and that it is completely de-politicized and that their system works. 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. Ordinarily I wouldn't take up your time rising on what is the last evening of the Legislative session to discuss an issue as often debated sometimes with great emotion, as Workers' Compensation. I feel that it is important to put on the record my observations and certainly welcome those amongst us who might differ with my perceptions.

Workers' compensation is a somewhat complicated area but not nearly as complicated as others would have you believe. Unfortunately, in my personal opinion, it has become not an intellectual effort to effectuate major systemic reform but a frankly political effort as other speakers tonight mentioned. My colleague from York County, Senator Dutremble in his presentation noted that there were a variety of changes too numerous to mention. I think it is appropriate to at least highlight some of the most significant changes we have made over the last 10 years. When I hear speakers, such as the Senator from Franklin, Senator Webster, allude to our alleged inability to reduce benefits and reduce cuts I find his remarks do not and are not congruent with the action of this Legislature over the last 10 years. I believe that the benefit cuts I am going to indicate to you have not affected significant premium relief but we have certainly attempted to address the workers compensation issue.

As you all know, we have reduced the durational limit for workers who suffer permanent partial incapacities. We have also reduced the actual maximum weekly benefit amount for injured workers. We have capped the cost of living adjustment for injured workers. We have also coordinated benefits which is the unison for saying that we have eliminated or greatly reduced benefits for injured workers who receive Social Security disability insurance. We have also significantly reduced the availability of attorneys fees in workers' compensation. We do not allow attorneys fees in any case in which the employee does not prevail and we have put significant limits in terms of overall

attorney fees on lump sum. Make no mistake that has had the effect of concentrating the practice of Workers' Compensation in a few large statewide law firms. That has the direct effect of reducing access for legal services for many injured men and women in our state. We have reduced the statute of limitations from 10 years to six years. As was alluded to from the Senator from York, Senator Dutremble, we have offset awards for permanent impairment based upon one's weekly wage loss so that a worker who receives a serious injury, perhaps the loss of an arm and is out of work for a few years, receives not one penny, not one penny of compensation for that lost extremity. If in fact the period of durational benefits exceeds what would have been the small amount permanent impairment benefits the worker should have received. We have made many changes, procedural changes.

We have brought about independent medical panels to review workers claims. We have brought back the ability of the insurance industry to pay without prejudice. We have significantly reduced, for right or wrong, the discretion of Workers' Compensation and this is of grave concern to me. Last year quite frankly there was an over-effort to politicize the workers compensation commission and to substantially officiate the independence of that commission. That is a quasi judicial commission and there were efforts, in fact, made to in large part eliminate the discretion of commissioners. Those have been resisted but nevertheless that was on the board last year in the negotiations. Perhaps what is most discouraging and has not been discussed is that of the benefit dollar. The premium dollar that an employer pays out only is a fraction of that goes to workers for their wage losses. Of the benefit dollar paid out only 32% of that goes for wage loss. Three percent goes to attorneys fees and roughly around 35-40 percent goes to insurance carriers for their administrative costs and their servicing fees. I do not suggest for a moment we should blame either party in this procedure. I am not trying to point the finger at anybody. I am suggesting the time for impassioned rhetoric has to come to an end.

In the last five years we have seen a steady loss of competition in the workers compensation marketplace, to the point that today, over 92 percent of employers in Maine do not have the ability to compete on rates. They are in a residual market. I submit to you that it is essential that we allow professionals to look at this issue to find a viable strategum to depopulate the residuary market. Let me give you a case in point and we can get away from the abstract to the substance of this debate. Two weeks ago I was approached by a business in Lewiston, a fledging shoe company with around 40 employees. The individual who wanted to capitalize on the company had gone out and acquired the equipment of a prior company. He then went to NCCI determined to get a bid for workers' compensation and was told that that new company will be subject a premium surcharge because of the rating experience of the company which happened to own the tools and equipment he was buying. Mind you there was no relationship what so ever between the new company and the prior company. There was not a paper transaction what so ever between the new company and the prior company. This was not a paper transaction whereby an old company in debt emerged phoenix like and reformulated itself. My point in all this is that there was no competition

because this person could not go to another carrier and could not get a better rate. This individual would actually would have to had to accept this significant surcharge. The point in all this is that the insurance carrier guaranteed about a 25 percent servicing fee for the workers compensation product itself. In most markets, there is a relationship between competition and the price one charges for one's product. In Workers' Compensation, the more expensive the premium, the larger the servicing fee. When one in fact reduces competition in the workers compensation market place that has the perverse effect of actually increasing cost and increasing premiums. This may be tedious, this may be mundane, but I think it has to be stated because we have to in fact diffuse this topic of this debate with rhetoric and with emotion and I welcome the opportunity to have a Blue Ribbon Commission of entities of persons who in fact, will take a look at this issue with disinterested perspectives. I think the time for that is long overdue.

Mr. President, I apologize for the length of these remarks, but I think these items have to be discussed so Maine people understand what the issues are at stake. It hurts me a great deal to hear this institution constantly belittled for the alleged, futile efforts to address the workers compensation issue. We have effectively reduced wage loss benefits for Maine workers 70 percent in 10 years. So I submit to those who complain we have not done our job at workers compensation. They have not looked very carefully. We've probably done far too grievous damage to working women and men in our state and the time has come we look to outside forces who can give us some competent, professional, disinterested advice on how to put together a workers compensation market which will work in the state of Maine. Thank you Mr. President.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Like the good Senator from Androscoggin, Senator Gauvreau, I am in support of the Blue Ribbon Commission to look at the Workers' Comp problem and yes, what he says about the things we have done to begin to control the cost in the past ten years of our comp system. Those things are true but despite all that Maine still has one of the highest, or the highest comp system in the entire country and it is the highest by almost half again. I think that is what is the frustrating part for many of us. Yes, we do want a Blue Ribbon Commission. We don't want to delay or derail a Blue Ribbon Commission but my fear, and I think some of the fear of at least some of my colleagues here in the senate. The fear is how those small businesses, any businesses out there, are going to react when we simply vote to delay these Workers' Comp items until September. Are they going to say "well the Legislature once again has done nothing to help us." Are they going to say "the Legislature is once again only going to study a problem" and that's our fear. I don't think there is an attempt by anyone to derail a blue ribbon task force. I think that you have to recognize that the way it's going to look to some of these small businesses. It's going to look again, in my opinion, like the Legislature has failed. To address the good Senator from Kennebec, Senator McCormick, I know she has learned alot in the two years she has been here and I appreciate her optimism

