

MAINE STATE LEGISLATURE

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

Volume III

Second Regular Session

March 7, 2002 – April 25, 2002

First Special Session

November 13, 2002 - November 14, 2002

Pages 1771-2574

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House Legislative Sentiments
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ONE HUNDRED AND TWENTIETH LEGISLATURE
SECOND REGULAR SESSION
44th Legislative Day
Friday, April 5, 2002

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

Prayer by Honorable Elaine Fuller, Lector at St. Matthew's Church, Hallowell.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act to Control Internet "Spam"

(H.P. 1538) (L.D. 2041)

(C. "A" H-906)

- In House, House **ADHERED** to **PASSAGE TO BE ENACTED** in the House on April 2, 2002.

- In Senate, Senate **ADHERED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906) AS AMENDED BY SENATE AMENDMENT "A" (S-520)** thereto in **NON-CONCURRENCE**.

- **RECALLED** from the Legislative Files pursuant to Joint Order (S.P. 830)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-584)** in **NON-CONCURRENCE**.

On motion of Representative SAVAGE of Buxton, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

Non-Concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 to Capitalize the School Revolving Renovation Fund for Repairs and Improvements in Public School Facilities to Address Health, Safety and Compliance Deficiencies; General Renovation Needs; and Learning Space Upgrades"

(H.P. 1628) (L.D. 2128)

Report "A" (7) **OUGHT TO PASS AS AMENDED** of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT A" (H-1080)** in the House on April 4, 2002.

Came from the Senate with Report "C" (2) **OUGHT TO PASS AS AMENDED** of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1082)** in **NON-CONCURRENCE**.

On motion of Representative BERRY of Livermore, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Resolve, to Promote the Interests of the People of Maine when Public Funds are Used to Acquire Conservation Easements (EMERGENCY)

(H.P. 1593) (L.D. 2096)

(C. "A" H-990)

FINALLY PASSED in the House on March 26, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-990) AS**

AMENDED BY SENATE AMENDMENT "B" (S-586) thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Create the Maine Rural Development Authority"

(H.P. 1724) (L.D. 2212)

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-559) AND HOUSE AMENDMENT "B" (H-1086) in the House on April 4, 2002.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-559)** in **NON-CONCURRENCE**.

On motion of Representative RICHARDSON of Brunswick, the House voted to **INSIST**.

Non-Concurrent Matter

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

(H.P. 1582) (L.D. 2087)

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

Came from the Senate with the RESOLUTION and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative COLWELL of Gardiner, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)

(H.P. 1577) (L.D. 2083)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1071) in the House on April 3, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1071) AS AMENDED BY SENATE AMENDMENTS "A" (S-567), "C" (S-585) AND "D" (S-588)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 452)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON LABOR**

April 3, 2002

Honorable Richard A. Bennett, President of the Senate

Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

State House

Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

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

L.D. 2206 An Act to Assist the Displaced Workers at Hathaway Shirt Company

We have also notified the sponsor and cosponsor of each bill listed of the Committee's action.

Sincerely,
S/Sen. Betheda G. Edmonds
Senate Chair
S/Rep. George H. Bunker, Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 832)
STATE OF MAINE
120TH MAINE LEGISLATURE

April 4, 2002
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 pursuant to P.L. 2001, Chapter 470, Governor Angus S. King, Jr. has withdrawn the nomination of M. Michaela Murphy for appointment as a member of the Commission on Governmental Ethics and Election Practices. This nomination is currently pending before the Joint Standing Committee on Legal and Veterans' Affairs.

Sincerely,
S/Richard A. Bennett
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.

The Following Communication: (S.C. 702)
SENATE OF MAINE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, ME 04333-0003

April 4, 2002
The Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk MacFarland:
Please be advised the Senate today Adhered to its previous action whereby it Accepted the Minority Ought Not to Pass Report, in Non Concurrence on Resolve, Regarding Legislative Review of Chapter 4: Installation Standards, a Major Substantive Rule of the Department of Professional and Financial Regulation. (H.P. 1627) (L.D. 2127)

Sincerely,
S/Pamela L. Cahill

Secretary of the Senate
READ and **ORDERED PLACED ON FILE.**

ORDERS

On motion of Representative NORBERT of Portland, the following Joint Resolution: (H.P. 1733) (Cosponsored by Senator BRENNAN of Cumberland and Representatives: BRANNIGAN of Portland, CUMMINGS of Portland, DAVIS of Falmouth, DUDLEY of Portland, MARLEY of Portland, McDONOUGH of Portland, QUINT of Portland, Speaker SAXL of Portland)

JOINT RESOLUTION RECOGNIZING THE ACQUISITION OF A NEW PUBLIC PARK IN THE GREATER PORTLAND AREA CALLED THE PRESUMPSCOT RIVER PRESERVE

WHEREAS, in the midst of Maine's most populous city there is a large parcel of beautiful land along the Presumpscot River that has been compared to a vista in the White Mountains of Maine, which land is being acquired by the City of Portland and the Portland Land Bank Commission for a regional land preserve with assistance from the Land for Maine's Future Fund and an urban land trust named Portland Trails; and

WHEREAS, once this land is purchased, it will become known as the "Presumpscot River Preserve" and will provide vital public access and passive recreational opportunities along a pristine stretch of the historic Presumpscot River to the people of Greater Portland and the State of Maine; and

WHEREAS, this once-in-a-lifetime opportunity to acquire scenic open space in an urban area was made possible by the recent revitalization of the lower portion of the Presumpscot River, which opportunity will shortly be enhanced by the anticipated removal of the Smelt Hill Dam downstream; and

WHEREAS, with the prudent foresight and diligence of the residents of the North Deering neighborhood in Portland, who recognized the tremendous public value of this land; the leadership and financial support of the City of Portland; the Portland Land Bank Commission; and Portland Trails and the financial backing of the State of Maine through the Land for Maine's Future Fund, the opportunity for public access to this land will be forever preserved; and

WHEREAS, Portland Trails is embarking upon a capital campaign to raise a portion of the private matching funds needed to secure a grant from the Land for Maine's Future Fund and hopes to work collaboratively in this effort with numerous private groups and municipal, state and federal entities dedicated to the preservation of rivers and open space for environmental and recreational purposes; now, therefore, be it

RESOLVED: That the following groups be recognized for their valuable contributions to the acquisition of the Presumpscot River Preserve; and be it further

RESOLVED: That the people and the City of Portland and the Portland Land Bank Commission are hereby recognized for their willingness to provide substantial financial and public support to make possible this acquisition of pristine open space along the Presumpscot River; and be it further

RESOLVED: That the members of Portland Trails are recognized for providing valuable leadership and for securing crucial financial assistance for the acquisition and eventual stewardship of the Presumpscot River Preserve. The members of Portland Trails have played a key role in the establishment of pedestrian walkways and shoreland access throughout Greater Portland for over 10 years, and its activities have served as a model for local land trusts throughout the State; and be it further

RESOLVED: That the Land for Maine's Future Fund is hereby recognized for the vital role it has played in the acquisition and preservation of important parcels of land in rural and remote

portions of the State. In addition, for its decision to invest in the Presumpscot River Preserve, the fund is hereby recognized for the vital role it is able to play in securing key parcels of open space in population centers that are accessible to people without adequate means of transportation. Such acquisitions of urban land are critical to securing the State's quality of life, yet they could not otherwise be accomplished without the resources of the fund due to the high cost of land in urban areas; and be it further

RESOLVED: That the Town of Falmouth is hereby recognized for its generosity and willingness to permit the City of Portland to annex land in Falmouth, which was an important element in the acquisition of this land, and for their willingness to provide leadership and assistance in the acquisition of adjacent parcels along the Presumpscot River; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the City of Portland, the Town of Falmouth, Portland Trails, the North Deering Neighborhood Association, the Falmouth Conservation Trust, the Coastal Conservation Association, the Friends of the Presumpscot River and the Land for Maine's Future Board.

READ and ADOPTED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

the New England Patriots, who have won Super Bowl XXXVI in New Orleans, 20-17. The New England Patriots exemplify the excellence of teamwork and good sportsmanship and have delighted their Maine fans. This championship is the first in the franchise's 41-year history. We extend our congratulations to the players, the coaching staff, the franchise and the loyal and devoted fans for this remarkable victory;

(HLS 1154)

Presented by Representative CRESSEY of Baldwin.

Cosponsored by President BENNETT of Oxford, Representative ANDREWS of York, Representative ANNIS of Dover-Foxcroft, Representative ASH of Belfast, Representative BAGLEY of Machias, Representative BAKER of Bangor, Representative BELANGER of Caribou, Representative BERRY of Belmont, Representative BERRY of Livermore, Representative BLANCHETTE of Bangor, Representative BLISS of South Portland, Representative BOUFFARD of Lewiston, Representative BOWLES of Sanford, Representative BRANNIGAN of Portland, Representative BROOKS of Winterport, Representative BRUNO of Raymond, Representative BRYANT of Dixfield, Representative BUCK of Yarmouth, Representative BULL of Freeport, Representative BUMPS of China, Representative BUNKER of Kossuth Township, Representative CANAVAN of Waterville, Representative CARR of Lincoln, Representative CHASE of Levant, Representative CHICK of Lebanon, Representative CHIZMAR of Lisbon, Representative CLARK of Millinocket, Representative CLOUGH of Scarborough, Representative COLLINS of Wells, Representative COLWELL of Gardiner, Representative COTE of Lewiston, Representative COWGER of Hallowell, Representative CRABTREE of Hope, Representative CUMMINGS of Portland, Representative DAIGLE of Arundel, Representative DAVIS of Falmouth, Representative DESMOND of Mapleton, Representative DORR of Camden, Representative DUDLEY of Portland, Representative DUGAY of Cherryfield, Representative DUNCAN of Presque Isle, Representative DUNLAP of Old Town, Representative DUPLESSIE of Westbrook, Representative

