

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twentieth Legislature**  
**State of Maine**

**Volume I**

**First Regular Session**

December 6, 2000 – May 17, 2001

Pages 1-889

ONE HUNDRED AND TWENTIETH LEGISLATURE  
FIRST REGULAR SESSION  
28th Legislative Day  
Friday, March 30, 2001

Penobscot, MITCHELL of Penobscot, ROTUNDO of Androscoggin.

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Richard Bamforth, Augusta (retired).

Pledge of Allegiance.

The Journal of yesterday was read and approved.

**COMMUNICATIONS**

The Following Communication: (S.P. 584)

**STATE OF MAINE  
120TH LEGISLATURE**

March 29, 2001

Hon. Neria R. Douglass

Senate Chair, Joint Standing Committee on Legal and Veterans Affairs

Hon. John L. Tuttle, Jr.

House Chair, Joint Standing Committee on Legal and Veterans Affairs

120th Legislature

Augusta, ME 04333

Dear Senator Douglass and Representative Tuttle:

Please be advised that Governor Angus S. King, Jr. has nominated Kathleen McGibney Newman of Hallowell for reappointment as a member of the Maine Liquor and Lottery Commission.

Pursuant to Title 5, M.R.S.A., §283-A, this nomination will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Michael H. Michaud

President of the Senate

S/Michael V. Saxl

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

**READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

The following Bill was received, and upon the recommendation of the Committee on Reference of Bills was **REFERRED** to the following Committee, ordered printed and sent for concurrence:

**EDUCATION AND CULTURAL AFFAIRS**

Bill "An Act to Address Maine's School Facilities Needs"

(H.P. 1294) (L.D. 1762)

Presented by Representative DESMOND of Mapleton. (GOVERNOR'S BILL)

Cosponsored by Senator TREAT of Kennebec and Representatives: CUMMINGS of Portland, RICHARD of Madison, STEDMAN of Hartland, WATSON of Farmingdale, WESTON of Montville, Senators: President MICHAUD of

**REPORTS OF COMMITTEE**

**Change of Committee**

Representative MCKENNEY from the Committee on **TRANSPORTATION** on Bill "An Act to Allow Private Maintenance of Public Easements"

(H.P. 589) (L.D. 744)

Reporting that it be **REFERRED** to the Committee on **JUDICIARY**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

Sent for concurrence.

**Divided Report**

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-22)** on Bill "An Act to Improve Allowances for Jury Duty"

(S.P. 57) (L.D. 221)

Signed:

Senators:

RAND of Cumberland

McALEVEY of York

FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton

BULL of Freeport

MITCHELL of Vassalboro

MUSE of South Portland

SIMPSON of Auburn

JACOBS of Turner

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Representatives:

MADORE of Augusta

WATERHOUSE of Bridgton

SHERMAN of Hodgdon

MENDROS of Lewiston

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-22)**.

**READ.**

Representative BULL of Freeport moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 32) (L.D. 130) Bill "An Act to Amend the Law Pertaining to the Maine Community Policing Institute Surcharge Fund" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-21)**

(S.P. 167) (L.D. 586) Bill "An Act to Clarify the Testing Process for the Licensing of Guides" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-24)**

(S.P. 202) (L.D. 767) Bill "An Act to Facilitate Passenger Rail Transportation by Limiting Liability" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-23)**

(H.P. 47) (L.D. 56) Bill "An Act to Provide the Right to a Jury Trial in Civil Actions for Civil Rights Violations" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-73)**

(H.P. 151) (L.D. 162) Bill "An Act to Change the Criteria for Intervenor Status" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-74)**

(H.P. 158) (L.D. 169) Bill "An Act to Ensure the Continuing Beauty and Accessibility of Capitol Park" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-76)**

(H.P. 312) (L.D. 390) Bill "An Act to Require Telephone Utility Participation in Enhanced 9-1-1" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-78)**

(H.P. 813) (L.D. 1068) Bill "An Act to Clarify the Laws Relating to Corporate and Other Entities" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-75)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

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### CONSENT CALENDAR Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 196) (L.D. 668) Bill "An Act to Reallocate a Portion of the Calendar Year 1999 Allocation of State Ceiling" (EMERGENCY)

(S.P. 266) (L.D. 913) Bill "An Act Regarding Variances to the Implementation Dates of the Nutrient Management Law" (EMERGENCY) (C. "A" S-20)