about the clubs being removed from everyone's hand and I hope she is correct. This is a gigantic issue. This is an issue that affects each and everyone in the State of Maine every day and it is going to be emotional even in September. I hope she's right but in the 12 years I've been here we have tried to fix the system and tried to fix the system and we need to get to do it correctly. Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Truth of the matter is it's the small businesses that have really been taken advantage of with this residual pool. This sick residual market. About 40% of our premiums are in self-insurance. We've talked about this before, and then 92 percent of what is left, which is over about 55 percent are in a residual market, a pool. A pool which is managed by the fox, the fox watching the chicken coop. That's NCCI with 12 insurers on the board and only three employer members on the Board of Governors overseeing that pool. We have heard recently in testimony before committees just in the last several weeks from some of the employer members of that board who are sick, sick at what they see in the mismanagement by the insurers of that pool. They are sick about it. We have seen testimony in public hearings about the new rate case, testimony time and time again from the business community and the ridiculousness of this huge servicing fee and requiring an insurance carrier to be involved in the servicing of the residual pool. It is a small businesses that are being taken advantage of there. I mean it's ridiculous to have a huge percentage of premiums go to servicing like that. Pay two carriers and then sometimes subcontract it to administrators when they could have bid out and gotten the same servicing of a much higher quality. That's what the testimony is that it is a much better quality at a third or less the cost. It is a terrible, terrible thing and that's why the Bill before you which you can enact tonight or tomorrow will allow us to hold off on the residual pool surcharges a freshstart while we finally, finally get a handle on that mismanagement in those poor decisions that have so affected our small businesses. You will have an opportunity through at least one of these Bills if necessary and over the summer prior to the Blue Ribbon Commission reporting, which is something we all want to happen.

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

Senator **MILLS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. When I first came to the Legislature five terms ago, our premium rates for my business rate, logging, were 25 percent and that is outrageous. I voted for the Workers' Comp reform package because our rates were going to go down 10 to 15 percent. The next year our rates were 35%. I thought that was unbelievable so what did I do, I came back in and Governor McKernan's Workers' Comp package came in. Our rates were going to go down 10 to 15 percent if I voted for that package. I voted for that package. You know what, our rates the next year were 45 percent. Last year I come in here everybody's telling me about I'm going to have my rates going down 20-25 percent. I put an amendment in to make them go down 10% and couldn't get that passed. I voted against the package. Now do you

know what our rates are? They are almost 50%. I wouldn't vote for a Workers' Comp reform package out of this legislature for the world. I wouldn't. Not any of them that is going to give anything of benefits or anything else until we go somewhere else and get somebody else to look it and give us their opinion of the system because it just doesn't work. Cutting benefits hasn't worked. I keep reading in the paper about people who didn't cut benefits and they wouldn't ever cut benefits to people. Well we've done it and it hasn't worked. Our rates have only gone up. The little businesses have continuously got hit over and over again and I hope that we will move forward and get a real reform package and something completely out of the political structure for the little businesses of the state of Maine, or western Maine especially. Thank you.

THE PRESIDENT: The Chair would remind the members that the question is passage of an order to carry Bills over. The chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If there is any doubt that this Legislature polarizes the issue of workers comp, we can't even get this communication passed.

THE PRESIDENT: The pending question before the Senate is **PASSAGE**, in concurrence.

A Division has been requested.

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

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

28 Senators having voted in the affirmative and 4 Senators having voted in the negative, the Joint Order was **PASSED**, in concurrence.

ENACTORS

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

An Act to Implement the Recommendations of the Special Commission on Governmental Restructuring
S.P. 910 L.D. 2330
(C "A" S-725)

Senator **SUMMERS** of Cumberland moved that the Senate **SUSPEND THE RULES**.

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

On motion by Senator **SUMMERS** 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**, in concurrence.

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-725), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-741) to Committee Amendment "A" (S-725) **READ**.

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to thank my good colleague from York, Senator Dutremble for allowing me the opportunity to reconsider. The

amendment that I just presented is through the Maine World Trade Association. We all know the Maine World Trade Association was established as a statutory entity and authorized for a direct line in the budget in fiscal '91 after operating under contractual relationship with the Department of Economic and Community Development and its predecessors for many, many years. This amendment returns the Maine World Trade Association to that contractual relationship. Consistent with the recommendations of the Special Commission on Governmental Restructuring and the State and Local Government Committee. For a moment I would like to quote from the report of the Special Commission on Governmental Restructuring. "To say that the Board of Directors of the Maine World Trade Association should be reduced and should include only two state department heads. In addition, since it provides a service of increasing importance as the economy becomes more international, the Maine World Trade Association should be funded on a longer term basis through a multi-year contract with the Department of Economic and Community Development with specified levels of funding and private sector matching requirements." The objections raised at the time this proposal was presented, as far as a line item issue, were the needs for adequate accountability and assurance that all companies interested in developing their capacity in international commerce would be served.

These issues were shared by the special commission as a defined critical elements of a contractual relationship with state agencies and once again I would like to quote from this report. "The commission set state service contracts with other public agencies, non-profit agencies or for profit firms must conclude performance requirements, guarantees of access without discrimination for essential services and for provision for service related data collection consistent with state requirements access to data for public policy purposes and appropriate protection of confidentiality. Because the Maine World Trade Association is directline there is no clear mechanism to assure that these standards are met. Legislative oversight, while very important, is not conducted on an ongoing basis with a line item thing in the budget. In its last contract, with the Maine World Trade Association, the department included a number of measurable objectives in the contract and required monthly meetings to discuss the activities of the association. It was the Maine World Trade Association that argued that this additional accountability was time consuming. It took away from their ability to perform their direct service function. The fact of the matter is the Maine World Trade Association receives approximately 75 percent of its funding from the State and they need to be held accountable to assure that all companies interested in international commerce have the access to services. It's critical that the reverse investment components at the Department of Economic and Community Development and the export service delivery efforts, the Maine World Trade Association are closely coordinated. With the Maine World Trade Association as an independent agency this is more difficult to assure than it would be under contractual relationship. I really feel that we are throwing money down the drain if the Maine World Trade Association, the Department of Economic and Community Development if their policies are at odds.