DUPREY of Hampden, Representative ESTES of Kittery, Representative ETNIER of Harpswell, Representative FISHER of Brewer, Representative FOSTER of Gray, Representative FULLER of Manchester, Representative GAGNE of Buckfield, Representative GERZOFKY of Brunswick, Representative GLYNN of South Portland, Representative GOODWIN of Pembroke, Representative GOOLEY of Farmington, Representative GREEN of Monmouth, Representative HALL of Bristol, Representative HASKELL of Milford, Representative HATCH of Skowhegan, Representative HAWES of Standish, Representative HEIDRICH of Oxford, Representative HONEY of Boothbay, Representative HUTTON of Bowdoinham, Representative JACOBS of Turner, Representative JODREY of Bethel, Representative JONES of Greenville, Representative KANE of Saco, Representative KASPRZAK of Newport, Representative KOFFMAN of Bar Harbor, Representative LABRECQUE of Gorham, Representative LANDRY of Patten, Representative LAVERDIERE of Wilton, Representative LAVERRIERE-BOUCHER of Biddeford, Representative LEDWIN of Holden, Representative LEMOINE of Old Orchard Beach, Representative LESSARD of Topsham, Representative LORING of the Penobscot Nation, Representative LOVETT of Scarborough, Representative LUNDEEN of Mars Hill, Representative MacDOUGALL of North Berwick, Representative MADORE of Augusta, Representative MAILHOT of Lewiston, Representative MARLEY of Portland, Representative MARRACHÉ of Waterville, Representative MATTHEWS of Winslow, Representative MAYO of Bath, Representative McDONOUGH of Portland, Representative McGLOCKLIN of Embden, Representative McGOWAN of Pittsfield, Representative MCKEE of Wayne, Representative McKENNEY of Cumberland, Representative McLAUGHLIN of Cape Elizabeth, Representative McNEIL of Rockland, Representative MENDROS of Lewiston, Representative MICHAEL of Auburn, Representative MICHAUD of Fort Kent, Representative MITCHELL of Vassalboro, Representative MORRISON of Baileyville, Representative MURPHY of Berwick, Representative MURPHY of Kennebunk, Representative MUSE of South Portland, Representative MUSE of Fryeburg, Representative NASS of Acton, Representative NORBERT of Portland, Representative NORTON of Bangor, Representative NUTTING of Oakland, Representative O'BRIEN of Augusta, Representative O'BRIEN of Lewiston, Representative O'NEIL of Saco, Representative PARADIS of Frenchville, Representative PATRICK of Rumford, Representative PEAVEY of Woolwich, Representative PERKINS of Penobscot, Representative PERRY of Bangor, Representative PINEAU of Jay, Representative PINKHAM of Lamoine, Representative POVICH of Ellsworth, Representative QUINT of Portland, Representative RICHARD of Madison, Representative RICHARDSON of Brunswick, Representative RINES of Wiscasset, Representative ROSEN of Bucksport, Representative SAVAGE of Buxton, Speaker SAXL of Portland, Representative SCHNEIDER of Durham, Representative SHERMAN of Hodgdon, Representative SHIELDS of Auburn, Representative SIMPSON of Auburn, Representative SKOGLUND of St. George, Representative SMITH of Van Buren, Representative SNOWE-MELLO of Poland, Representative SOCTOMAH of the Passamaquoddy Tribe, Representative STANLEY of Medway, Representative STEDMAN of Hartland, Representative SULLIVAN of Biddeford, Representative TARAZEWICH of Waterboro, Representative TESSIER of Fairfield, Representative THOMAS of Orono, Representative TOBIN of Windham, Representative TOBIN of Dexter, Representative TRACY of Rome, Representative TRAHAN of Waldoboro, Representative TREADWELL of Carmel, Representative TUTTLE of Sanford,

Representative TWOMEY of Biddeford, Representative USHER of Westbrook, Representative VOLENIK of Brooklin, Representative WATERHOUSE of Bridgton, Representative WATSON of Farmingdale, Representative WESTON of Montville, Representative WHEELER of Bridgewater, Representative WHEELER of Eliot, Representative WINSOR of Norway, Representative YOUNG of Limestone, Senator BRENNAN of Cumberland, Senator BROMLEY of Cumberland, Senator CARPENTER of York, Senator CATHCART of Penobscot, Senator DAGGETT of Kennebec, Senator DAVIS of Piscataquis, Senator DOUGLASS of Androscoggin, Senator EDMONDS of Cumberland, Senator FERGUSON of Oxford, Senator GAGNON of Kennebec, Senator GOLDTHWAIT of Hancock, Senator KILKELLY of Lincoln, Senator KNEELAND of Aroostook, Senator LaFOUNTAIN of York, Senator LEMONT of York, Senator LONGLEY of Waldo, Senator MARTIN of Aroostook, Senator McALEVY of York, President Pro Tem MICHAUD of Penobscot, Senator MILLS of Somerset, Senator MITCHELL of Penobscot, Senator NUTTING of Androscoggin, Senator O'GARA of Cumberland, Senator PENDLETON of Cumberland, Senator RAND of Cumberland, Senator ROTUNDO of Androscoggin, Senator SAVAGE of Knox, Senator SAWYER of Penobscot, Senator SHOREY of Washington, Senator SMALL of Sagadahoc, Senator TREAT of Kennebec, Senator TURNER of Cumberland, Senator WOODCOCK of Franklin, Senator YOUNGBLOOD of Penobscot.

On **OBJECTION** of Representative CRESSEY of Baldwin, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Baldwin, Representative Cressey.

Representative **CRESSEY**: Mr. Speaker, Ladies and Gentlemen of the House. It takes a team to win a championship. We all need to be forewarned that the Patriots are coming. They are coming to Maine in a few short days or a few long days, depending on which way you prefer to look at it. I would like to publicly express gratitude and a special thank you to Robert Kraft and the great job that he has done in rebuilding this team. I remember the days when I was one of the few fans who admitted to being a New England Patriots fan when they were 1-15 in the early '90s and then going back to winning and becoming the Super Bowl champs. It takes a great coach, like as in Bill Belichick, to be able to bring a team together with such a diverse background, different personalities, to make them a winning team, to think that a second-year player like Tom Brady, to make them Super Bowl champs and lead them all the way. It was really something special. A special thank you and appreciation needs to go to Drew Bledsoe who after the second week of being injured like he was, being able to take a back row seat and watch the second-year player take what was his job. It takes a class act like that for a great man like Drew to support Tom and teach him some of the finer aspects of the game.

The New England Patriots struggled through adversity and turmoil. As anybody can see, it isn't how you start out in a season, who would ever have thought that when you lose your number one quarterback, your number one wide receiver isn't in the game and some of your quality starters are out injured and you would never guess that they would finish up as Super Bowl champs, but that is exactly what the New England Patriots did. It isn't how you start out, it is how you finish. Mr. Speaker, let's finish up the people's business and get the heck out of here. Thank you.

PASSED and sent for concurrence.

Recognizing:

Nick Scaccia, of Sanford, who has been selected for induction into the Maine Sports Hall of Fame. Mr. Scaccia, a former Sanford High School standout basketball player, led the Sanford "Redskins" to the Western Maine Championship in 1967, the only Western Maine title in the school's history. He then scored a record-setting 40 points in his school's first appearance in a State Class A championship game. He was named Sanford High School's MVP 3 times, named to the Class A All-State Team and the All-New England Basketball Team and named a Prep All-American in 1967. Mr. Scaccia also led his freshman team at Colgate University with a 27.5 point average and as a sophomore was voted one of the Ten Best Sophomores by Sport Magazine. He was twice voted the league's sophomore of the week and posted a season high of 31 points. In his junior year he led his college team to its first winning season in 15 years. As a senior, he averaged more than 19 points a game while leading Colgate to a 16-9 record. He was voted to the All-East Team and was selected to participate in the First Annual Hall of Fame Christmas All-Star Tournament. At Colgate he totaled more than 1,000 career points. After college, Mr. Scaccia played basketball in Italy where he toured with two different professional teams. He eventually attended law school and is currently a member of the Scaccia, Lenkowski and Aranson law firm in Sanford. We send our congratulations and best wishes to Mr. Scaccia upon being selected for induction into the Maine Hall of Fame;

(HLS 1157)

Presented by Representative TUTTLE of Sanford.

Cosponsored by Representative CHICK of Lebanon, Senator CARPENTER of York, Speaker SAXL of Portland, Representative NORBERT of Portland, Representative COLWELL of Gardiner, Representative BOWLES of Sanford.

On **OBJECTION** of Representative TUTTLE of Sanford, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

**REPORTS OF COMMITTEE
Divided Report**

Seven Members of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-561)** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$31,150,000 to Stimulate Job Growth in Rural Maine" (S.P. 785) (L.D. 2130)

Signed:

Senator:

GOLDTHWAIT of Hancock

Representatives:

BERRY of Livermore

MAILHOT of Lewiston

TESSIER of Fairfield

BRANNIGAN of Portland

ETNIER of Harpswell

JONES of Greenville

Four Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-562)** on same Bill.

Signed:

Representatives:

NASS of Acton

WINSOR of Norway

BELANGER of Caribou

ROSEN of Bucksport

Two Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (S-563)** on same Bill.

Signed:

Senators:

CATHCART of Penobscot

MILLS of Somerset

Came from the Senate with Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

READ.

Representative BERRY of Livermore moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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. This is the third piece of the package, the bond package. This is related to the economic development from the Appropriations Committee. Yesterday we were delivered a blue piece of paper from the Fitch Investment Service. We heard comments yesterday related to the level of the state debt. One of the charges was that if you include all the state's debts we are among the highest in the nation. I want to follow up and respond to that. You will find a pink handout on your desk from this morning and it is an analysis of Maine's bond ratings by Fitch Investment Services. I am going to read it because it is important. I think the tone of the comments made yesterday deserve a response. Recently with the bond ratings of all the states prepared by Fitch Investment Services, it was distributed to all legislators. Fitch Investment Services showed the Maine bonds have one of the best ratings when measured by tax-supported debt as a percent of personal income. It means that net tax-supported debt is 1.9 percent of personal income and only 10 other states have a lower ratio. Fitch Investment Services also ranked Maine highest in the nation with respect to total debt as a percentage of personal income. This rating is significantly flawed and misleading for the following reasons. Fitch's rating of total debt compares apples to oranges; its bond rating for Maine includes all municipal debt and moral obligation bonds, while these debts are excluded from the ratings of other states. For example, New York City and thousands of other cities and counties issue their own bonded debt, which is not included in total debt of the states that Fitch rates. Maine, however, created the Maine Municipal Bond Bank to give municipalities greater leverage in the bond markets. This local debt is included by Fitch in the state's total debt. No other bond rating house follows this practice. The total debt commitments of the state as portrayed by Fitch is only 16.6 percent as tax-supported debt. The remainder, 83.4 percent, is moral obligation bonded debt. With respect to moral obligation bonds, which are backed by income streams, 42 percent has been issued by the Maine State Housing Authority, 28 percent has been issued by municipalities through the Maine Municipal Bond Bank, 28 percent has been issued by the Maine Health and Higher Education Facilities Authority and 2 percent has been issued by FAME and the Maine Education Loan Authority. All moral obligation bonds must have cash reserves. There are \$461.5 million of cash reserves to support this debt. These cash reserves have never been called

upon to pay any defaults in bond payments in the history of Maine.

In addition, nearly one-third of Maine's moral obligation debt is guaranteed by the taxing power of municipalities and the rates of water and sewer districts across Maine. Maine has one of the highest bond ratings in the nation as rated by Moody Investment Services, Standard and Poor Rating Services and Fitch Investment Services. In fact, Fitch increased the bond rating for Maine from AA to AA+ in the year 2000. The individual bond ratings for each Maine agency that issues moral obligation bonds are among the highest in the nation. Bonds of the Maine Municipal Bond Bank are rated AAA by Standard and Poor. Bonds issued by FAME and the Maine Educational Loan Authority are also rated as AAA. Bonds issued by the Maine State Housing Authority not only are backed by cash reserves of \$150 million, but also by insurance guarantees. I appreciate the opportunity to follow up on the information given to you yesterday.

I would like to get to the items related to LD 2130. LD 2130 is an adaptation of several bonds that ended up with Appropriations and their issues. The new title of Committee Amendment "A" would become "An Act to Authorize a General Fund Bond Issue in the Amount of \$55,730,000 to Stimulate Job Growth in Rural Maine, to Renovate Certain State Facilities to Promote Homeland Security and to Provide a Center for Homeless Teenagers."

I want to start this debate by appealing to members of the rural caucus, members of the service center coalition, members of the labor caucus, members of the R and the D caucus and I am even looking to the prayer group for some help on this one. I need a two-thirds vote today on this. I need a two-thirds vote in this body on this roll call to show that we mean to develop Maine's economy, to support our local municipalities. To not support this vote this morning with a two-thirds vote will result in less development opportunities in Maine and less to your local communities throughout the State of Maine. This bond has many pieces to it. The way it goes out as recommended in Committee Amendment "A" is divided into a June and November referendum. The Executive had proposed a June referendum for important issues related to the Harlow Building and the homeland security issue. In my opinion that presented us with an opportunity to divide up the bond issues into smaller packages for the voters to consider. It also allows work, if approved, to begin on the Harlow Building as soon as possible so the State of Maine can avoid some future costs related to leased space and increased expense of maintaining an old structure with health concerns. The Harlow Building is home to the Department of Conservation. Presently they are in leased space. This is part of the plan to renovate another building at the AMHI complex. In the AMHI complex we have renovated two buildings over there and they are quite nice. It is very usable space. It is a very wise investment on the State of Maine's part to renovate these buildings.