(H.P. 155) (L.D. 166) Bill "An Act to Provide Free Commercial Shooting Area Licenses For Seniors" (C. "A" H-58)

(H.P. 269) (L.D. 347) Bill "An Act to Amend Certain Provisions of Maine's Wild Turkey Hunting Season" (C. "A" H-59)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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### BILLS IN THE SECOND READING House As Amended

Bill "An Act to Provide Additional Resources to the Oxford County Fair Society"

(H.P. 831) (L.D. 1103)  
(C. "A" H-56)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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Bill "An Act to Prohibit Certain Conduct Relating to Elephants"

(H.P. 488) (L.D. 628)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative STEDMAN of Hartland, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED** and specially assigned for Saturday, March 31, 2001.

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### ENACTORS

#### Emergency Measure

An Act to Clarify the Act of Separation of Frye Island from the Town of Standish

(S.P. 156) (L.D. 500)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative KASPRZAK of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I just want you to remember that when we are voting on this motion, LD 500, we are saying to one town in the State of Maine that they will be treated differently when it comes to where their children go to school. They must come before the Legislature to get permission to have their children be part of another school district. If you think that is a great idea, vote in favor of this bill. If you disagree with that idea and you think that all towns should be treated equally in the State of Maine on this matter, I ask that you would vote Ought Not to Pass. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. In fact what we are saying to this one town that when you make an agreement, you make an agreement and you stand by it. I ask you to vote for enactment.

The **SPEAKER**: The Chair recognizes the Representative from Standish, Representative Hawes.

Representative **HAWES**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to point out again that Frye Island is a different situation because it is different. They agreed to remain a part of the Standish school entity if we would agree to their secession and become the newest town in the State of Maine. I urge you to vote in favor of LD 500 and its enactment today. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 37**

YEA - Ash, Baker, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brooks, Bryant, Bull, Bumps, Canavan, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Goodwin, Gooley, Green, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mitchell, Murphy E, Murphy T, Muse C, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Annis, Berry DP, Bruno, Buck, Carr, Chase, Crabtree, Cresse, Davis, Desmond, Duprey, Glynn, Kasprzak, MacDougall, Mendros, Michael, Muse K, Nass, Peavey, Pinkham, Shields, Snowe-Mello, Trahan, Treadwell, Waterhouse.

ABSENT - Andrews, Bagley, Brannigan, Bunker, Landry, LaVerdiere, Michaud, Morrison, Quint.

Yes, 117; No, 25; Absent, 9; Excused, 0.

117 having voted in the affirmative and 25 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to Correct the Judicial Retirement Laws Regarding Administrative Court Judges

(H.P. 440) (L.D. 561)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, Authorizing the Department of Marine Resources to Convey by Transfer and Easement to the Boothbay Harbor Sewer District the State's Interest in Certain Property on McKown Point in West Boothbay Harbor

(H.P. 265) (L.D. 343)

(C. "A" H-32)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative COLWELL of Gardiner, **TABLED** pending **FINAL PASSAGE** and later today assigned.

**Acts**

An Act to Expand the Lifetime Hunting License

(H.P. 60) (L.D. 69)

(C. "A" H-20; H. "A" H-45)

An Act to Provide Funds to Purchase Thermal Imaging Cameras

(H.P. 225) (L.D. 260)

(C. "A" H-34)

An Act to Authorize the Maine Land Use Regulation Commission to Receive Real Estate Transfer Tax Forms for Municipalities in its Jurisdiction

(S.P. 67) (L.D. 263)

(C. "A" S-14)

An Act Concerning Recordkeeping in Relation to Employment of Minors

(H.P. 244) (L.D. 280)

(C. "A" H-36)

An Act to Specify the Permissible Hours for Sale of Liquor By Wholesale Licensees

(S.P. 76) (L.D. 296)

(C. "A" S-12)

An Act to Designate the Ryefield Bridge an Historic Bridge

(S.P. 82) (L.D. 302)

(C. "A" S-9)

An Act to Provide Clarification on the Use of Impact Fees

(H.P. 268) (L.D. 346)

An Act to Promote Equity Among Health Care Clinics

(S.P. 128) (L.D. 404)

(C. "A" S-15)

An Act to Require the Department of Transportation to Coordinate with Municipalities Regarding Landscaping and Planting

(S.P. 149) (L.D. 493)

(C. "A" S-16)