Public sector participation on a board of directors is not adequate to assure this consistent policy direction. For those reasons Mr. President I would move the adoption of the affirmation amendment. Thank you.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I make a motion to indefinitely postpone this amendment. I know that this has been a long evening because the first time in my life I found myself voting for video gambling before I realized what I had voted for. I've also asked someone to tell me where I am. I know I am here in the Senate and it's 11:00 p.m.

THE PRESIDENT: The Chair would advise the Senator that the pending motion is the same motion that the Senator made on indefinite postponement not the time or the place.

Senator **MATTHEWS:** Correct Mr. President. Thank you Mr. President. I would urge the members of this body to indefinitely postpone this amendment. The Committee on Housing and Economic Development did work on this issue for a long time, before my time I would add. It was the good Senator from York, Senator Dutremble who chaired that committee and chaired it admirably. This particular amendment, at this point in time, is rather a surprise. The committee felt very, very strongly as we made it through the last weeks that Maine World Trade is accountable. It has presented itself and its workings to the Committee on Housing and Economic Development, has accountability with the Appropriation's Committee and their process, is a public private partnership in trying to promote the kind of commerce with our trading partners in other nations such as Canada and other countries. I think this would really be the wrong thing to do. I believe we have addressed this issue and for two and one-half years. Ladies and Gentlemen of the Senate, the Housing and Economic Development Committee worked on this issue. I would not change it as we approach midnight tonight and so for those reasons I urge the body to indefinitely postpone this amendment.

Senator **MATTHEWS** of Kennebec moved that Senate Amendment "A" (S-741) to Committee Amendment "A" (S-725) be **INDEFINITELY POSTPONED**.

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I certainly hope that we do not indefinitely postpone this amendment. I feel it adds a strong measure of accountability and I would request a division.

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

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First, let me explain my reason for objecting to suspension of the rules for reconsideration, which I thought was debatable and I was going to explain myself. It was because this amendment here would place this Bill in conflict with L.D. 2384, which is the one we debated the last time. I thought we could do that, we could decide on reconsideration but then I had guilty feelings not only because of reconsideration but also because it was a good bipartisan vote on the previous order to carry over those workers comp bills. I do

appreciate that. This amendment here is really the same issue that we have been debating in the other restructuring bill, which is the World Trade Association and the work the Committee on Economic Development did two years ago. If we pass this amendment, this will be in conflict with L.D. 2384. We have already taken that step once on the other Bill. For that reason I hope you support these efforts to postpone this amendment.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am going to vote for the motion by the gentlemen from York. For all the reasons I addressed the other day. Some one I guess mentioned accountability with the Appropriation's Committee. The accountability is that the Appropriation's did indeed request an accounting of expenditures, the expenditure budget and they did get the salaries of the three individuals who operated but nothing else. It was interesting as I was looking at the budget from the Appropriation's Act of Chapter 591 and in looking at the index I ran across Maine World Trade and I read that in Chapter 606, which is an economic development Bill of some sort. It says "To the extent possible with available resources, the Maine World Trade Association will work to increase trade between Maine and Canada with special emphasis on Quebec." That's very nice, so we need that you see. We need that very badly, however, this was last year and this year they did. They held a one day seminar to which they charged \$35 dollars for members from the industry or the business community to attend and \$45 dollars for non-members of the industry and business. This was held here in Augusta in fact, on the 19th of March and they did all sorts of things. They showed them how to cross the border and things of this nature. In April they are going to have another one in Moncton, New Brunswick. Moncton is a very nice city by the way and at the end of April it says here they will have another workshop "Great America Food Show" in Tokyo, Japan. I don't know maybe they are doing things for international trade and I hope they do, between world trade, international trade commission, and small business commission. We are looking at streamlining government, making it more efficient and getting the best value we can for taxpayers dollar and so for that reason I will support the amendment. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MATTHEWS** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-741) to Committee Amendment "A" (S-725).

A Division has been requested.

Will all those in favor 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 15 Senators having voted in the negative, the motion by Senator **MATTHEWS** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-741) to Committee Amendment "A" (S-725), **PREVAILED**.

Committee Amendment "A" (S-725) **ADOPTED**, in concurrence.

On motion by Senator **GILL** of Cumberland, Senate Amendment "A" (S-734) **READ**.

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

Senator **GILL:** Thank you Mr. President. Ladies

and Gentlemen of the Senate. I still sound like Senator Dave Carpenter I know, but it's really me. It was the hope of many of us through this restructuring that we dealt with last year, that we would be able to do alot in restructuring. When the committee's were reorganized and put together it seemed to be the one ray of hope that alot of things could happen through that process that would create a better form of government that could expedite things for the citizens of this state. We have heard lately in many speeches on this floor, particularly this past week that Maine citizens complain about the operation of certain agencies within state government. I just want to guide you, in case you don't already know, that they also complain about the inability of this body, the Legislature, to act on major concern in this session of the Legislature. With this amendment I am trying to make one final attempt to implement a piece of restructuring which is creation of a Department of Children and Families and a Department of Health. This amendment would replace the present Department of Human Services and Mental Health. May I remind everybody here that unlike some of the other proposals for the restructuring in other areas of state government, this idea has been reviewed, considered, studied, analyzed, evaluated, researched, examined, studied, scrutinized, assessed, reassessed, studied, discussed, weighed, debated and studied. There is no need for further study. We know we are obligated to provide services to children and their families.