To run down through the items in the package, the education and research center in Committee Amendment "A" is at \$1.1 million. The request in the Executive's package was \$2.1 million. The \$1.1 million allows the renovation of one of the buildings that they had asked to do as part of redeveloping the naval base at Winter Harbor in Gouldsboro into an education and research center by means of a general fund appropriation that leverages federal funds. This was also a portion of the business committees, although the business committee's unanimous report recommends \$400,000 to draw the funds. The Appropriations Committee Committee Amendment "A" recommends \$1.1 million. The Maine Rural Development Authority, \$5 million was in the unanimous business committee report. The Executive's original

package requested \$15 million. The Appropriations Committee recommends \$10 million. This \$10 million is necessary to capitalize this program in a way that it will function. The information that I have heard and believe is to fund it less, to begin the program by undercapitalizing it, will not allow it to work properly, to develop, as I mentioned yesterday, about-to-mature and slow growth in Maine, the mature industries when you look around the State of Maine. I have heard from the Representative from Medway many times in his effort to work on promoting jobs or preserving our jobs that are out in the rural areas. I think this is necessary as part of that strategy.

The next item is a recapitalized economic recovery loan program of \$5 million that is recommended in all packages. It is a program that is established and it works. It provides loans up to \$200,000 to assist Maine businesses that do not have sufficient access to credit but demonstrate the ability to survive, preserve and create jobs and repay obligations. The next item is to recapitalize regionally an economic development loan program of \$5 million. Again, this was another item that was in all packages and the original bill. This program provides funding to regional economic development agencies that will re-lend the funds at low interest for the purpose of creating and retaining jobs. An example of this program is Coastal Enterprises Incorporated, which makes revolving fund loans to businesses for business expansions. This program was last funded at \$5 million in 1997 and 1998 and 26 economic development centers applied for the funding. Four centers are currently out of funds for lending and others are close to this point with only monthly repayments available, which are not sufficient for needed loans. Again, this is money that is out there. It has worked. They need to recapitalize.

Municipal Investment Trust Fund is a program that we are recommending at \$4 million in Report "A." The Executive's package had it at \$4 million and the business committee had it as zero and the Majority Report and the Minority Report at \$4 million. There also was another bond that I believe came to our committee requesting \$8 million. The fund has never been capitalized. Roughly we put \$300,000 in it last year. It is necessary to fund that. This is a portion that should appeal to the service center coalition people, but I think it is available for all municipalities. It is administered by DCD. It serves to provide loans and grants to municipalities for public infrastructure to support economic development and other capital needs. It is both a revolving loan program and a grant program. The Municipal Investment Trust Fund assists municipalities with infrastructure projects for which there are no other funds. Priority is given to single projects shared by two or more municipalities and to service center projects. Funds may be used for downtown rehab, sewer and water projects, streets and town hall renovations.

The next item is product development and testing at the University of Maine. It is \$5 million. This came as a recommendation from the business committee. They requested \$6.4 for the U Maine Campus; this is a portion. We have been making an effort in research and development. This is the portion of the development side of that formula. The University of Maine at Orono and the University of Southern Maine are cooperating and helping Maine manufacturing businesses develop products that require technological and engineering research and other assistance. Facilities will be constructed at each campus for product development and solving manufacturing problems. The second facility at \$4 million would be at the USM campus.

The next item is \$6 million for the Maine Biomedical Research Fund. As you know on our calendar we tabled the unfinished

business. We have already had a vote on this and it was well over the two-thirds vote in support of a \$15 million biomedical research investment. This funding will be used to support capital infrastructure and equipment for biomedical research. The funding is available to a Maine-based private non-profit research institution, an academic medical center or a medical center that performs competitive biomedical research in on-site laboratories in Maine.

I know this is an item that sometimes brings criticism. It also has received widespread support. This is an effort to promote jobs. We have talked about losing our students to jobs out of state. This is creating opportunities within the state, I think. The jobs that are created certainly benefit the entire state. The Biomedical Research Coalition has issued a report card to the Maine Legislature. In their report it shows that of \$7 million that we have done to help build capacity, to receive federal grants and facilities to create jobs, about \$8.3 million for five institutions in income and sales tax is paid by institutional employees and by employers in other businesses benefiting from the biomedical research industry's presence. This \$8.3 million, I believe that is an ongoing amount, the money that we put in in this bill is out of the infrastructure. It is a one-time type investment that creates ongoing return. That is what we need to build the economy and support our efforts here.

Another portion which originated in another bill is renovating the Harlow Building for \$8 million. The cultural tourism was an LD and that is to support projects in Lewiston, Dover-Foxcroft, the Moosehead Marine Museum and another portion of the Down East Cultural Center in Calais. I think when people come to Maine we try to boost our tourism industry. We expect them to come to Maine and spend their money here. I think we have to have something for them to come and see. I think this is part of that effort. I think it is part of supporting local efforts to be part of the state's economy and to provide jobs.

A portion of Committee Amendment "A" is for improving response capabilities for terrorism. It has been called homeland security. The Executive's original request was for \$10 million. Committee Amendment "A" supports \$4.6 million. It is necessary to meet the threats of terrorism, including bioterrorism. It is part of a planning response. It is also necessary, I believe, to have a vehicle to support this as a vehicle to attract or to secure a portion of \$3.5 billion that is earmarked by the federal government. If we are going to be able to provide a match for any of those efforts, whether it is border defense or security for municipalities or water systems or whatever, we have got to have something available for that match. Otherwise we are going to be left out. We are not going to be part of that preparation and we will be pretty much as we were. We will be reacting rather than planning.

The last item in Committee Amendment "A" is a teen homeless center at half a million dollars. This was part of LD 2031. It came through the Appropriations Committee and has been an effort in at least the last two terms on the Appropriations Committee. This supports a project in Portland, which I think has been important. They have made quite an effort. They are developing quite a center down there to respond to some teens out there with no other place to go. Homelessness has been a buzz word. People have talked about what we should do for homelessness. We will shove it aside. We will forget about it, but it is out there. This is one of the places I have some sympathy for Portland. I know they come from the rural areas and they come from the outskirts and they end up in Portland. They are doing a heck of a job to provide services to address this and meet this. I think this is reasonable. I think it is important that we support this piece of this bond.

That sums up the items. I just want to say again that the two-thirds vote is important today. I am asking you on the other side of the aisle to vote against your members on the committee. I think, in my mind, that if someone expects I supported this plan as a negotiating position, they would be wrong. I believe in this package. I believe in these issues as necessary to promote Maine to expand our job base and I believe there are some things there that we absolutely need to do. I started out this session looking at the bond pieces. I found very little that I was interested in when I looked at it. About the only thing that I thought I might care about was the hatcheries piece. As we go through the programs and through the bonds and we hear the public input, we hear the needs from the administration and as usual I find that I recognize that I have some responsibility to be part of the planning process for the State of Maine. I think we have recommended following up on investments before and now we need to put something out there. We talk about economic stimulus packages. I think this is a necessary piece of that. I need to ask the rural caucus, the service center coalition or the labor caucus, I want you to consider that this is the most important vote today on this. We need to send a message that we are united to develop Maine's economy. Thank you Mr. Speaker and men and women of the House.

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

Representative NASS: Mr. Speaker, Men and Women of the House. Thankfully this is the third and final part of the bond package on the title of economic development. We are now considering a proposal which is going to cost us \$55.7 million. In this section there is a dramatic difference between this proposal and the others. This is probably the most significant difference. The House Chair has detailed the parts of proposal "A." Again, there is great overlap between proposals "A," "B" and "C." The differences are not differences of need necessarily as much as they are differences of timing. Our opinion is basically, the places where this differs, now is not the time in light of the economic uncertainty that we are facing in light of the huge structural gap projected for the next biennium. Now is not the time to be expansive on bonds, in my opinion. The differences are cultural tourism, teen homeless center, Municipal Investment Trust Fund, homeland security, Education and Research Center and a small difference in the Maine Rural Development Authority, although most will establish the authority and fund it substantially. This is the time, we believe, to not be expansive, to hold down on this spending. We need not to go into the next biennium in even worse shape than we are now. Again, none of this spending is free. It is easy to do now, but there is a cost to this. The current cost in this year will be about \$100 million for principle and interest repayment. You have to ask yourself what else we could or should be doing with that money rather than these projects. Aren't there higher priorities? This is not free money.

Finally, I just need to comment on the archaic world of bonding, bonding authority, bonding finance and the services that are out there to help us to try to understand this. That is the problem, Mr. Speaker. It is not understandable. This is nuts. We distributed yesterday a blue sheet without comment, Mr. Speaker, that told a significant story, I believe, about Maine. This borrowing that we are doing is really a pig. We have tried to dress it up and it is still a pig. You can't change it. Maine looks good when you talk about tax-supported debt. Maine does not look good when you look at all of our debt commitments. The pink sheet that the House Chair has gone through just recently, a few minutes ago, attempts to explain this. The blue sheet was something that was distributed by the Executive Director of the

Maine Bond Bank in the 119th. It was unexplained. It was a messy little piece of paper that was undated. It was hard to make sense out of it except it told a different story. The pink sheet attempts to explain that and it leaves me short. It attempts to say, basically, that we can't compare apples and oranges, but these very expensive bond houses, that is what they do. Now they are disclaiming it. Their job is to make sense of the different formats that they use to rate states or compare states or to compare the needs of the states. I think that the blue sheet was a mistake. They gave it to us by mistake. Now all of a sudden the bond house, we are not really certain where the pink sheet came from. It has the Fitch name on it. That is interesting. It is kind of a vague New York City association. We are not certain who are making these statements. The blue sheet is undated and there is no attribution there except for the same bond house. To me it is just an indication of understanding this, the difficulty in explaining it and the unwillingness of the bond houses to stand by something they have done before. It leaves me with more questions than answers.

Mr. Speaker, I think we should do with this proposal as we have done with the other two and vote against it. We are now in the third leg of this bond effort. The other two we are in nonconcurrence with the other body. This whole bond package needs to be renegotiated. It was obvious when the reports were issued that this was going to be the outcome. Let's finish this pig off and go on and renegotiate this. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Mr. Speaker, Ladies and Gentlemen of the House. In the Senate Amendment (S-561) there is no definition of the improved response capabilities line. I listened carefully to the message from the House Chair in explaining this item. I am still confused. May I ask why there is no written explanation of this bond item and is it only to leverage federal funds with no real plan to spend it? Thank you.

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House. I will try to attempt to respond to the Representative from Hartland. In the notes from Major Tinkham who came before the committee many times and was grilled quite severely at times, \$3.35 million is for local water district assessments to be prepared for the federal funds. They do the assessments now so that federal funds will be available. We hope to be able to track that. We want to protect our water supplies throughout the State of Maine. Some of that \$25 million is identified for the Department of Public Safety, \$579,000 is identified to deal with some security issues at the state court system, \$20,000 is related to computerized notification. Some of the details are vague and necessarily so, I think. As much as our committee like to see the entire detail, I think the public will agree that to identify every area of risk in the state is a dangerous proposition. I think this is a necessary piece. I think we swallowed some of our past experience on this in trusting the Major and the Executive and having this available to be able to access some of those funds. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Mr. Speaker, Men and Women of the House. I want to speak briefly to a few items on this bond

issue. First of all, I would like to say that in my opinion if the State of Maine was in such dire straits, why would our bond rating have been increased from AA to AA+ about a year and a half ago. That seems to indicate to me that we are in pretty good shape.