An Act to Provide an Opportunity for Minors Under 16 Years of Age to Work in Nonprofit Moving Image Archives

(H.P. 390) (L.D. 511)

(C. "A" H-35)

An Act to Provide Uniformity and Consistency in the Appeals from the Trial Courts to the Law Court

(H.P. 438) (L.D. 559)

An Act to Provide for Variance Notification in the Shoreland Zoning Law

(H.P. 704) (L.D. 919)

(C. "A" H-33)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Resolves**

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

(S.P. 39) (L.D. 207)

(C. "A" S-18)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act to Increase the Amount Transferred through State-municipal Revenue Sharing

(S.P. 41) (L.D. 209)

(C. "A" S-13)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BERRY of Livermore, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act to Clarify the Maine Turnpike Authority's Power Regarding Confidentiality of Information

(S.P. 90) (L.D. 317)  
(C. "A" S-10)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act to Allow the Maine Turnpike Authority to Construct Communications Facilities

(S.P. 107) (L.D. 333)  
(C. "A" S-11)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

The following item was taken up out of order by unanimous consent:

**SENATE PAPERS**  
**Non-Concurrent Matter**

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003" (EMERGENCY)

(H.P. 256) (L.D. 300)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-55)** in the House on March 28, 2001.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-55) AS**

**AMENDED BY SENATE AMENDMENT "K" (S-36)** thereto in **NON-CONCURRENCE**.

Representative BERRY of Livermore moved that the House **INSIST** and ask for a **COMMITTEE OF CONFERENCE**.

Representative WATERHOUSE of Bridgton moved that the House **RECEDE AND CONCUR**.

The same Representative **REQUESTED** a roll call on his motion to **RECEDE AND CONCUR**.

Representative COLWELL of Gardiner moved that the House **RECEDE**.

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE** and later today assigned.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003" (EMERGENCY)

(H.P. 256) (L.D. 300)

Which was **TABLED** by Representative COLWELL of Gardiner pending his motion to **RECEDE**.

Subsequently, Representative COLWELL of Gardiner **WITHDREW** his motion to **RECEDE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I would ask you to vote against the pending motion. I ask you to do this for a number of reasons. This is my first term serving as chair of the Appropriation Committee. As we went through the budget process in this body the other night we went over how we arrived at the document that you have before you. I want to add, from my personal experience, that as difficult as the negotiating process was in the committee, I felt that I had been dealing in good faith. I felt that I was dealing with people that were also dealing in good faith. I worked as hard as I could to work with the other members of the committee to come out with a unanimous report that would come to this body and the other body as a package and that we hoped would be acceptable. We know that there were pieces that we didn't care for, but we felt that it was part of the democratic process. As difficult as it was, I think it was a successful venture.

There are things that were left out of the Part I Budget. It was a current services budget that we proposed. There are still a lot of issues that need to be dealt with. There are a lot of ongoing issues, such as the collective bargaining with out state employees that is extremely important. The document before you now has been amended by the other body. I feel that they

have treated the Appropriations Committee badly. I represent constituents from District 93. I think I have tried to bring a fair voice for my constituents. I understand the need for others to bring theirs. I think for this amendment to come before us as it has shown a complete disregard for this body and our responsibility to have a role in this budget.

To speak to the amendment itself, there are items in here that are clearly items, individual projects or favorites. In the budget that we sent from Appropriations it was clearly free of amendments by members of the Appropriations Committee. That is not to say that they weren't some excellent ideas. Ideas that would promote some economic growth in some underserved areas of the state, some high unemployment areas. That is not in this Amendment "K." I told you that we had a commitment among members of the committee to work, to address the COLA issue for the nursing homes. All parties on that committee agreed to that, that we would work with them. By sending this up here now from the committee of the other body, we haven't been able to look at some of our options. Possibly, we could work with the administration, the Commissioner of the Department of Human Services to work within existing resources, if we work with them. I think there was great interest when we talked to them the other day.

We don't have to throw a bunch of money out there. I am not interested in paying the lobbyists. I am interested in getting the money to the direct care staff. I think that is what I heard from the other members of this body and the other members of the Appropriations Committee. One of my highest priorities and that of my caucus was to save as much as we could from the Governor's cuts from the Fund for a Healthy Maine. We needed to save health and prevention programs that could possibly help us prevent future costs in Medicaid and future costs from dental care. Dental health is a huge issue in the rural areas. I think we did well. As well as we could under the circumstances.