What we are attempting to do through this process is to set up a better coordination of those services and do it more effectively and do it more efficiently. Within the last couple of days there have been many meetings trying to negotiate whereby we could put in place this department of children and department of health. We seem to come down to a philosophy and whether the Legislative committee reviewing this transition would have more authority than any other Legislative committee, including that which is reviewing Audit and Review Committee which reviews everything. What we propose in this amendment is to have a Legislative oversight. This Legislative oversight will take place like other legislative committee's do their work so I think the process has to begin right now. I think it is the most cost efficient way and most cost effective way to put transition programs in. The committee will certainly be apprised of any further addition that might be contemplated. They would take a part in that. They would hear the plans from the commissioners and they would certainly have a say. I would have to say that we are happy to include this oversight. I think it is a proper place to have the Legislative review and oversight as this transition takes place. I am fearful and I know we have been a part of alot of the committees that have worked this year in trying to get into and micromanage things. I hate to use that word because it is like a cliché now.

I remember when I first came to the Legislature. There was a time when departments did their work and Legislators worked to either assist them or to deny what they were doing but we did it in a different frame of mind then what we are doing now. Granted there are alot of problems. State government has grown since the first time that I came into the Legislature. There have been alot of problems that have been created through the whole growth process

but I think that this is an opportune time to put this in place. I've always felt the Department of Human Services was a humongous, the largest department in the state. It could stand to be broken up and this is an attempt to really look at the services we are trying to put in place for Children and Families and Department of Health. When I talked about micromanaging a few minutes ago there have been certain suggestions about bureaus that might fit into either of the departments and some of them cannot, by federal mandate, fit into one of the other departments. I see a smile over on the other side of the room but we have absolute evidence they will not pay the federal dollars and they will not flow unless they come through the proper channels. I think we have to keep this in consideration. The Legislature is not always aware of what relationship the various departments have with the feds in various areas whether it be maternal, child or different parts of what we are trying to put into a Department of Health here. I think we have to rely on the various department people. We can say yea and nay to them and we can expand on what they bring to us but I think it is important that we take this first step now. I just want to say that this is our last opportunity do it in this Bill. I want you to face that fact that L.D 2330 is the only opportunity we are going to have to see a Department of Children and Department of Health go into place. I would ask you to please adopt this amendment.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is an item that has been debated for four or five years that I know of. We are still, at this eleventh hour, debating it again. There are a number of different ways to accomplish what we want to accomplish. It has been my understanding there was some agreement on how we were going to do this and that it was in another Bill so I am now confused as to why we are even considering this amendment again and going through this. I thought the agreement was we would have the committee and they would come to the committee and would make their recommendation and then we would submit legislation to satisfy them. What the amendment does, as I understand it, if we are looking at S-734, is to have this implemented immediately. That is pretty drastic stuff to have it implemented immediately. The other way would give you a chance to get it in place, get people oriented to what goes where, have it come back, have it discussed in a public hearing and go from there. I think that is the better way to do that so I think that we ought to immediately do away with this amendment and go on. Thank you.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just to respond to my good seatmate, Senator Bustin from Kennebec County, the reason that we are trying to put this amendment on this Bill is because this is the only Bill to live.

THE PRESIDENT: The Chair would advise the Senator that reference to what may happen to a Bill outside of this chamber is not appropriate. The pending question before the Senate is the motion by Senator **GILL** of Cumberland to **ADOPT** Senate Amendment "A" (S-734).

A Division has been ordered.

Will all those in favor 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 10 Senators having voted in the negative, the motion by Senator GILL of Cumberland, to ADOPT Senate Amendment "A" (S-734), PREVAILED.

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

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

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

After Recess

Senate called to order by the President.

Resolve

Resolve, to Transfer Certain State Lands to the Sinclair Sanitary District

H.P. 1770 L.D. 2453
(H "A" H-1314; S "A" S-732)

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator TITCOMB for the Committee on ENERGY & NATURAL RESOURCES on Bill "An Act Related to Hydropower Relicensing Standards"

S.P. 848 L.D. 2159

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-752).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-752) READ and ADOPTED.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, As Amended.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs"

H.P. 1749 L.D. 2438
(S "B" S-743)

In Senate, March 29, 1992, FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED, without reference to a Committee, in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1323), without reference to a Committee, in NON-CONCURRENCE.

Senator CONLEY of Cumberland moved that the Senate ADHERE.

On motion by Senator BUSTIN of Kennebec, Tabled until Later in Today's Session, pending the motion by Senator CONLEY of Cumberland to ADHERE.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on HOUSING & ECONOMIC DEVELOPMENT on Bill "An Act to Provide Skills Training for Unemployed Workers"

H.P. 1772 L.D. 2454

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill and Accompanying Papers RECOMMITTED to the Committee on HOUSING & ECONOMIC DEVELOPMENT.

Which Report was READ and ACCEPTED, in concurrence.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED in NON-CONCURRENCE.

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

ENACTORS

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

An Act to Further Enhance and Protect Maine's Great Ponds

S.P. 922 L.D. 2369
(H "B" H-1313 to C "A" S-719)

Which 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 a Professional Standards Board for Maine Teachers

H.P. 1316 L.D. 1902
(S "A" S-687; H "A" H-1289; S "B" S-747 to C "A" H-1223)

On motion by Senator BRANNIGAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Amend the Laws Concerning the Maine Court Facilities Authority

S.P. 831 L.D. 2135
(C "A" S-744)

On motion by Senator BRANNIGAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act Concerning the Bureau of Intergovernmental Drug Enforcement

H.P. 1629 L.D. 2292
(H "A" H-1186; S "A" S-739 to C "A" H-1106; H "A" H-1282)

On motion by Senator BUSTIN of Kennebec, Tabled until Later in Today's Session, pending ENACTMENT.

An Act to Restructure State Government

S.P. 929 L.D. 2384
(S "C" S-704; S "H"
S-723; H "A" H-1297 to
C "A" S-680; H "A"
H-1317)

On motion by Senator **BRANNIGAN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Establish Economic Recovery Tax Credits

S.P. 960 L.D. 2430
(H "A" H-1299)

On motion by Senator **BRANNIGAN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Amend the Law Regarding the Responsibilities of Code Enforcement Officers to Approve Plans or Technical Submissions by Architects

S.P. 798 L.D. 1997
(C "A" S-601)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in the negative, and 25 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.