The other point that I want to make is that as I indicated earlier when I spoke on a bond issue, interest rates are at a historic low rate. If you have projects that need to be done, this certainly is the time that you should do that if you are going to bond them.

I also want to speak a little bit about the Rural Development Authority. This is a significant piece of legislation. I have been involved in economic development on a volunteer basis. I don't have enough to do in my free time, I guess. I tend to volunteer for these things. I have worked in economic development for the past nine years. I am current the president of the Economic Development Corporation of Fairfield. I know that as we talk to businesses and when we get leads from Maine companies virtually all of these folks are interested in having a place to move to. They do not want to build and own their own building anymore. At one time that was the norm. Currently it is not. The problem in rural counties, such as Somerset, you don't have any buildings that are vacant that would be suitable for these new businesses to move to. In order to attract these businesses into these high unemployment areas that desperately need them, you have to have some funds available where you can build a building for them. Without that piece available to the rural communities, the rural counties, economic development is pretty well stymied for them.

I want to talk a little bit about the Biomedical Research Fund. It is \$6 million. I would like to see it a lot higher. We get excellent return in federal dollars. They promised a 5 to 1 return when we gave them money last time. They delivered a 7 to 1 return. They brought in \$7 for every \$1 that we gave them. Currently the National Institute of Health for a two-year period is in the midst of doing a rapid expansion of the money available for granting. It is time limited. Maine has had remarkable success in accessing this NIH money recently. That is because we have been investing in research and development in Maine. It is paying off. We have an opportunity to get a lot more of that money that is going to become available at the federal level, but we have to have the matched money. If that is not available, that money will go elsewhere and not help us as we try to build an R & D economy in Maine.

The other two pieces are the product development and testing at the University of Maine and the University of Southern Maine. These are both projects that initially I was a little leery of. I was concerned that it may be a duplication of what was currently there with our so-called incubators. I met extensively with both groups. I am satisfied that that is not the case. To make sure that it is not the case we changed some language in that bond to make sure there is not a duplication. What they are proposing to do is something that is not currently being done in the State of Maine, but it is an important part of building an R & D economy in the state. Although I was skeptical at first, I have become a believer, enough so that I would speak on this floor in support of them. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House. I would like to try to help you understand these ratings and bonds and credit in the way I do. I have to apply these issues to my own personal life. I can tell you that I haven't been home for five days. I know I have a pile of mail at home. In that pile of mail as sure as the sun is going to come up tomorrow

morning, there is going to be an opportunity for me to borrow more money. My credit card limits are going to be increased. I am going to have at least two or three offers to switch my credit from one lender or another. I am not going to do that, because just because I can doesn't mean I should. For me, just because we can borrow money, doesn't mean we should borrow money.

About these credit ratings, I think it is good that we have good credit and I hope we keep it just like I think I have good credit and I think I will work to keep it. What I have done in the past is been prudent with my personal spending and I hope that the state has been and will continue to be prudent with its spending. Who are these Fitch people and these Moody people and so on? They are simply people whose job is to make money trying to get us to borrow money and trying to get people to lend it to us. That is what they are. That is what they do. I view their analysis of our ability to borrow money from that point of view and I hope you do to. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House. In Franklin County we are doing so well in economic development that as of Monday we will be looking for a new economic development director. I would like to pose a question. On the (S-561) there are two pieces here. One is for the Moosehead Marine Museum and the renovation of its flag ship the Katahdin for \$30,000. The other part is funding for the Center Theatre Incorporated, which denotes, private to me, rather than public ownership, to renovate the Center Theatre for \$500,000. I was wondering if someone could further enlighten me in on the funding.

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

Representative BERRY: Mr. Speaker, Men and Women of the House. Yes, the cultural tourism package comes from an LD that was presented to the Appropriations Committee. It had a public hearing. It was sponsored by President Pro Tem Michaud of Penobscot, Representative Paradis of Frenchville, Representative Davis of Piscataquis, Senator Rotundo of Androscoggin, Senator Shorey of Washington, Representative Annis of Dover-Foxcroft, Representative Bagley of Machias, Representative Jones of Greenville, Representative Mailhot of Lewiston and Representative Morrison of Baileyville. The amounts represented in this bond package are approximately half of that with the exception of the Moosehead Marine Museum to repair the deck of the Katahdin. The items have been cut in half. The Katahdin was left at \$30,000. It was a smaller item. The Center Theatre is in Dover-Foxcroft. The local people have developed up there. They have people coming from quite an area around to come see their work, their performances. They asked to be part of this cultural tourism bill.

Mr. Speaker, I would like to respond to some other comments if I may. The Representative from Farmington actually brought up Franklin County doing so well. Today's news was that they were going to be restructuring and letting their executive director of the development group go. The ability to build the economy in the Franklin County area, which I consider my town to be a little bit more of my town than sometimes with the Androscoggin and Lewiston/Auburn area. I think that this bond package is what they need to turn that around. The only thing that we see growing there is the Wal-Marts, the businesses that will put our existing businesses out of business. We don't see the opportunities for improving the income of the greater Franklin County residents. It is all going the other way.

A couple of comments were made related to bonds. Representative Nass asked for the source for the pink sheet.

This was the pink sheet related to the bonds and Fitch Investment Services put together with the help of a gentleman I rely on that works with the Speaker, Mr. Potter. He has been an outstanding help to me to put these information pieces together for this body so we have some reliable information. He met yesterday with the commissioner of the Department of Administration and Financial Services, Janet Waldren. They had as a source their report with the State of Maine Treasurer that they issued to the bond houses. They had the history of the bond ratings. They have the information that ended up in this pink sheet. It is not made up. It is not fabricated. It is information that people look at when people look at bond ratings. I guess I thought they did that so they could determine where the reliable or wise investments were. I think it had to do with getting a favorable interest rate. I think that is all important. The Representative from Norway mentioned that he doesn't borrow every chance he has an opportunity and we haven't either.

The Chief Executive's package was definitely not a reflection of the request of his department. As I said yesterday, the hatcheries project was \$20 million. We had a bond issue in the Appropriations Committee last year that was \$10 million for Americans with Disability Act for the courts. That is another place where the state has lacked in providing that investment. I was sponsor of a commission, a piece of LD 29 that was left on our table related to weatherization. I worked with Representative Berry of Belmont on a commission. It went to the Utilities Committee to support a bond issue for \$8 million for weatherization to reduce future needs in delivering fuel to low income families in the State of Maine. We have seen other bonds that weren't in the Appropriations Committee package. They are still alive here in another form. The Civic Center is an example. I have seen amendments to that to allow other auditoriums in other areas of the State of Maine. We haven't recommended borrowing for every project in the State of Maine. We have narrowed these down. The recommendations have been reduced, even as recommended in Committee Amendment "A," which as I stated, I feel is responsible and necessary to meet the needs of the State of Maine. 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. On the Business and Economic Development Committee and also looking at trying to make a decision today, the yardstick I used, because if you are going to say this is economic development, then the number one criteria is jobs. The second criteria was something I think I am on a mission on in terms of accountability and oversight. Can you measure it? Can you bring them back? Can it be verified? If it can't be verified, then you cut the program off. I think what has happened in economic development is we have thrown millions of dollars creating economic development people and nothing is happening except we are creating economic development people and we see the loss of the jobs. I think that has got to be a real priority for the next Legislature.

We have been told to look at the big picture. I have been looking in terms of the amount of debt that we would be sending out to the voters and what impact will that have on the \$600 million shortfall that we are going to grappling with already. As I looked at "A" and "B" and "C," I see it is difficult to compare that bottom line figure because what complicates it is \$8 million for the Harlow Building. When I pull that \$8 million out and I look at "A," "B" and "C," they come together much closer. It begins to high point what those differences are. As you look at that sheet, recapitalize the Economic Recovery Loan Program, recapitalize the Economic Development Loan Program, \$5 million each, you

cannot go wrong. Those are two FAME programs already in place. It has been documented on what they do and have done. Those two programs will deliver jobs. Schoodic, an absolutely beautiful place in need of jobs to replace the jobs that were there for the military. The committee took the approach that this is going to be a three or four year process rather than the original \$4 million that was requested, we have looked at it and said, let's get this program started, draw down the federal money and start moving forward. We want you to come back and lay that plan out. The Maine Rural Development Authority started out as a bill where the commissioner talked about maybe buying motels or we might build motels or if a business is failing, the state may take them over and run. It started out as something to throw the dollars at the problem, with no indication of if jobs were going to be saved. The committee worked very hard to refocus that bill and to refocus the department in terms of how are you going to do this to stop the hemorrhaging of jobs out of the rural areas and maybe to create some new job creation or incentives in those areas.

The bill that is before you, even though there are two different dollar amounts, is focused and it has within it a rapid response capability. When a one-town industry collapses, the state is able to come in and work with someone that has a vision and be able to turn that around before the labor force packs up their gear in a rental truck and leaves forever. There is a difference in amount. There is going to be a new Governor. There is going to be a new commissioner. There is a need for the Legislature in terms of oversight and accountability to bring them back. We have made a commitment. What have you done? This has been strengthened with confirmation, annual report and laying out in advance year to year. What was a very loosely drafted Hail Mary, throw the money, is more tightly focused. The members of Appropriation and Business and Economic Development are going to have to keep that focus tightened with the accountability. A brand new program with no guarantee of jobs, but it is well worth the risk is product development and testing. The resource is the University of Maine System. Finally there is a recognition of the talent at the University of Southern Maine and it is not just all Orono. There is a recognition that there is intelligence and skill and a willingness to go out into the private sector in southern Maine using the resources of the University of Southern Maine. We are not sure if that will provide the jobs, but what it will do is take the research strength, the power off the campus and out into the work place helping the manufacturers.

The Representative from Fairfield was absolutely correct on research and development. That is the only area of state investment where there has been a return. Most of the rest of it has been a pipe dream that hasn't been delivered. These people say invest and the jobs are there. We are at a crucial point at R & D now. So much of the return literature that comes back to us tells us about leverage and other grants. We now need to be able to see the spinoff in terms of the product development and the job creation. I think among the nonprofits we are at that stage. We are drawing those people with the vision and the talents to create those products. There is a great deal of agreement as I look and I say I need to set my priorities, those are my priorities. I hope I don't offend anyone, but from that point on when you begin to talk about coalitions, then you need to say soo-ee. Then what you are doing is what the congress does. You are doing pork. From that point on when you set your priorities, everything else beyond that is pork. You are leaving the taxpayers holding the bag. I think when you went door to door you know to set priorities. I think when we look at jobs and we begin to look and see parking garages and downtown beautification as opposed to investing in the opportunity of

expanding employment and the quality of employment, that doesn't reach my priority level.

As I look and I see teen homeless center, I have a great deal of frustration on the Economic Development Committee because a bond we passed last November, which included money for homeless shelters, they are still meeting because they can't figure out how to appropriate the money. They are meeting with their constituencies. We are now sitting on money while they are trying to make the decision of how to split money that we voted overwhelmingly at the polls, the money is available and they are sitting on the money and that money could be used for the teen homeless center. I think as you set your priorities and you think about next January and you stay focused on jobs and cut out the pork, you have a pretty good bond package here.

Representative ETNIER of Harpswell assumed the Chair.
The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative KOFFMAN: Mr. Speaker, Ladies and Gentlemen of the House. I would be remiss if I didn't speak to the biomedical research aspect of this bond given my district is Mt. Desert Island and it seems like very third door I knock on is someone who is employed at the Jackson Lab or the MDI Bio Lab or some other related institution. When you look at the economic evolution of Hancock County, it perhaps is a reflection of the revolving economy of the State of Maine. Champion Mill, now IP Mill in Bucksport, is now the second largest employer in Hancock County. For generation after generation it was the first and much largest of all the employers in the county. Now the Jackson Lab became the largest employer in Hancock County. It is growing steadily.