The committee of the other body has thrown another carrot out there for you. It is a bad idea. I don't think I can take it much more. Franco phone, I am telling you that the Business and Economic Development Committee recommended to the Appropriations Committee that we phase this out. As a member of the Appropriations Committee and a past supporter of the former Franco phone, I supported it in the past. I wanted to give it a chance to work. We wanted them to be accountable. Were they accountable? They had some problems. In my mind, they had their chance. I think that if they had another chance, they might be able to do it. I feel like I have been abused by this, in particular. I know it is tiny item. It is like going to a town meeting and disputing against the charitable organizations for an hour and then passing a \$35,000 backhoe in two minutes.

The committee, we did adopt two tax pieces. Part of the Governor's package and the meals and lodging tax, which we agreed to dedicate a portion to tourism. The industry was agreeable to that. They thought that was a good idea. I know my first term on the Appropriations Committee it was a battle for every penny that they got. They were competing against Human Services and they were competing against other economic development packages. Here is an industry that they said for every dollar that you give us, they will give us a \$7 return to the state coffers. Some of the funding that we gave them, they came back with evidence that they were returning \$11. Was that a smart investment? Yes. I think that we needed some ongoing revenue as much as we hate to raise taxes. That is what it is.

Sometimes it is necessary to meet the basic services that we think our constituents expect.

I know I have talked on and on on this. I really think I have managed quite well. Another issue on the Senate Amendment "K" is the fully exempt military pensions of state retirees with no social security offset. It is a wonderful idea. Did it come through the Appropriations Committee? No, it didn't. How is it funded? Most everything here is going to be using the Rainy Day Fund. I have suggested using the Rainy Day Fund a couple of times in small amounts. I am surprised that two former members of the Appropriations Committee that they would suggest that is a good idea. I don't mean any disrespect to them in a personal way. I am just flabbergasted that this was a proposal. Some members in the past have fought against any use of the Rainy Day Fund for any reason. Here we have gone and really put the state at some financial risk. I think it is a bad choice. The Rainy Day Fund is used by the state as our cash flow. We haven't had to borrow money for tax anticipation notes for a number of years, several years. The Rainy Day Fund allows us to have that cash flow. Right now Commissioner Waldren has said that with the GPA and with the existing conditions, at the moment it is quite low. It would be unfortunate and ill advised, I think, to use this much of the fund.

My first thoughts when I kind of sorted through this was that we were setting ourselves up. We came into this session and we knew that we had a structural gap. We had revenue reprojections that were showing reduced rates of revenue. In my mind, we are pushing this problem off for two years and we are using our savings account in the meantime. Should things change, not improve, we are going to need that cushion. I know this is the longest I have ever talked on this floor. I just would hope that this body would respect the work of your colleagues. We haven't operated in that committee with big egos. We have operated in good faith. I guess I ask your support to defeat the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House. I stand to agree with the House Chair of the Appropriations Committee. I would like to talk about three items that are troublesome about Senate Amendment "K." Again, he has mentioned the structural gap problem. You have on your desk a piece of paper from the Office of Program and Fiscal Review, which shows the difference between the two proposals in front of us. The proposal that passed the other night, Committee Amendment "A", it has been suggested that that in itself would create a structural gap of between \$65 and \$95 million for the next biennium. We are about the year 2004 and 2005. This Senate Amendment "K" now before us approximately doubles that structural gap. All of this is before we resolve what is now going to become the Part II Budget or the new spending/new programs.

Some people have said, it doesn't matter, we have had structural gaps before. We go out of session and we go home and almost immediately when we get home, we hear, when you guys come back into town there is going to be a structural gap. The press works that all summer and when we get back here in the early winter, we have gotten ourselves worked into a real lather about this structural gap, but somehow we keep solving that problem. We have solved the problem all right because we have just kind of come through a period where we have had increasing revenues that are of some substance. That is how we

solved the problem. We are not in that situation necessarily. We don't know how fast or how far we are going to decline, but certainly the projections for revenue growth are down. I am suggesting to you today that you should pay attention to this structural gap because, I think, I wish I was wrong, but it is going to become more important for those of you that are here in the next biennium.