ORDERS OF THE DAY

On motion by Senator **BUSTIN** of Kennebec, the Senate removed from the Later Today Assigned Table the following:

An Act Concerning the Bureau of Intergovernmental Drug Enforcement

H.P. 1629 L.D. 2292
(H"A" H-1186; S"A"
S-739; to C"A"
H-1106; H"A"
H-1282)

Tabled - March 29, 1992, by Senator **BUSTIN** of Kennebec.

Pending - **ENACTMENT**

(In Senate, March 29, 1992, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 29, 1992, **PASSED TO BE ENACTED**.)

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 to Legalize Marijuana for Medicinal Purposes

H.P. 1729 L.D. 2420
(H "A" H-1312 to C "A"
H-1281)

On motion by Senator **COLLINS** of Aroostook, 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 Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill was discussed in the senate a couple of days ago and I want to assure this body this was discussed carefully by the Committee on Human Resources. It is a unanimous report. It was reviewed by the Judiciary Committee and the Attorney General has reviewed this language and as you can see there are a number of amendments that have been placed on here. I can understand that there are some people who under no circumstances, whatsoever, would want to avoid any person a defense. That's all that this Bill does in a court of law for possession of marijuana. As I indicated to the body previously, the people that this law is designed to help are people who are suffering from cancer or glaucoma and in fact are getting radiation treatments and therefore, in need of marijuana as a very last resort. Again, it does not technically make marijuana legal. It only gives somebody a defense in a court of law. Thank you.

On motion by Senator **BRANNIGAN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT** (Roll Call Ordered).

ORDERS OF THE DAY

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

Bill "An Act Concerning Fuel Oil and Coal Used in Manufacturing Processes"

H.P. 1755 L.D. 2441

Tabled - March 29, 1992, by Senator **CLARK** of Cumberland.

Pending - **REFERENCE**

(Committee on **TAXATION** suggested and **ORDERED PRINTED**.)

(In House, March 29, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

On motion by Senator **BOST** of Penobscot, Tabled until Later in Today's Session, pending **REFERENCE**.

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

Resolve, to Transfer Certain State Lands to the Maine Veterans' Home

S.P. 973 L.D. 2459

Tabled - March 29, 1992, by Senator **CLARK** of Cumberland.

Pending - Motion by Senator **WEBSTER** of Franklin to **REFER** to the Committee on **ENERGY & NATURAL RESOURCES**

(Committee on **ENERGY & NATURAL RESOURCES** suggested and **ORDERED PRINTED**.)

Senator **WEBSTER** of Franklin requested and received Leave of the Senate to withdraw his motion to **REFER** to the Committee on **ENERGY & NATURAL RESOURCES**.

Senator **VOSE** of Washington moved to **REFER** to the Committee on **STATE & LOCAL GOVERNMENT** in **NON-CONCURRENCE**.

The same Senator further moved to Table 1 Legislative Day, pending the motion by same Senator to **REFER** to the Committee on **STATE & LOCAL GOVERNMENT** in **NON-CONCURRENCE**.

Senator **VOSE** of Washington requested and received Leave of the Senate to withdraw his motion to **TABLE 1 LEGISLATIVE DAY**.

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

Senator **VOSE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Senator Baldacci of Penobscot is not here and I don't want to do anything until he is here to debate the issue. Therefore, that is the reason I wanted to make a motion. If there is a better way to do it, I would appreciate some help. Thank you.

On motion by Senator **MCCORMICK** of Kennebec, Tabled until Later in Today's Session, pending the motion by Senator **VOSE** of Washington to REFER to the Committee on **STATE & LOCAL GOVERNMENT** in **NON-CONCURRENCE**.

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

Bill "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs"
H.P. 1749 L.D. 2438
(S "B" S-743)

Tabled - March 29, 1992, by Senator **BUSTIN** of Kennebec.

Pending - Motion by Senator **CONLEY** of Cumberland that the Senate **ADHERE**

(Committee on **AUDIT & PROGRAM REVIEW** suggested and **ORDERED PRINTED**.)

(In Senate, March 29, 1992, **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED**, without reference to a Committee, in **NON-CONCURRENCE**.)

(In House, March 29, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1323)**, without reference to a Committee, in **NON-CONCURRENCE**.)

On motion by Senator **BUSTIN** of Kennebec, Tabled 1 Legislative Day, pending the motion by Senator **CONLEY** of Cumberland to **ADHERE**.

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

After Recess

Senate called to order by the President.

The President requested the Assistant Sergeant-at-Arms escort the Senator from York, Senator **DUTREMBLE** to the Rostrum where he assumed the duties as President Pro Tem.

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

The Senate called to Order by the President Pro Tem.

The following proceedings were conducted after 12:01 a.m., Monday, March 30, 1992.

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 Supplemental Appropriations and Allocations for the Expenditures of State

Government for the Fiscal Years ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of the Laws" (Emergency)

H.P. 1547 L.D. 2185
(H "L" H-1216; H "N" H-1219; H "Q" H-1222; H "T" H-1228; H "U" H-1230; H "FF" H-1252; H "OO" H-1275; S "E" S-708; S "H" S-720; S "L" S-748 to C "A" H-1192)

In Senate, March 29, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1192) AS AMENDED BY HOUSE AMENDMENTS "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275) AND SENATE AMENDMENTS "E" (S-708); "H" (S-720); "L" (S-748) thereto, in NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1192) AS AMENDED BY HOUSE AMENDMENTS "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275); "QQ" (H-1319); "RR" (H-1320); "TT" (H-1329) AND SENATE AMENDMENTS "E" (S-708); "H" (S-720) thereto, in NON-CONCURRENCE.**

On motion by Senator **PRAY** of Penobscot, the Senate **RECEDED** from its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "A" (H-1192) As Amended by House Amendments "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275) AND Senate Amendments "E" (S-708); "H" (S-720) and "L" (S-748) thereto, in **NON-CONCURRENCE**.

House Amendment "QQ" (H-1319) to Committee Amendment "A" (H-1192) **READ** and **ADOPTED**, in concurrence.

House Amendment "RR" (H-1320) to Committee Amendment "A" (H-1192) **READ** and **ADOPTED**, in concurrence.

House Amendment "TT" (H-1329) to Committee Amendment "A" (H-1192) **READ**.