The jobs that the lab provides to a high school graduate start at \$10.15 an hour with full benefits. We have young people in their first job out of high school driving from four counties to come and have a good job at the Jackson Lab. You are driving an hour and a half or longer one way to get to those jobs. No one in our county would ever want IP to get any smaller. It has contracted through technologies, reduced its work force. We hope it doesn't go the way of a lot of the other manufacturing, which has left the State of Maine. One thing is for sure, whether it contracts further or not, we need to replace those good jobs with the emerging jobs in the 21st century economy. That is what this bond helps support. For every dollar we invest there is \$10 coming into the state from private and federal grants to help build this aspect of our economy. We can compete because we have a beautiful state that is attractive to the high tech scientists and whatnot that are required to support this industry. I certainly hope you will support this bond and the jobs that it provides. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative STANLEY: Mr. Speaker, Ladies and Gentlemen of the House. I want to start my speech off by thanking the Chief Executive, the Business and Economic Development Committee and I especially want to thank the Appropriations Committee for all the hard work that has gone into this bond package. The reason I am congratulating these people is because we are taking a look at the issues. That is very important. In order to look at the issues we had to look over some of the things we needed to do to be able to accomplish what the State of Maine needs. This is a good step in doing that. The reason I am saying that is I am going to do something else

and say what if. What if we create 1,000 jobs here at \$25,000 a year? That is \$25 million that is going into the economy. What if that \$25 million at a tax rate of 10 percent generates \$2.5 million worth of income tax? What if out of that money that people are earning they spend on the sales tax? What if the person that is living in a mobile home decides he is going to move out of the mobile home now because he has a job that he can afford to build himself a home? That could help the property tax. What if some of the money that we are using to renovate a building to increase the value of that building from \$100,000 to \$500,000 to \$1 million? What about the property tax then? There are so many good things in this that I think that the what ifs ought to be given a chance to take a good hard look at. Everything on here is something that will help the municipality or it will help a business or it is going to help the economy of the State of Maine. That is what it is all about people.

You take the Municipal Investment Trust Fund. You need something for an infrastructure, there is some money available there for an infrastructure for your economic development. You have some loan programs there, which is good for a business. It is also at the local level. You could do it on a regional level, which is good for a business, for somebody that wants to invest in a business or start a business. When you are making businesses, you are making jobs. Jobs are the name of the game here, people.

You look at the Maine Rural Development Authority. There you go. You talk about sprawl. Wouldn't it be better instead of building a new building across the street, to have an old building that you can renovate to help with the sprawl issue? It is good for an area where I come from, where we lack the facilities to be able to have buildings. If you lack facilities, you lack the opportunity for somebody to come in and start a business. When you start a business, you are creating jobs.

The Maine Biomedical Research Fund, look at what has been done on Mt. Desert Island. They are looking to expand. They have been expanding. They are creating good, high quality paying jobs for that area. I remember I was down there on a tour of that area a couple of years ago. People from Machias are traveling down to Mt. Desert Island to go to work. I don't know how long a commute it is, but I know it is over an hour and people are going down there for high paying jobs, which is what we want. Also on the cultural tourism, tourism is a part of the mix. It is a very important part of the mix. It brings people into the area. When you are bringing people into the area, you don't know who you are bringing. You might bring the right person in there and they might want to locate their business there and create some jobs there. A lot of people, the way things are going today, it is a new type of an industry out there that people are going from place to place to place and people are out there setting up these trips and things like that for the cultural tourism part of it.

Really, overall, this is a package that I think has been worked hard for a lot of different people. I think it has headed us in the right direction. I am getting back to the what ifs. What if after we create a number of jobs, we have made Maine a better place? That is what it is all about people. We talked last night about taxes and things like that and I said the same thing last night. The best thing for tax reform is jobs. I understand there is a \$55 million proposal that is out here right now. Like I said earlier, if you create 1,000 jobs at \$25,000 a year, that is \$25 million. Here we have a 10-year bond. If you do that for 10 years you are talking about \$250 million that you created and put into the Maine economy. That is important. It is not rural Maine. It is not urban Maine. It is not northern Maine. It is not southern Maine. It is what is best for Maine. Everything in this package here addresses everybody in the State of Maine. It doesn't take one

side or the other. That is what this is all about. It is for Maine. You keep hearing me say that because I think it is time that we start taking a good hard look at the direction we are going with some of our issues. The people are Maine. We have to serve the people. What is best for the State of Maine is best for the people and what is best for the people is the best for Maine. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I would like to follow up on my question, which I asked earlier. The Representative from Livermore responded to that, but I wanted to follow up on that question. In regard to the Center Theatre in Dover-Foxcroft and the \$500,000 that is attached to this, it is not only the Center Theatre, but is also to promote tourism, the arts and culture and economic growth in Piscataquis County. Piscataquis County has its problems, but I suspect that all of the rural counties in Maine have economic development problems. The \$500,000 is not broken down as to how much of it would go to the Center Theatre or to promote tourism. My question is, how much of the funding would be going to the Center Theatre? Would this be a loan or is this a grant? I would like to know if the Center Theatre is a tax-exempt property and whether or not it is public or private ownership. Thank you.

The **SPEAKER PRO TEM**: The Representative from Farmington, Representative Gooley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Greenville, Representative Jones.

Representative **JONES**: Mr. Speaker, Men and Women of the House. Thank you, Representative Gooley, for once again putting Piscataquis County on the map. I like to hear that as often as possible. I am going to briefly talk about the Center Theatre, but Representative Annis who gave an eloquent speech on the floor in Appropriations can certainly give you the exact details because he has been very involved in that project. I will tell you that the Center Theatre will be the only cultural heritage center in Piscataquis County. We have two hospitals in Piscataquis County. Both of those facilities, their CEOs, their doctors and their staff have stood behind this project from the very beginning. It is essential to bring cultural heritage to Piscataquis County. It is the only game in the entire county. Yes, we do have our problems. I will be supporting this. We have 10.8 percent unemployment. That is double digits compared to the rest of the State of Maine. We only have 18,000 people in all of Piscataquis County. You have heard that many times from me. I will be supporting the entire package because it does affect the entire State of Maine.

The municipal support is essential when we are building our industrial parks. The infrastructure in those parks is critical to encourage businesses to move to those centers. One piece that I am critically interested in as well is the piece in regards to improving response capabilities. We are a very rural state. I think it is extremely important to protect our state. I don't think I need to remind any of you the horror that began on September 11th began in Portland, Maine. I was stunned. I said, Portland, Maine. Maine, it can't be. It happened. It is a horror that we will never forget. The Maine Rural Development Authority has been eloquently spoken about and it is incredibly important to continue with developing rural Maine. It is jobs. It is growth. R & D, several colleagues have spoken very highly on what that does for the state. We need to continue with that as well.

I will be supporting LD 2130 because it supports the continued strong track of our state in investing in the infrastructure and jobs, R & D, municipal support and health and

safety. All of this is an overall package that is essential to the economic growth and development that we need to continue in this state.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I want to speak briefly to this package. As most of you know, the rural caucus has met over a two or three-year period now and we have had some successes and some failures. We set some goals before we started this session and one of those goals was to try to do something about economic development in the rural areas. I want to take this opportunity to thank the leadership, the Chief Executive and the people that he trusts down there, the Representative from Brunswick, Representative Richardson and the people on the other side for working this and making it possible that in all of the packages that we have before us that there is money in there for rural development. This is an important piece. It is very important to the people in the rural areas. It is important to the people who live in the urban areas. It is important to the State of Maine. As you cast your vote today, regardless of which one you decide to vote on, it is very important. We are setting the stage for the future for our children and grandchildren. I think it is very important that we get together and support this package in some form. If one does not make it, let's try to get together and make sure that something out of this is positive. I thank you Mr. Speaker.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I just want to respond to the questions asked by the Representative from Farmington. The Center Theatre is a 501C3 not for profit performing arts center governed by a board of directors. The art center will be staffed by a manager, theatre technician and box office administrative assistant and will employ residents of the region. The total cost of the project was \$1.25 million. The request in LD 2093 was for \$1 million. The amount in the bond package is for \$500,000 for the Center Theatre. I hope that answers the Representative's question.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Baileyville, Representative Morrison.

Representative **MORRISON**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Medway, Representative Stanley, has repeatedly said what I believe firmly. It is the economy, stupid. That is a democratic operative word from James Carvel. I should say it over and over and over again, but it is so true. That is what it boils down to. One thing I can't understand about this bond package is we are learning what they are doing down in Washington, DC. You shuffle things in there that don't seem to fit.

To me it should be economic development and retention. For example, the correctional center down in that second part, that is important jobs for the Machias area. That should be in the economic development retention thing. They should be grouped in that area. I don't know if there are too many people in this House that don't understand the importance of economic development. If people don't have jobs, they aren't paying bills and they aren't paying taxes and we can't do anything else. If we keep losing jobs, it will speak for itself. One thing that I did come down here for as a firm commitment and I made that very clear last year was the Calais area, and I know the good Representative from Greenville, Representative Jones, says that they have 10.8 unemployment. Last thing I heard we have them beat. I think Washington County is number one at 11 percent unemployment right now. With seasonal employment later on in the spring and summer, it will probably drop down three or four

points. We still will be double the state average like we have been even during the good times, during the '90s. We were double the state average down in Washington County. Again, I said that over and over again. I think you have heard that from many people, everybody you talk to. We understand the situation in Washington County. I appreciate your understanding. I worked on the St. Croix economic alliance and what I am referring to is this cultural tourism section. The federal government came up with \$2 million. I came down here with high hopes. The economy was doing well then and there was all kinds of money in the state and there was \$250 million surplus. Fifty million went to computers and everybody was grabbing money here and there. I was coming down here saying that we won't have any trouble getting \$2 million to match the federal money for our cultural heritage center. I know there are still those doubters. There are doubters in my own party. We will give you a million dollars, but it is not really going to work. I got news for you. We are tapping into something that we have available to us right now. This is not a pie in the sky. If you build it, they will come. They go right by us every day, a million plus cars every year though that Ferry Point Bridge in Calais. We have to tap into that. That is something that is viable for us. It is something that has potential. It is not just a pie in the sky. The biomedical thing, it promises it is going to give us all kinds of jobs and so forth. I don't know. Again, I would like to see some results. How many jobs have they really created for us? What kind of jobs and for who? If they are for people with doctorate degrees from Minnesota to California, I am not sure how much that is really helping the present unemployed people in the State of Maine. Again, it is something that gives us jobs and maybe there are residual type jobs that keep the restaurants and things open that are good for our Mainers. They are jobs and they are employment.