The other two things that I want to talk about have also been mentioned by the House Chair. Cash flow, we have not had much debate or deliberation about cash flow because it also has not been a problem for us, most of us that have been here for six or seven years. I have never heard much discussion about cash flow. Now, we have a problem. The Rainy Day Fund and other reserves that we have affectively operated as our capital reserve, our working capital reserve, whatever you want to call it. It too becomes a new problem. Senate Amendment "K" makes this problem worse. It uses up some of these reserves. The outgrowth of that is in order to solve that cash flow problem, we are going to start borrowing money in the short term. Those are tax anticipation notes. Those of you that live in small rural towns know the general euphoria that happens when a town is able to stop doing that, by whatever means they get there. In my background, this is small town politics. When a town can stop borrowing in anticipation of taxes, there is a benefit that accrues to the town and a society as a whole. It costs less money to operate when you don't have to borrow money short term. The State of Maine, with this amendment in place, is going to have to start borrowing money to pay its bills in the short run.

I urge that you vote against Recede and Concur. Let's go on to deal with the possibility of a Committee of Conference and see what we can do with that. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House. I am being very consistent today, because if you go back and you look at the roll calls, you can clearly see in those roll calls last night what were very important priorities for me in the previous Legislature and remain so today. I understand very fully what Representative Berry has said. In the two previous years, members from both sides of the aisle, I had spent many weekends here with them. I think if we go back to January, the problem starts with a very bad budget that was submitted to this Legislature. I think the committee was given a task of trying to make whole a vehicle and put that vehicle on the road when the vehicle was a lemon and couldn't be repaired. What upsets me are priorities that both parties agreed to in the previous Legislature. I think in the submitting of that document, the Chief Executive was able to circumvent those priorities. In the previous Legislature and I know you can't bind another Legislature, but the nursing homes was at the top of the list of both parties. There was a reason for it, because of escalating health care costs, wages that were non-competitive and it was leading to a decline in the care of our seniors in those nursing facilities. I think as the Chief Executive put together his budget, I don't think that really was a burning fire within him. It was admitted. That needs to be restored. The budget that restores that is the one that we are voting on with the Recede and Concur motion.

I think what put the committee in a second tough position was the Chief Executive took the second largest industry in this state, tourism, and in the off season they had come to him with a very good proposal within existing revenues dedicating a revenue

flow and the Chief Executive said, thank you very much and I will take it under consideration and then came back with a brand new tax. First, looking at the lodging industry and then shifting to the meals industry where alcohol isn't served. That put that industry, which is crucial to the Maine economy for its promotion at a zero percent level. When you talk to the folks back home who are dependent upon those revenues and those jobs, they fear that threat because they sincerely believe that this Legislature will fund them or not fund them without that tax. They were put into the position of having to go out and sell that tax. That is not good budget construction. I don't envy the Appropriations Committee because they had to labor with that. That is the point that the process started from.

The one we are voting on does include that funding. Another priority for both parties in the previous Legislature and I don't know if your phone is ringing or if you are getting the same number of e-mails as I am is the \$6,000 exemption for pensions. As we dealt with that in the previous Legislature, the court law said that if you are going to offer a public pension, you have to include the military. I think there was a reluctance on the part of some people not to include the military. When we left here last summer, we all believed that we had exempted \$6,000 pension income period. Now we have to put a little footnote on it that if you receive social security, that offsets your pension. We now discover that military retirees, out of a very limited military income, and many of those retirees could have qualified for food stamps while they served the country, but out of that limited pay, they paid for social security. Now when they have gone to file their returns . . . .

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At this point, the House chamber was evacuated due to a fire alarm.

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(After Fire Alarm)

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The House was called to order by the Speaker.

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The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House. Seatmates from this side say that my next words should be, and in conclusion. As a teacher I am very familiar with the drill that we just went through. It used to happen during tests that I was giving. Also, I keep my coat underneath my desk so that going outside, I being the only person in this chamber that had a coat, I guess I have become a suspect. I am glad the blinking lights are off because I thought it was a return back to the disco days of the '60s. In all seriousness, we were talking about the \$6,000 exemption. We were talking about the military. We were talking about the military residents of Maine who could have declared residency in Texas or in Florida or other states where there is no income tax, but during all those years that they served the military, they kept their Maine residency or after retirement decided to come to Maine. I thought it was very clear in the previous Legislature when we had said there would be that \$6,000 exemption that it would apply to the public employee. It would apply to federal and military pensions and that the man or woman that worked in a Maine mill or a shoe mill or a textile mill



with a very small social security retirement check would not see that exemption decreased because of that offset. There shouldn't be a little footnote as people look to see that exemption on the qualifying. Fairness and equity mean for every retiree.