On motion by Senator **PRAY** of Penobscot, House Amendment "TT" (H-1329) to Committee Amendment "A" (H-1192) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192) in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192) **INDEFINITELY POSTPONED**, in concurrence.

On further motion by same Senator, Senate Amendment "M" (S-755) to Committee Amendment "A" (H-1192) **READ**.

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

Senator **PRAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Senate Amendment "M" (S-755) is different from House Amendment "TT" (H-1329) in the sense that it deletes reference to Section DDD which dealt with the \$175,000 for the homeless shelters for the mentally ill. I think that is a worthwhile project but there are many individuals who may have a number of items they may like to see which is the more appropriate process to take. In reference to the bulk of Amendment "M", it basically deals with the 7% and furlough day

provision that has been a stumbling block to many in voting for a budget document. As one who has participated in extended negotiations beyond the Appropriations Committee after we had seen the recommendations of the Appropriations Committee and the Governor's recommendations fail and having seen the likelihood of this document succeeding throughout the Legislative process, it is now at this time I offer this amendment as an attempt to resolve the major differences that we have in our ability to get a document through that reduces spending in this State by \$150,000,000. I request a Division.

Senator PRAY of Penobscot requested a Division.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator PRAY of Penobscot to ADOPT Senate Amendment "M" (S-755) to Committee Amendment "A" (H-1192) in **NON-CONCURRENCE**.

A Division has been requested.

Will all those in favor 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 13 Senators having voted in the negative, the motion by Senator PRAY of Penobscot, to ADOPT Senate Amendment "M" (S-755) to Committee Amendment "A" (H-1192), **PREVAILED**.

THE PRESIDENT PRO TEM: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (H-1192) As Amended by House Amendments "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275); "QQ" (H-1319) and "RR" (H-1320) and Senate Amendments "E" (S-708); "H" (S-720) and "M" (S-755) thereto, in **NON-CONCURRENCE**.

On motion by Senator WEBSTER of Franklin, 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 Mr. President. Ladies and Gentlemen of the Senate. I think it is important, at least for me speaking to you tonight as a Senator from Franklin County to explain my position and why I opposed to this measure as presented at this time. Probably the same reason I was opposed to it earlier and I opposed this line of logic in passing a budget all along. It seems to me that people of this state were faced with a budget several months ago when the decision came to cut education or cut social welfare programs and this legislature in December decided to cut its future. I was opposed to that and I spoke on the floor in my opposition to it. Tonight we are faced with the decision of cutting government programs or attacking state workers. I don't find that a particular decision I like to participate in. I feel that we should make it perfectly clear to anyone who cares that this is exactly what we are doing. We are making a choice between government programs, I mean welfare-type programs or cutting state workers. I am not going to participate in that.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I just wanted to make a distinction that has just been drawn that cutting state programs and pitting them against state workers is like pitting products that you produce against the worker who produces. State programs are state workers.

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

Senator CLEVELAND: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like an opportunity before I vote to make a brief statement on the record. I beg the indulgence. I know the hour is late. I have nothing to do with the hour. If it were my preference we would not be here at this hour doing it this time. Since this is the point we have chosen to vote on the budget, I have no choice but to make a few comments at this time in the evening. I am not going to vote for this budget. I am not going to do so because I believe we have failed to recognize what we need to do. The simple fact is the expenses of this government are exceeding the revenues. That's a reality. It is a reality we have been facing since I came here in December of 1990. I have voted for six or eight budgets, I can't remember any longer there has been so many of them. What we need to do is make dramatic reductions in expenditures of state government and I think increase the revenues through selective uses of tax exemptions. We need to do so in a way that doesn't create a balanced budget only until the ink dries on the amendment but does so in a structural way that lasts the length of the biennium budget. Back in July, on the hot evenings about this time at night, I was told once again we needed a budget. We needed to get through because that is what Maine people needed.

Back on that July night that budget barely lasted through October or November. We were called back in here in December because we were out of balance again, once again in a deficit position. Those few days before Christmas 1991, late one night we were told we must adopt a budget, because that is what we needed. I ultimately changed my vote because I thought it was for good for the people of this state. Now, I am back here in January, we are out of line on the budget again and here we are late one night once again with the same process. We need to face reality. What we have done is diagnose the patient who has gangrene. The leg is being eaten up and we have chosen not to tell the patient what they need. We have chosen instead to amputate an inch at a time. Each time taking another painful slice knowing that the real cure is to take a much larger piece. It is not pretty. It is not nice what we have to do. It's particularly difficult to those who have come here because we want to do good things for the people of Maine. Reducing programs and increasing taxes is not we have hoped to do. I have done so in trying to create time so that we could solve solutions, find a bigger picture and create the consensus. Get the leadership and the Governor to do the kinds of repair that need to be done.

I am out of patience. We have had a year and a half to do it and I am not going to take another inch from the patient. I am prepared to do what needs to be done. To face this beast right in its eye and do it all at once. It will be difficult. I will have to support cuts I don't want cut but I am not going to do it an inch at a time any longer at 3:00 a.m. in the morning. I am not going to act to be an enabler to disfunctional process any longer. I am not going to support this. I know many of you will because you feel you need to, but I want you to be on notice, I am going to vote for real fixes from now on, not temporary ones. We have time to do it because we are going to be back here and every one of you know it. The next time that you want my vote it is going to be for a real fix.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator PRAY of Penobscot, to **ADOPT** Committee Amendment "A" (H-1192) As Amended by House Amendments "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275); "QQ" (H-1319) and "RR" (H-1320) and Senate Amendments "E" (S-708); "H" (S-720) and "M" (S-755) thereto, in **NON-CONCURRENCE**.

A Vote of Yes will be in favor of **ADOPTION**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator CLEVELAND of Androscoggin who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator BERUBE of Androscoggin who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BOST, BRANNIGAN, BUSTIN, CLARK, CONLEY, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, PRAY, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT PRO TEM - DENNIS L. DUTREMBLE

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, ESTES, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, THERIAULT, WEBSTER

PAIRED: Senators BERUBE, CLEVELAND

ABSENT: Senators BALDACCI, EMERSON

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators having paired their votes and 2 Senators being absent, **ADOPTION** of Committee Amendment "A" (H-1192) As Amended by House Amendments "L" (H-1216); "N" (H-1219); "Q" (H-1222); "T" (H-1228); "U" (H-1230); "FF" (H-1252); "OO" (H-1275); "QQ" (H-1319) and "RR" (H-1320) and Senate Amendments "E" (S-708); "H" (S-720) and "M" (S-755) thereto, in **NON-CONCURRENCE, PREVAILED**.