By the way, we didn't get a million out of the Legislature last year, we got \$980,000. We lost \$20,000 over a 2 percent cut. I see some areas were reinstated when the money came in. I had an e-mail pen pal type thing with Kay Rand in the Chief Executive's Office last summer trying to get the \$20,000 back. I said you take \$20,000 away from us, we have to go out and knock on doors to get it back to raise the money for that heritage center. It is an economic development tool for us. I don't know how else I can emphasize it and say that this is something we worked hard to get. I see it is only included in one of the packages, package "A." I do have a problem in package "A" with renovating the Harlow Building. If I could select in that package, I would say, what does that have to do with economic development and jobs and that type of thing? That should be a category that we feel comfortable with and can work around. That thing doesn't seem to belong in there. Somebody did plug in a half a million in the cultural tourism in that "A" package for the Heritage Center in Calais. I appreciate that. We certainly do need that help. We are gaining a little bit more as we go. The other two packages, I guess whoever is involved in those two packages doesn't seem to understand and doesn't seem to get it. We need help down in that area. If you don't help these backward areas, these high unemployment areas in the State of Maine, we are still going to continue to exacerbate the problem down in the Portland area. You are going to move down to the Portland area and you are going to have problems with affordable housing and on and on and on. Can we stabilize the jobs down in our area and hold the people and maintain what we have in the State of Maine or are we all going to move down to the southern part below the Kennebec? I don't think so. We have to make that effort. I think every state faces that same thing. If it is New York City versus upper New York. I am sure they have the same

go round and the same differences. I at least appreciate whoever had the foresight or whatever to at least put in another half million in the Cultural Heritage Center in Calais to help us in a desperately needed area of the state. I appreciate it. I would like to thank whoever is responsible. That is the package that I will be going with. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I want to thank the three respective parties who put in the unanimous recommendations to the Business and Economic Development Committee. Those items in that report I knew a lot about. I am going to speak about something right now that I don't know a lot about. I know we all do that from time to time. If you will stay with me, I want to make three quick points. First, the question of the renovation of the Harlow Building, I know we all campaign when we come down here and say we are going to use our common sense and we are going to try to do what we can to save the taxpayers money. Well, when I read about the renovation of the Harlow Building, I come to the conclusion that if we renovate that building it is far less expensive for us than if we lease.

The Chair declared a Quorum was not present and ordered a quorum call.

More than half of the members responding, the Chair declared a Quorum present.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I want to make three quick points. If we use our common sense, let's look around here for just a minute. The Harlow Building is a building if we renovate for \$8 million we are going to spend less money by doing that than if we leased the building that they are currently in. It kind of makes economic sense to me. I am using my common sense when I vote on this today, because I didn't have a chance in the economic development package to vote on the Harlow Building. I think it makes great common sense for us to consider doing this as part of the economic package.

Secondly, we have the idea of a cultural tourism center in Lewiston. We have one and we voted on it last year. I think the good Representative made the point that we have one in Calais. I think it adds to economic development to consider cultural activities within a community. It creates that infrastructure and that bond, which is so necessary. I am going to support the cultural tourism bond portion of that package.

Thirdly, I want to make the point that we just passed the bioterrorism bill here. I think it went down to the Senate and it awaits approval of the Senate. When we passed that bill we essentially bought a car without an engine. What we need to do here is put the money into that bioterrorism legislation that we just passed because without doing that we are essentially not going to be able financially to meet the threats that we all understand are quite real here in the State of Maine.

I didn't have a chance to consider those things in the Business and Economic Development Committee as we passed that unanimous report, but if I had, I think I would have looked at these things with a critical eye just as Appropriations did and I would endorse them. I am going to ask you to support the Appropriations Committee's Majority Report. Thank you.

Under suspension of the rules, members were allowed to remove their jackets.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Ladies and Gentlemen of the House. If I could just make a quick response to the three points that were just raised, first of all, just to remind you to take a quick look at the summary sheet again in terms of the Harlow Building. The Harlow Building does show up in the "B" and "C" reports in the bond package that we dealt with the other day. It is addressed in a different form in the totality of the three packages combined.

Under the cultural tourism piece, I think the thing that is most disappointing about the inclusion of this particular bond sponsored by the Senate President Pro Tem that has the selected cultural tourism piece that would be included in this bond proposal is that it completely ignores the mechanism that we have used over the last couple of sessions, which is the new century program's approach. The reason that was such a useful tool is because it allowed many formerly competing entities that came to the state for resources and help when they needed support with many cultural efforts. It forced them to create a collaboration and to work together and to prioritize the items that were most important to them. There was a real sense of peer review. They presented to the Legislature and to the Appropriations Committee recommendations that met that test. This proposal ignores that approach and just simply takes one bill, I am not questioning the value of the project or the worthiness of the projects, but it just steps outside of the system that we had established and injects itself. I think it was probably put best by the Bangor Daily editorial this week in reviewing the bond package: it said that the inclusion of this particular cultural tourism piece defies logic. I think the reason they probably came to that conclusion that it defies logic is because it does step outside of the mechanism that we had used in terms of how to fund cultural tourism pieces.

Finally, the third item, the bioterrorism, I just want to remind folks that the administration in the State of Maine has received approximately \$8 million from the federal government in the Bureau of Health which will fund 10 positions to help implement many of the provisions that were passed in that legislation that was just mentioned. There already is a source of federal money and 10 new positions to do that. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative **PINEAU**: Mr. Speaker, Ladies and Gentlemen of the House. I want to thank the distinguished Representative from Livermore for bringing up this important bond package. Even though my constituents won't see any of the cultural developments, my constituents will be turning the nuts and bolts, running the equipment and pounding the nails. They will be doing the work. We will be investing in these jobs and this money will come right back into our economy as part of the GPA and part of the local property tax. This is a good bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I timed this one quite well. I realize there are many folks missing. However, I couldn't wait. All of my life I have always heard the words that I have heard this morning, this is not the time. You have to wait. Down through my life what would be

some of the words I would hear, I can remember the isolationist position prior to World War II. I can remember following World War II here in the State of Maine in this body. I would hear the discussion at home about how things were not being provided for the people of the State of Maine. I have taken an active part here for a short period. I will say to all of you or to anyone within the sound of my voice that I will leave here believing that the people of the State of Maine are better served today than they were eight years ago. How did this happen? It happened by people working on committees, trying to get some of their colleagues to realize that people in the State of Maine were not having proper medical care, education and insurance. As far as I am concerned and I know there is a mindset here this morning and all of this discussion probably wouldn't influence very many votes and I would say also that starting last fall when people were talking to me about the shortfall and I tried in my own way without benefit of reading all of these papers we have, like the Representative from Norway refers to, that the shortfall would probably change before we got to address anything here in this session.

The other morning, within some time this last week, I couldn't believe my ears. I might have an aid here that helps me, but I heard the word on the recession used in the past tense and it came from people on my side of the aisle. That kind of surprised me knowing that the recession hasn't been as devastating as what all of the concern was last fall. What happened to the money? How come you don't have some? I will try to explain what causes us to have money to spend. What I am getting around to is I don't in my life think about this is not the time. I think about, is there a need? Time doesn't stand still. That is no great statement in itself. I would say to you here this morning that things will improve over time beyond this session for the people of the State of Maine. That is my concern. I came here with the idea that I would try to support the people that don't have a lick. If someone can tell me that I haven't done that, I would be glad to talk to you here on the floor or out in the corridor.

I would ask you this morning, and I realize it is difficult for people in this body that enjoy some of the better things in life, however, be mindful that we are talking about whether it is homeless people or students or people needing medical attention, it is all there in this bond package and to deal with those problems. I will say that I listened this morning to the House Chair of Appropriations and I did over the winter find time to go and listen at different times to discussions in Appropriations. I would ask that you really think that this is the time. Less is not better. Don't put it off.

I will say that last year I tried to get a credit card. I never had one. The problem I ran into was I didn't have any credit. Maybe some of you will know what that means when I say I didn't have any credit. I am not one of those people that has borrowed a lot of money. I know in business it is the accepted way and I have seen many successful businesses that have borrowed money. I have seen individuals that borrowed money and made a successful business for themselves and their families. Maybe what I have had to say hasn't been appropriate, but it was on my mind. I say now is the time. Let's get with it. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of Report "A" Ought to Pass as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 633

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Green, Hall,

Hatch, Hawes, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McGlocklin, McGowan, McLaughlin, Michaud, Mitchell, Morrison, Murphy E, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Mayo, McKenney, McNeil, Mendros, Michael, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler GJ, Winsor.

ABSENT - Bagley, Baker, Brooks, Estes, Gerzofsky, Hutton, Landry, McKee, Povich, Wheeler EM, Young.

Yes, 81; No, 59; Absent, 11; Excused, 0.

81 having voted in the affirmative and 59 voted in the negative, with 11 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-561)** was **READ** by the Clerk.

Representative PERRY of Bangor **PRESENTED House Amendment "A" (H-1096) to Committee Amendment "A" (S-561)**, which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bangor, Representative Perry.

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. I do not wish to elongate this debate on bonds. I want to recognize that Bangor has worked very hard to try and develop their waterfront, auditorium/civic center and spur some economic activity. We started with local option and it appeared not to have a successful outcome on the floor of the House so I withdrew it. Representative Duprey put forth a \$15 million bond. We went down and fought in Appropriations for it. I guess I would perceive that as being a little ambitious for this year with the other worthy projects that have been around. I think perhaps it would be best to leave that bond lying on the table. I appreciate the support, the 10 to 3 report out of committee. I think the problem is with local option we needed the authority to implement the tax and the argument had to be sold to the people of Bangor. Now we are asking for state money the argument in favor must be made to us. I recognize that perhaps we weren't ready for that. I am asking simply for \$250,000 of the Rural Development Fund leaving them with \$9 and three-quarters million. I think this works hand and glove with rural development. Bangor is the economic engine of much of rural Maine. It is the gateway of rural Maine. I would simply ask for your support on this amendment. Thank you.

Representative BERRY of Livermore moved that **House Amendment "A" (H-1096) to Committee Amendment "A" (S-561)** be **INDEFINITELY POSTPONED**.

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

Representative **BERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the work of the Representative from Bangor, Representative Perry. He is doing the best he can. I also know this process to get through is going to be very difficult ahead. I think I made it clear that we needed two-thirds to have an impact. I don't see things being added or changed in here that is going to add to this process. I guess I reluctantly ask you

to Indefinitely Postpone and would ask for a roll call when the vote is taken.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1096) to Committee Amendment "A" (S-561)**.

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

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-1096) to Committee Amendment "A" (S-561). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 634

YEA - Berry RL, Bliss, Bouffard, Brannigan, Bryant, Bull, Canavan, Chick, Colwell, Cowger, Desmond, Dudley, Dunlap, Duplessie, Etnier, Gagne, Goodwin, Green, Hall, Jacobs, Kane, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Matthews, McDonough, Nass, O'Brien JA, O'Neil, Paradis, Patrick, Pineau, Richard, Savage, Simpson, Skoglund, Smith, Trahan, Twomey, Volenik, Watson, Winsor.

NAY - Andrews, Annis, Ash, Belanger, Berry DP, Blanchette, Bowles, Bruno, Buck, Bunker, Carr, Chase, Chizmar, Clark, Clough, Collins, Crabtree, Cressey, Cummings, Daigle, Davis, Dorr, Dugay, Duncan, Duprey, Fisher, Foster, Fuller, Gerzofsky, Glynn, Gooley, Haskell, Hatch, Hawes, Heidrich, Honey, Jodrey, Jones, Kasprzak, Koffman, Labrecque, Ledwin, Lovett, MacDougall, Madore, Marley, Marrache, Mayo, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Morrison, Murphy E, Murphy T, Muse C, Muse K, Norbert, Norton, Nutting, O'Brien LL, Peavey, Perkins, Perry, Pinkham, Quint, Richardson, Rines, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Treadwell, Tuttle, Usher, Waterhouse, Weston, Wheeler GJ.

ABSENT - Bagley, Baker, Brooks, Bumps, Cote, Estes, Hutton, Landry, McKee, Povich, Wheeler EM, Young, Mr. Speaker.

Yes, 45; No, 93; Absent, 13; Excused, 0.

45 having voted in the affirmative and 93 voted in the negative, with 13 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1096) to Committee Amendment "A" (S-561)** **FAILED**.

Subsequently, **House Amendment "A" (H-1096) to Committee Amendment "A" (S-561)** was **ADOPTED**.

Committee Amendment "A" (S-561) as Amended by House Amendment "A" (H-1096) thereto was **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-561) as Amended by House Amendment "A" (H-1096)** thereto in **NON-CONCURRENCE** and sent for concurrence.