The bill that we are voting on under this motion for Recede and Concur has that fairness. If you pick up the newspaper, you see the layoffs. They have happened in Sanford, Kennebunk and they have happened all up through northern and eastern Maine. Maine people are worried about the future. We should not be taking the step as we do in the Part I Budget of raising the taxes on Maine citizens. That should only be the last resort. It should not be the first step. I always get a little nervous when people start talking about that they have a proposal for fairness and equity. It usually doesn't mean a tax is going down. It means a tax is going up. The tax that was before us on the non-alcohol meals are the fried clams, the pizza, the hamburgers, the meals on a Friday night that a working family in Maine can afford. They usually can't afford to take the kids to the restaurant where the fine wine is served or the children won't eat the meal. I just do not think that we need to be sending that message.

I really have no other choice on these issues that are extremely important to me as an individual and which I think cut across party lines that I voted for in the amendments and they were defeated. This is the only opportunity for me to make sure that those are included. If this motion for Recede and Concur passes, will that be the final word? No. I think the work will start again. It will involve the same individuals that have been involved in it to this point. What it does is it moves the line of scrimmage from a position where we are going to take away the very positive things we did on both sides of the aisle in the 119<sup>th</sup>. Those things that were taken away by the Chief Executive have been restored. There is a new line of scrimmage that we are going to start from. It is a new place where we are going to complete that final budget that I think is in keeping with the spirit that exists on both sides of the aisle, making right that exemption, taking care of our seniors in the nursing homes, saying that as we start our deliberations here, we are not going to increase the tax burden on the Maine citizens.

I want to thank you for listening to me in these two installments. I would urge your green light on the motion to Recede and Concur. Thank you.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. When I voted on Wednesday evening for the budget, like many of you, there were things that I liked and things I did not like, but I swallowed hard and I voted anyway. One of the reasons why I felt that I could do that was because I had some idea of what the Part II Budget would look like. I had that idea because we had tracked it over the development of Part I over a long period of time. I had 10 members of this body, as members of the subcommittee for Appropriations that I could speak to often. I could understand what they were intending to do. This is their commitment and I could believe them. Right now with what the other body has given us, I have no idea what Part II will look like. I feel that we are being backed into a corner to approve what is before us now, the Senate Amendment, and that there are embedded in that many decisions on Part II that we may not like or probably won't like and would not have agreed to if we were aware of them ahead of time. I no longer have 10 fellow members of this body that I can turn to and give me a forecast on what that looks like,

other than it will be bad. As we heard a moment ago, none of us want to raise taxes. I am not an expert about the entire budget, but I can tell you one thing that I have been following closely in my committee and that is the Plymouth Waste Oil Site. Everybody here wants to do something and our committee is committed to passing a bill to this body that will have money in it for those who are terribly hurt by the Plymouth Waste Oil Site. What is before our committee now depends upon \$4.5 million from the Rainy Day Fund. I don't think anybody here believes and I have talked to some people who tell me I should not believe that that is going to hold anymore. That is gone. If you have told your constituents back home that you will support something for the Plymouth Waste Oil Site, I believe that you will be raising taxes in Part II. That is the only thing left that we will have control over.

For over 100 years this state passed budgets that included Part I and Part II at the same time. I don't believe there is anything special about March 31<sup>st</sup>. I believe the sun will rise and government will continue to operate if we let this weekend pass and we have a budget before us that is the entire package, Part I and Part II and there are no guesses necessary. There are no commitments to accept and believe. To get to that point, we need to vote against the pending motion. I hope that you will agree with me. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. This is probably a very bad time for me to rise. There may be an issue of credibility here, Mr. Speaker, that is the only thing that I am referring to. I am not rising to talk about the *National Examiner*. Please, if you do read that, note that I have not changed, I am a member of this body and not the other. I am rising because I guess I need to go on record. I have discussed this motion with a lot of people. Up until just a couple of minutes ago, I was absolutely ready to vote for Recede and Concur. It is unnerving for me to stand and to talk about the awkward feeling that I have right now. Almost everything that is in the document that was presented to us and about the amendment that was provided to us by the other body, I embrace. I work very, very hard along with the other members of the Health and Human Services Committee last year to make sure that we had a COLA. It is gone in one of the budgets that we are facing. I had a lot of phone calls this summer from people who have retired from the military who wanted to know if that promise I had made previously, that I thought we were going to give everybody a \$6,000 break. I found out we didn't. I don't want to be in this position. I want the Appropriations Committee to do its job and then I want us to be faced with a vote. I don't want to have to make this decision. I think there are probably about half of us on one side and half of us on the other. I don't know if my talk, which is about over, will make any difference. I have to stand up and say to the people that I have been talking to all day today where I am going and why I am going there. The decision that I made is based on process. I have been one who has been ridiculed since I got here five years ago for standing up on the floor and debating 11 to 1 reports. There have been a couple of occasions where I have been actually successful, not this term, but last term at turning around what I thought were logical votes when I was the one or sometimes two with a former member of this body who now works for the President Pro Tem. I am very proud of some of those votes. We managed to get that passed. Sometimes process may seem to the rest of the