Which 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.

The President Pro Tem requested that the Assistant Sergeant-at-Arms escort the Senator from Penobscot, Senator PRAY to the Rostrum where he resumed his duties as President.

The Assistant Sergeant-at-Arms escorted the Senator from York, Senator DUTREMBLE to his seat on the Floor of the Senate.

The Senate called to Order by the President.

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

**PAPERS FROM THE HOUSE
Non-concurrent Matter**

Bill "An Act to Encourage the Development of Business and Infrastructure through the Extension of State Tax Increment Financing"

S.P. 974 L.D. 2460
(S "A" S-750)

Committee on **TAXATION** suggested and **ORDERED PRINTED**.

In Senate, March 29, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-750)**, without reference to a Committee.

Comes from the House referred to the Committee on **TAXATION in NON-CONCURRENCE**.

The Senate **ADHERED**.

Sent down for concurrence.

ENACTORS

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

An Act to Require that Administrative Cost Reductions Be a First Priority in the Event of Revenue Shortfalls

H.P. 1776 L.D. 2458

Which 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.

Emergency

An Act to Create Jobs, Promote Economic Growth and Provide Business Assistance

H.P. 1773 L.D. 2455

(S "A" S-740)

On motion by Senator BRANNIGAN of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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 Provide Skills Training for Unemployed Workers"

H.P. 1772 L.D. 2454

In House, March 29, 1992, the Report **READ** and Bill and Accompanying Papers **RECOMMITTED** to the Committee on **HOUSING & ECONOMIC DEVELOPMENT**.

In Senate, March 29, 1992, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED in NON-CONCURRENCE**.

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

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 Related to Hydropower Relicensing Standards

S.P. 848 L.D. 2159

(C "A" S-752)

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

House Papers

Bill "An Act to Delay the Workers' Compensation Rate Increase" (Emergency)

H.P. 1775 L.D. 2457

Committee on **BANKING & INSURANCE** suggested and **ORDERED PRINTED.**

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1326)**, without reference to a Committee.

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

House Amendment "A" (H-1326) **READ.**

On motion by Senator **COLLINS** of Aroostook, Senate Amendment "B" (S-757) to House Amendment "A" (H-1326) **READ.**

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This amendment to the amendment recognizes the delay. The amendment creates a time in which the Blue Ribbon Commission may be enacting some changes to the Workers' Compensation Law that will be added as a result of the work of the Commission. It attempts to provide some provisional orders during that interum period from May to November so that in the event we enact something as a result of the activity of the Blue Ribbon Commission that that period can take advantage of it so it will not be a burden on the business people that pay those premiums. This really just says during that time that the Blue Ribbon Commission comes up with something that they will make it retrospective to cover that interum period. Thank you Mr. President.

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If I might ask a question to anyone who would care to address it. My interest and concern regarding this amendment is the opportunity that the Blue Ribbon Commission may have to make this kind of recommendation or other recommendations. It seems to me that should the Blue Ribbon Commission feel that a retroactive provision is in order they may chose to make that retroactive to May first or to any other date that they deem appropriate. It seems to me that might be a better action to take to allow them to have the flexibility to make this kind of recommendation versus us arbitrarily choosing this kind of provision. I might ask why that wouldn't be a better approach.

THE PRESIDENT: The Senator from Cumberland, Senator Esty posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Mr. President, you will note that I said that these would be provisional orders and they might be requested during this period. It may be that the Commission will have to take some action during that time. This gives them the opportunity to do it and that is why we do it is that things are going to continue to happen during that time. The Commission is going to have to have some leeway, whatever it is and these would only be provisional orders. That is the nature of my understanding of it.

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If I might pose another question to anyone who would care to answer it. Is it the intention of this amendment then to provide the Blue Ribbon Commission the ability to Legislatively authorize action without Legislative approval such as the kind of action that the Senator from Aroostook, Senator Collins has indicated? I'm not sure that that is something we would like to be doing.

THE PRESIDENT: The Senator from Cumberland, Senator Esty posed a question through the Chair to any Senator would care to respond. The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As I understand it, this just recognizes that business continues and that there will be cases before the commission during this time and that the orders they have to issue will be provisional because they assume in due course Legislation will be enacted that may change the eventual outcome of those provisional orders. Obviously, until the commission reports and this legislature has acted, nothing will be in place.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Of course there are two commissions, one is the Workers Compensation Commissioners and then second, we have the Blue Ribbon Commission. The Blue Ribbon Commission really has no authority to enact any law so it seems inappropriate to assume that whatever their recommendations will be and whatever the Legislature ultimately adopts that it would be appropriate that each such provision be retroactive. Last year when we had our major system reform, there were some items that perhaps could have been retroactive regarding medical care, as an example, medical cost containment and yet there were other items that had to do with a benefit, which clearly would be inappropriate to remove and I just think this is very inappropriate to make a statement that the unknown will be affected at a retroactive date. It seems non-sensical to be honest. I don't see the rational for that and I certainly guess I would make a motion for a division and urge you to vote against the pending motion which is adoption of this amendment.

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

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would also ask that this body vote against the amendment. I believe that in all likelihood this amendment will cause first of all greater confusion to the workers comp system then already presently exists. Number two, more instability and unpredictabilty for the businesses both large and small during this important time of conciliation and problem solving. Again as it has been indicated, it is a do nothing approach to a temporary problem that needs to be addressed in the long term. Thank you Mr. President.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I too, urge you

to vote against this amendment. I don't think it's a proper amendment to this Bill. If you read this bill you will see that the content of it is asking for a delay of the Workers' Comp surcharge, a freshstart surcharge increase. If you study the insurance side, which none of the discussion here has yet been pointed to, you will see there is a crisis going on. The issues that are brought up by this amendment and the issues that hopefully the Blue Ribbon Commission will deal with are also on the labor or benefit side. I want to read to you so you can get a sense of the seriousness of the insurance crisis and why this bill is before you now. I want to read to you from a document now that has been making the rounds of the Banking and Insurance Committee. It's fascinating reading, I urge you to read it. It is the Maine Bureau of Insurance docket number 9166, Workers Compensation 1992 Rate Filing Hearing.