On motion of Representative RICHARDSON of Brunswick, the House **RECONSIDERED** its action whereby it voted to **INSIST** on Bill "An Act to Create the Maine Rural Development Authority"

(H.P. 1724) (L.D. 2212)

On further motion of the same Representative, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

**ENACTORS
Resolves**

Resolve, Regarding Legislative Review of Chapter 296: Patient Brochure and Poster on Dental Amalgam and Alternatives, a Major Substantive Rule of the Department of Human Services

(H.P. 1637) (L.D. 2140)
(S. "A" S-582 to C. "A" H-1046)

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

On motion of Representative DAIGLE of Arundel, was **SET ASIDE**.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. This bill as it currently stands before the body has been changed from its last version where there was a discussion about its funding source. What we have before us now is the requirement to take money from the Nursing Facilities Other Special Revenue Program. Earlier this morning I investigated just what this funding source is. What I learned was that we appropriate a certain amount of money every year to support nursing homes. Part of the cost that we reimburse them for is called their depreciation and if they sell a nursing home some day and they make money greater than the depreciated amount, then that money is returned and appropriated back, two-thirds to the federal government and one-third to the State of Maine. That is what goes into this fund. There is no purpose of this fund. The original purpose of this money was to support nursing homes. We have always wished we could find more to give to our nursing home system. It disturbs me to see that we are now looking to take away money that started out going to nursing homes because we wish to pay for brochures for our dentists. I am not objecting to the concept of paying for brochures, but we all know the appropriate place to do that is to put it on the Appropriations Table competing with all the other measures that members of this body fought to have money spent. If we start to raid our nursing home programs because we don't want to fight on the Appropriations Table, I do not think we are doing our constituents a service. Therefore, I ask when the vote be taken, it be by the yeas and nays.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Ladies and Gentlemen of the House. When this bill was before us the other day for Enactment it became clear that this body was not willing to borrow money from the Rainy Day Fund for this project. We went out and got other funding. The Bureau of Health offered up this funding, which was an excess fund they were able to locate. I urge you to support Final Passage of this bill. This was a unanimous report out of committee to produce the brochure and the pamphlet. We were able to find another source of funding outside the Rainy Day Fund, which is what we objected to the other day. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. When this bill originally came through the House I supported it. Over the past several months I have watched

nursing homes close in York County. I have watched my patients go without proper care because there is no dentist to provide dental care for my nursing home residents as well as the pediatric patients. I cannot in good conscience take money away from the most defenseless of our population to do this. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. Why can't this be funded by the group that makes plastic filings instead of amalgam filings since they are the ones that are going to benefit from this brochure?

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

ROLL CALL NO. 635

YEA - Ash, Berry RL, Bliss, Brannigan, Bryant, Bull, Bunker, Chick, Chizmar, Colwell, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fuller, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Matthews, McDonough, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Richardson, Simpson, Skoglund, Stanley, Thomas, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Blanchette, Bouffard, Bowles, Bruno, Buck, Bumps, Canavan, Carr, Chase, Clark, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Fisher, Foster, Gagne, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Mailhot, Marley, Marrache, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Muse C, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Perry, Pineau, Pinkham, Quint, Richard, Rines, Rosen, Savage, Schneider, Sherman, Shields, Smith, Snowe-Mello, Stedman, Sullivan, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler GJ, Winsor.

ABSENT - Bagley, Baker, Brooks, Cote, Estes, Jones, Landry, McKee, Povich, Tessier, Wheeler EM, Young.

Yes, 55; No, 84; Absent, 12; Excused, 0.

55 having voted in the affirmative and 84 voted in the negative, with 12 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by an Act of Bioterrorism

(H.P. 1656) (L.D. 2164)

(C. "A" H-1062)

TABLED - April 4, 2002 (Till Later Today) by Representative NORBERT of Portland.

PENDING - PASSAGE TO BE ENACTED.

On motion of Representative MUSE of South Portland, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker Pro Tem.

The Speaker resumed the Chair.
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:

An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by an Act of Bioterrorism

(H.P. 1656) (L.D. 2164)
(C. "A" H-1062)

Which was **TABLED** by Representative MUSE of South Portland pending **PASSAGE TO BE ENACTED**.

On motion of Representative NORBERT of Portland, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

On motion of Representative LaVERDIERE of Wilton, the House **RECONSIDERED** its action whereby it voted to **RECEDE AND CONCUR** on Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)

(H.P. 1577) (L.D. 2083)

On further motion of the same Representative, the House voted to **RECEDE**.

On further motion of the same Representative, Joint Rule 311 was **SUSPENDED** for the purpose of entertaining an amendment.

The same Representative **PRESENTED House Amendment "A" (H-1097)** to **Committee Amendment "A" (H-1071)**, which was **READ** by the Clerk and **ADOPTED**.

Senate Amendment "A" (S-567) to **Committee Amendment "A" (H-1071)** was **READ** by the Clerk and **ADOPTED**.

Senate Amendment "C" (S-585) to **Committee Amendment "A" (H-1071)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-1071) as Amended by **House Amendment "A" (H-1097)**, **Senate Amendment "A" (S-567)** and **Senate Amendment "C" (S-585)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-1071)** as Amended by **House Amendment "A" (H-1097)**, **Senate Amendment "A" (S-567)** and **Senate Amendment "C" (S-585)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

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

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

Which was **TABLED** by Representative COLWELL of Gardiner pending **FURTHER CONSIDERATION**.

Representative BOWLES of Sanford moved that the House **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**.

Representative KASPRZAK of Newport **REQUESTED** a roll call on the motion to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Insist and Ask for a Committee of Conference. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 636

YEA - Annis, Ash, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bryant, Buck, Bull, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Colwell, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McKee, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy E, Muse C, Muse K, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Sherman, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Winsor, Mr. Speaker.

NAY - Belanger, Berry DP, Bruno, Bumps, Chase, Clough, Collins, Cressey, Davis, Foster, Glynn, Gooley, Haskell, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Mayo, McKenney, McLaughlin, Morrison, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rosen, Savage, Schneider, Shields, Simpson, Snowe-Mello, Stedman, Trahan, Treadwell, Waterhouse, Weston.

ABSENT - Andrews, Bagley, Baker, Cote, Duprey, Estes, Landry, Madore, Marrache, O'Neil, Povich, Wheeler EM, Young. Yes, 96; No, 42; Absent, 13; Excused, 0.

96 having voted in the affirmative and 42 voted in the negative, with 13 being absent, and accordingly the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (H-1042) - Minority (3) Ought to Pass as Amended by Committee Amendment "B" (H-1043) - Committee on TRANSPORTATION on Bill "An Act to Promote the Fiscal Sustainability of the Highway Fund"

(H.P. 1516) (L.D. 2020)

PENDING - ACCEPTANCE OF EITHER REPORT.

Representative COLWELL of Gardiner moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. I am going to do a very difficult thing at this point. I am going to move Indefinite Postponement of this bill and all accompanying papers. I want to first commend the Transportation Committee for really wrestling with an incredibly difficult issue. They went through numerous options to try to get the sufficient funding of the transportation budget accomplished. I think they did an exemplary job. I want to congratulate them and commend them for their work. That may seem contradictory to the motion that you see before you, but I also want to try to explain my motion.

As the committee did its work it became clear that the issue of transportation and roads is a bipartisan issue and it is one that deserves full and strong support from both sides of the aisle. I think that the good chair from Brewer certainly made every effort for that to occur. At the end of the day there is just no question that what we are being asked to do in this legislation is raise a tax and I think this is the wrong time to send that message to the people of Maine. I think our economy is fragile. Secondly, gasoline and fuel prices are rising, not by pennies a day, but by nickels and dimes a day. I think we need to be aware of that. I also believe that at the end of the day we will have a chance to come back and address this, whether it is in the 121st Legislature or whenever it is. I believe that we will address it in a truly bipartisan fashion and hopefully we will reach a solution that 151 members of this House can support. It is inescapable that the roads and the bridges and the highway infrastructure run through 151 districts in this body. I don't make this motion lightly. I make it with all sincerity and I make it out of respect for the work that the Transportation Committee has done. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative McNeil.

Representative MCNEIL: Mr. Speaker, Men and Women of the House. I don't really think the issue here today is whether the majority got their way on this bill or the minority got their way on this bill, but we had this conversation about a very serious issue in the state. It is a policy issue that we should have addressed here in this chamber today and in the other chamber at the end of the hall. As committee work, we all, every single one of us, no matter what committee we were one, discussed very important issues to the State of Maine, whether it is human services, education or whatever it is. I do not believe that when there is a situation where we hold one policy issue hostage to another policy issue that we have brought much pride to this chamber. I also think that we do a great disservice to the people in the State of Maine. I think this discussion could have gone on. We could all have voted against it at the end of the day, but we would have

had this discussion and we would have been better off for it. Perhaps like the tax bill that we discussed last night, this may go on and on again for another lot of years. Thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Mr. Speaker, Men and Women of the House. This is a difficult day. I just want to make two or three quick comments. I have a lot more to say and maybe I will have another opportunity later in the day to do that. I want you to know that the report that you are looking at in your calendar, it says 10 to 3 on it. That is a bit misleading. I want you to know that the entire committee is in agreement on the issue of the necessity of funding properly our highway program here in the State of Maine. All of us agree on some basic facts. Basic fact number one, we have come a long way baby from 30 miles back in 1993, 30 miles of reconstruction being done and this year over 200 miles. I get complaints at home about potholes. I think we all do. Usually those complaints are followed by "the roads seem to be a lot better in general." We also agree that we have continuing great needs here in the State of Maine to make our roads safer for our families. There are great needs in rural Maine to reconstruct the roads so they are not posted three or four months out of the year hurting the economies of our rural districts. I also understand that if rural Maine is ever going to develop, it needs good arteries. Again, we have an understanding on our committee that our financial woes are going to continue to grow as cars become more efficient and as we go to alternative fuels. What we don't agree on is how to accomplish this.

The majority of the committee feels that the indexing program that we have established in this bill is the way to go about it. There are checks and balances at the beginning of every session. Like I said, maybe we will have more opportunities at the end of the day or tomorrow or the beginning of next week depending on how our scheduling goes to deal with this further. I have a lot more I can say. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Men and Women of the House. It is unfortunate the way politics works that some bills are heard and some aren't. This is not a light issue. I am sure I am going to get dirty looks from certain people, but this issue needs to be talked about. I have stood here for the last six years and fought the gas tax, but I am promoting this issue right here. It is because we are not voting on a tax increase this year, we are voting on a tool that can be used in the next session so that the commissioner can put forward a construction project book that will include bridges and roads and he will know there is a tool there that will raise money if need be. The next Legislature will be voting on these projects. What we are sending right now is a message back to the commissioner that we don't want to improve any more bridges or any more roads above and beyond the amount of money that the Highway Fund is taking in.

It is an election year and a bad year to bring this up. Threats are being made that this will be used against you in your election. Well, if it used against me, I want to make sure my name is spelled correctly and beside it it says that I voted to improve the infrastructure in the State of Maine. I took the lead. I stood up and I didn't cower behind any trees and I led the Maine people in trying to improve our roads and bridges, which has been lax. Our commissioner presently has done a very good job. We owe it to him to be able to put forward a budget package for the next administration that will keep improving our infrastructure and our bridges going forward. My seatmate unfortunately couldn't be

here right now because of personal reasons. I am sure he would want to speak even though he was on the opposite side. I just think it is very unfair that we could not hold this so that we could really have a real debate on the issue and that this wouldn't be tied in with other bills. I think some of you know what I am talking about.