members of this body not important to me, but it is vitally important. It is critical. For me to vote to Recede and Concur, I guess I have decided it is not something I can do, despite the fact that I have had many members of the other body approach me and say that there is only an \$8 million difference between the two budgets and that the \$150 to \$200 million shortfall predicted by the Fiscal Office is \$100 million less than what the Chief Executive left us with last year. Don't think that budget amendment is so bad. I guess it isn't bad. I am looking again at this white sheet of paper and it is wonderful. It is everything that I want, except process. I guess I have reached a point where I am going to have to vote against Recede and Concur and let the process take its place. I have been told the other body won't participate in a conference, well, so be it. This body has spoken and I think that we ought to support that vote and Insist on a Committee of Conference and let it take its course. To those of you out there who think I promised you that I would vote on the Recede and Concur, I apologize. I think up until a few minutes ago I had intended to do that. I may even disappoint some people on the far side of the other side of the aisle, but now I guess I am going to have to Insist to let the process take its course. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. I rise today proud of the Maine Legislature and proud that I am a member of the Maine Legislature. I don't care if tomorrow ends my stay in the Legislature and I will tell you why. Long ago before I became involved in politics, there was one thing that I kept saying to myself, I wish someone in the Maine Legislature would cry out and say, stop, listen to me. I can't take it anymore. I was in an industry, logging industry, struggling to make a living, struggling to pay my taxes, struggling with my wife and family to get by. I wanted someone to cry out, stop. Stop raising my taxes. Put the people of Maine first. When I went to the other body earlier today and I saw both parties together, mixed together, not one on one side and one on the other, but standing together saying that we are going to put the people of Maine first, I decided at that point that I was some proud to be here. Ladies and gentlemen of the House, someone stood up and said stop. They make me very proud. I ask them to hold their ground. Thank you.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Schneider.

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. I will vote against this motion and against this budget for one reason and one reason only. That reason is that this budget is bad for the people of the State of Maine. This budget that is before us right now, mortgages our future in order to satisfy our appetite for spending and our aversion to increase taxes. We are entering uncertain economic times and presently face a budget shortfall of about \$300 million. This is not the time to increase spending more, which this budget does. This is not the time to raid the Rainy Day Fund, which this budget does. This is not the time to create a large structural gap for the next Legislature to deal with. This is not the time to impose this budget on the people of Maine. Vote against this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. This reminds me of the person who wants some

short-term pleasure. They take that credit card and goes on vacation and buys a new car and in the next couple of weeks or months and feels good. They are driving around in a brand new car and they don't have to pay for it for a couple of months. They may have even gotten a one-year deferral before they have to start paying on it. Where do we end up? At some point, you have to pay. At some point you will have to pay. I don't want to discuss this amendment in front of us. That is really not what I want to do. I think in the process here we had a unanimous committee report and I just think, where do we go wrong if we ask for a Committee of Conference? It brings us back to the negotiating table. That is all it does. We can then hash it out all over again. If it doesn't work, you will have another chance to vote on this amendment. That is all it does, ladies and gentlemen.

I stand in front of you as a leader in this Legislature, but especially a leader of the Republican caucus. I am asking for the Republican caucus's support to defeat this motion so that we can try to negotiate something that we can all live with. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I don't know if I will be as eloquent as my two counterparts on the other side. I thank the Minority Leader and the Assistant Minority Leader for their excellent oratory. We talk about structural gap. We talk about one-time versus ongoing money. We talk about deferred compensation. We talk about all these financing options. What we are really talking about is fiscal responsibility.