I would like to read a couple of paragraphs from Mr. Ben Devers testimony. He is appearing for Guilford of Maine. He says "In addition to questioning the validity that is going into the freshstart surcharges. He is quite confident that there are incompetent claims administration and total lack of loss control services during this time. It has inflated our claims experience. The bureau itself has already recognized the poor performance of Northern MGA. I understand this was part of the 1990 rate decision but as near as I can tell Guilford is unsure how we ever benefited from this recognition. Instead we are being asked, it appears, to continue to fund freshstart surcharges. Between 1987 and April 1990 when we were in the assigned miss pool we received absolutely no loss control services. Since becoming self-insured we have received excellent loss control services and we are quite confident this has contributed to our drastic decrease in lost-time accidents. In addition, Guilford feels very strongly that the fees collected by Northern MGA for administrative services during this time period were greatly inflated compared to fees set in the free market for self insurance. It is my understanding that the third party administrator receive somewhere between 25 and 30 percent of the premiums in the assigned risk pool. Based on our experience in self insurance we are noticing fees similar to \$300.00 to \$500.00 per claim in self insurance which I am estimating would equate to seven to 15 percent of standard premiums." This goes on for about 15 pages which I will not read.

I read you that to give you a sense of what is going on in the insurance market and I urge you to leave this Bill clean and lean and let us delay the freshstart surcharge. Let's shed some light on this ever more murky subject on the insurance side of workers comp so that we can see if Maine businesses are being accurately asked to pay these freshstart surcharges or should not be paying them.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have had a chance to take a look at this amendment and I appreciate the intentions from which this came but I do believe this is a pretty dangerous amendment just by reading the statement of fact. This amendment adds provisions that the underlining amendment require Workers' Comp commission to issue provisional orders at the request of any party in an active case before the commission between May 1, 1992 until

December 31, 1992. I think this is going to be messing with cases that are going to be happening after we get out of here until the Blue Ribbon Commission reports. People get hurt who will really have no idea of where they are going to stand as far as Workers' Comp goes. Again, if you read this statement of fact and the language in the Bill, we are requiring in some instances here the Blue Ribbon Commission to be looking at some areas where we should be leaving that up to them. The retrospective part it's nothing more than retroactivity that appeared before this Legislature last year and we thought was going to appear again this year. This appears to me like this could be a very dangerous amendment and I can't support it.

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

Senator **CONLEY:** I would like to ask the chair if this amendment is germane to the bill.

THE PRESIDENT: The Chair would answer in the affirmative.

Senate at Ease
Senate called to order by the President.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The reason for this amendment, if you recall earlier this morning or last night, we put away all of the Bills. What we originally called temporary measures relating to the Workers' Compensation problem. We delayed implementation or we delayed any action as a matter of fact. When we did this we said we will wait until the Blue Ribbon Commission has an opportunity to make its recommendation. Well what happens during this interim period is that the business community doesn't get the advantage of any changes whatsoever. If you don't pass this, the orders that are enacted by the Workers' Compensation committee cannot be changed. They cannot be altered retrospectively, so yes there is some possibility that some things will be different and that is the reason that we ask for this opportunity for those orders to be provisional. We will have wasted another five or six months, or whatever time it takes again, without any action. All this is saying is at least during that time that the orders before the commission could be provisional. If you don't enact it why then all those will be final orders. Once again, the business community would have gone through the time frame of spending probably lots of more money. If you don't think that is appropriate why I suppose you would vote against the amendment. We seem to live on delay on this thing and it seems to me it's sort of a halfway in between affair type of proposal and it only says that if the Blue Ribbon Commission's action resulted in changes which would be enacted by this Legislature would ban those orders that were provisional could be altered to reflect what happened after the legislature adopted the Blue Ribbon Commission's report or whatever pieces of it that it did. 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 have had an

opportunity to review the proposed amendment before us and in my judgement this would have the quite likley effect of providing a disincentive of carriers to voluntarily pay claims which rely subsequent to May 1, 1992. If you take a look at the amendment you will see that in lines 37 through 42 states that nothing in this section may be interpreted to require the repayment or surrender of benefits actually paid to or received by an employee between May 1, 1992 and December 31, 1992. What this means to a person who has an experience in the practice of law is that any marginal case at all an insurance company will not actually pay benefits. A company will say "well let's just roll the dice here and see what we might come up with in terms of possible and further benefit cuts at the hands of the Blue Ribbon Commission through the Maine Legislature." That will quite likely delay the payment of benefits, which in many cases will be meritorious and needed by legitimately injured men and women working people of our state.

This will simply add in fact significant delay to payment of benefits. Mind you, in many cases the benefits would be uncontroverted without this language, but because the insurance industry might think they actually get a break if they wait in a delay and they get a further diminution of benefits to Maine workers. It seems to me it would be in the interest of the industry to delay, to delay the prompt payment of claims because once again the language says that if you actually pay benefits out then if there is subsequent benefit reductions the money can't get paid back. Clearly, that is a disincentive to pay claims. I have grave reservations about this Bill. I think it will clearly delay the prompt payment of very legitimate claims for workers compensation benefits and I will join those colleagues of mine who urge the body to resist and oppose adoption of this amendment. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **COLLINS** of Aroostook to **ADOPT** Senate Amendment "B" (S-757) to House Amendment "A" (H-1326) in **NON-CONCURRENCE**.

A Division has been requested.

Will all those in favor 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 17 Senators having voted in the negative, the motion of Senator **COLLINS** of Aroostook, to **ADOPT** Senate Amendment "B" (S-757) to House Amendment "A" (H-1326), **FAILED**.

House Amendment "A" (H-1326) **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, without reference to a Committee in concurrence.

On motion by Senator **TWITCHELL** of Oxford, **RECESSED** until 3:00 in the afternoon.