I want to talk about what this Senate Amendment provides for fiscal responsibility. This Senate Amendment is a wash in red ink for the people of the State of Maine. There is a minimum of \$175 or \$200 million in red ink and if you figure in that there is not any money dedicated for a Part II Budget in this Senate Amendment, then realistically we are up around \$300 million. What does that mean? That means there will be zero dollars for collective bargaining for our state employees. That means there will be no money for the Plymouth Waste Oil Cleanup. That is right. That means there will be no money for a host of other things, raises for prison guards that we have already agreed to. I could go on and on, but the hour is getting late. I guess I am proud to be part of a Legislature that a day or so ago passed a budget that made hard choices, made them in a bipartisan manner, walking together and trying to do the best that we can for the people of the State of Maine, Republicans, Democrats, Independents, doing what the people sent us here to do. That is rolling up our sleeves and making tough choices and give them a budget that gets the job done.

Most of you know me and you know that I am the kind of guy that likes to work to the middle. I like to move toward consensus. I like to work for compromise. I don't think that compromise is a bad word. I think it is exactly what our founding fathers envisioned when they set this wonderful experiment in place with the Constitution and with all its checks and balances. I am proud to have compromised with our Republican friends and colleagues on the other side of the aisle. I am proud to have compromised within our caucus to find the best budget, to find the most fiscally responsible budget.

A little while ago I took a walk down to the other end of the hall to the other body and met with my counterpart in the Senate. I held out my hand and I said that there were some tough things

that went on and probably I, being Irish, said things I shouldn't have. They might have let me know what was coming down. I held out my hand in the spirit of compromise and olive branch and in the spirit of working together in a fiscally responsible fashion to do what this body started the other day. Let's stay on that path of fiscal responsibility. Let's defeat this motion. Let's move on to Insist and ask for a Committee of Conference so that we can fulfill our constitutional obligation to the people of the State of Maine to work together. Let's sit down. Let's let this body sit down with the other body. Let's make sure that we negotiate. We will negotiate around the issues that have been raised here today, the issues that were raised in the other body's amendment.

We will negotiate around those issues of the nursing homes. We all want to get that done. The Appropriations Committee had committed unanimously to get that done in Part II. My colleagues on the other side had committed to getting that done in Part II. We need to do it. Let's negotiate that. We need to make sure that we make as many school districts whole as we possibly can. Let's negotiate with this Committee of Conference around the issue of GPA. We need to do that. I am committed to doing that. I have told you that. I am a man of my word. I will stick to my word. There are a lot of issues that we need to work out here in a short time. I know that in the spirit of bipartisanship that was started in this chamber the other day and over the last couple of months in the Appropriations Committee that we can continue walking down that road together. I urge you, let's defeat the Recede and Concur. We will go on to Insist and ask for a Committee of Conference and work with our Senate colleagues and get this job done. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 38**

YEA - Annis, Berry DP, Buck, Carr, Clark, Clough, Collins, Cressey, Duprey, Foster, Gooley, Heidrich, Honey, Kasprzak, Labrecque, Lovett, MacDougall, Madore, McKenney, Mendros, Michael, Murphy T, Nutting, Perkins, Pinkham, Snowe-Mello, Stanley, Stedman, Tobin J, Tracy, Trahan, Treadwell, Waterhouse.

NAY - Ash, Baker, Belanger, Berry RL, Blanchette, Bliss, Bowles, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chase, Chick, Chizmar, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne,

Gerzofsky, Glynn, Goodwin, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mitchell, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

ABSENT - Andrews, Bagley, Bouffard, Brannigan, Landry, Marrache, Michaud, Morrison, Wheeler GJ.

Yes, 33; No, 109; Absent, 9; Excused, 0.

33 having voted in the affirmative and 109 voted in the negative, with 9 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED.**

Subsequently, the House voted to **INSIST** and ask for a **COMMITTEE OF CONFERENCE.** Sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

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On motion of Representative COLWELL of Gardiner, the rules were suspended for the purpose of appointing 5 members to the Committee of Conference on L.D. 300.

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At this point, the Chair appointed Representative COLWELL of Gardiner to inform the Senate that the House had suspended the rules for the purpose of appointing 5 members to the Committee of Conference on L.D. 300.

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Subsequently, Representative COLWELL of Gardiner reported that he had delivered the message with which he was charged.

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On motion of Representative BERRY of Belmont, the House adjourned at 10:24 p.m., until 4:00 p.m., Saturday, March 31, 2001.