The end of session gets really dirty up here and unfortunately the Highway Fund always seems to be in the middle of that. There has been talk about putting the Highway Fund back into the General Fund. That would be the worst thing we could ever do. You would never get a road paved or bridge built. The Highway Fund is always on the bottom of everybody's priority list. If you want economic development, ladies and gentlemen, you vote for your infrastructure first so you can get there. We need to put this tool forward. Don't be afraid. You didn't vote for a tax increase, you voted for a tool that could be used if the next Legislature wants to use it for a tax increase to improve our infrastructure.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Last night I got up on another bill and spoke about when I came into this Legislature. Lo and behold I am going to speak again on this one of when I came into this Legislature. The headlines in the newspapers were the sad shape that all of our roads and quite a few of our bridges were in back in 1995. That was the first thing that I saw in newspapers were that bridges were dilapidated, roads were horrible and that there is never enough money going around to be able to fix these. Since then, as the previous speaker has spoken to you, we have gone a long ways. I have received many comments from constituents back home that the roads are still in bad shape, but they are in a heck of a lot better shape than what they were eight years ago when I first came here. With this motion here before us, I feel what has happened here if this goes through is that once again we have taken a step backwards in fixing the infrastructure so that economic development can occur in this state. Thank you.

Representative **TRACY** of Rome moved that the Bill be **TABLED** until later in today's session pending the motion of Representative **COLWELL** of Gardiner to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

Subsequently, Representative **TRACY** of Rome **WITHDREW** his motion to **TABLE**.

Representative **MCNEIL** of Rockland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Windham, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I don't have much experience up here in Augusta. My experience is on the local level. I was on the town council in the Town of Windham during the recession. The one thing that we would never cut is funding of infrastructure. I think this sets a terrible precedent. I think that we should pass this LD and allow the Department of Transportation to go ahead with their planning and decide in the next session whether we want to actually increase the gas tax or not. This merely lets them go ahead with their planning. I urge you to defeat the current motion and go on to pass the LD. Thank you very much.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. Once again we lack the political

fortitude to pass a bill that we know is desperately needed out there. By not passing this bill, we are going to pass a higher property tax. Some of the gas money goes back to each and every community to help us do our local roads, especially in the rural part of the state. I beg of you to not Indefinitely Postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I think it was two days ago I received this letter from the Transportation Committee. I will just read two or three sentences in this letter. It says, "Left unresolved the committee concurs with MDOT's assessment that planned new alignment roads and bridges will have to be postponed. Further, the entire Highway Reconstruction Program for FY 04 and 05 would be at risk of elimination. Absent a solution, the current administration will have to make difficult decisions now that will be upsetting to your constituents." Thank you.

The SPEAKER: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. In business and in government we often have to make a decision between investing in success and investing in failure. Put another way, very often we have to take a decision to throw good money after bad or to throw good money somewhere where we know it will be put to good use. The Department of Transportation in the last eight years I believe has done an excellent job in terms of turning around its efficiency of operations and in terms of improving the infrastructure of this state. I believe it is appropriate now for us to invest in success to give some trust to that department going forward and to allow it to continue to do a good job of improving this state's infrastructure. I beg you to vote against the Indefinite Postponement of this bill. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and accompanying papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 637

YEA - Annis, Ash, Belanger, Berry DP, Berry RL, Bliss, Bowles, Brannigan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Carr, Chase, Chizmar, Clough, Collins, Colwell, Cowger, Cressey, Cummings, Davis, Dorr, Duplessie, Foster, Gagne, Gerzofsky, Glynn, Goodwin, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Kane, Kasprzak, Koffman, Lovett, Lundeen, MacDougall, Mailhot, Marrache, Matthews, McDonough, McKee, McKenney, Mendros, Michael, Michaud, Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, Perkins, Pineau, Pinkham, Richardson, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tobin J, Trahan, Tuttle, Twomey, Usher, Waterhouse, Watson, Winsor, Mr. Speaker.

NAY - Blanchette, Bouffard, Bunker, Canavan, Chick, Clark, Crabtree, Daigle, Desmond, Dudley, Dugay, Duncan, Dunlap, Etnier, Fisher, Fuller, Gooley, Green, Hall, Hawes, Jones, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Madore, Marley, Mayo, McGlocklin, McLaughlin, McNeil, Mitchell, Murphy E, O'Brien JA, O'Brien LL, Paradis, Patrick, Peavey, Perry, Quint, Richard, Rines, Sherman, Tessier, Thomas, Tobin D, Tracy, Treadwell, Volenik, Weston, Wheeler GJ.

ABSENT - Andrews, Bagley, Baker, Cote, Duprey, Estes, Landry, McGowan, O'Neil, Povich, Wheeler EM, Young.

Yes, 86; No, 53; Absent, 12; Excused, 0.

86 having voted in the affirmative and 53 voted in the negative, with 12 being absent, and accordingly the Bill and all

accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

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

An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by an Act of Bioterrorism

(H.P. 1656) (L.D. 2164)
(C. "A" H-1062)

Which was **TABLED** by Representative NORBERT of Portland pending **PASSAGE TO BE ENACTED**.

On motion of Representative MUSE of South Portland, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-1062)** was **ADOPTED**.

The same Representative presented **House Amendment "B" (H-1098)** to **Committee Amendment "A" (H-1062)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I hope that we can keep an open mind and listen to this debate. There are several reasons that I submitted this amendment. I felt that we are being forced down a path that compromises civil liberties for the greater good of the masses. That may well be necessary, but it shouldn't happen without careful consideration. We all know that. We all agree to that. Obviously there is a great deal of confusion surrounding this bill. Thirty-four members flipped their votes from the first hearing to the second. I have to wonder why. Lobbying efforts have been extreme and every one of us is tired. We have seen theatrics surrounding the issues and I would ask you to set those aside. We have heard the snap of the whip and I would ask you not to listen, but follow your heart and not your harness.

What is driving the lobby behind this bill? Some people have said it is money. We have received information on our desk that says that it is money. There is \$26 million from the federal government if we put together a plan in the next few days. There is a part of me saying they are the ones asking for it, why not let them pay for it?

The **SPEAKER**: Would the Representative defer? The Chair recognizes the Representative from Freeport, Representative Bull. For what reason does the Representative rise?

Representative **BULL**: Point of order, Mr. Speaker.

The **SPEAKER**: The Representative may state his point of order.

Representative **BULL**: Thank you Mr. Speaker. I believe it is against House Rules to questions the motives of other members.

On **POINT OF ORDER**, Representative **BULL** of Freeport objected to the comments of Representative **MUSE** of South Portland because he was questioning the motives of other members of the House.

The **SPEAKER**: The Chair would remind members in their Rules of Order and Decorum that it is strictly prohibited during debate to refer to the actions or possible actions of any other member, the other body or the Chief Executive. Representative Muse may proceed.

The Chair reminded all members that it was inappropriate to question the motives of other members of the House.

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I apologize if anybody was offended by that. I believe that the money issue is something that is mentioned in the bill itself and that is what I was referring to. I was referring to the money from the federal government. The day that I take that money in exchange for my vote is the day that I ride an elephant into the circus.

In all seriousness, this amendment does nothing more than buy us time to act rather than to react. Let's think about that and I will talk more about it. What exactly this amendment does is very similar to what the bill does, but does it in a slower, more thoughtful process. It doesn't run expeditiously down the road chasing federal dollars.

What exactly will it do? Two of the pieces of the amendment mirror the existing bill that we voted on. The Governor will convene a Public Health Emergency Planning Committee. That committee will consider ways to safeguard individual dignity and medical record confidentiality and examine strategies to protect the public from the threat of communicable diseases and acts of bioterrorism. We are being asked to pass a bill that has no plan. This Committee isn't going to come back with their plan until January of next year.

We will have the Department of Administrative and Financial Services develop a mechanism for funding. They will also bring their findings back to the Legislature next year. This is what the existing bill will do that we are voting on. My amendment does that as well.

My amendment does two other things in addition to this and this is what it is. It will establish a judicial study for review who will look at access to the courts, availability of judges, access to attorneys, planning how and where to quarantine people. The existing legislation, ladies and gentlemen, has nothing to allow you access to the courts, an attorney. You know, the phone call that we talked about and laughed about if somebody has been dragged down the street and you want to make your right to a phone call. There is nothing that is going to allow that to happen. This is a major flaw in the bill that we are about to enact.

The third piece, and I think the most important aspect of my amendment, is something that goes back to the original bill and it will direct the Department of Human Services and the Bureau of Health to put together an education plan for the public and for politicians. How are you going to react, ladies and gentlemen, if in the event of some bioterrorist action you look out your window one day and you see your neighbor being dragged down the street by the storm troopers who are going to quarantine him or her. People are going to go nuts. There is going to be panic in the streets if people aren't educated prior to this. They are not going to know what is happening. People need education about this.

We heard in the original debate when we first killed this bill by over 100 votes, examples of Pearl Harbor and how devastating that was to our country. This bioterrorism is something so totally different, so totally foreign to our country that we have no concept, no idea what will happen. Somebody posed it to me like this, are you in favor of taking away all of our civil liberties if this should happen? I say, when the time comes, yes. Confinement is the only thing that will preserve our country, our way of life, is if we are able to confine any kind of bioterrorist action and immunize against it.

During the caucus we were told that we will put this plan into place and we can get vaccines. There is nothing in this bill that will get us vaccines for anything. There is nothing in this bill that says how vaccines would be utilized, distributed, nothing. This

bill the way it was put before us several days ago was a bad bill. It is still a bad bill. We should not rush to pass any piece of legislation. That is the reason why our legislative process here in the United States of America is as cumbersome as it is so that we deliberately work slowly and thoughtfully. This is a ninth inning bill that is being driven for reasons that are wrong.

This amended version will allow us the time to think about it, have the appropriate groups look at it, study it, bring the plan back to us the same way that the bill that was passed says they should do. It just adds two more study groups, without a fiscal note, to being back to this body next year. I hope that you would follow my light on this.

Representative LaVERDIERE of Wilton moved that **House Amendment "B" (H-1098) to Committee Amendment "A" (H-1062) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-1098) to Committee Amendment "A" (H-1062).**

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 Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I was going to pose a question through the Chair, but I thought I would do it this way instead. My question would have been, does this bill ensure the right for health care for everyone? Does this bill ensure the right for food for children who are going to bed tonight hungry? Does this bill ensure workers, 6,200 who die nationally from accidents, toxic fumes, does this ensure their right under terrorism? That, to me, is truly what terrorism is. How do we define terrorism? Things that we can actually make a difference on every single day. People are dying on the highway every day. That, to me, is terrorism. Things that we really can make change about. Ever since 9-11 we have run from this fear. It is a terrible thing what happened, but this bogey man scares me more. Every day we are losing rights. Every day people are suffering. I don't see a bandwagon. I don't see a line of people saying we must protect the worker's rights. We are in negotiations as we speak on workers' comp and the rights of working people. That is terrorism to me. I guess it all depends on how we define terrorism. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I won't question the motives of any members, but I will certainly question the motives of the Executive and some of the people strong arming and lobbying out in the halls. I have a memo here on my desk from the good Representative from Cherryfield, Representative Dugay, that points out that the plan to put this into effect was two months before September 11. Conveniently it has been attached to that terrorist attack. In reality, it is an effort to erode our rights.

We heard a lot of quotes when this was debated the other night. Apparently you must have had a lot of nightmares about small pox, because over 30 people changed their vote overnight with no new information, at least no honest information provided. There is nothing in this bill that guarantees that the people who are not criminals, through no fault of their own, that are going to be put somewhere because they have an imminent communicable health risk, which could just mean that they are HIV positive. There is nothing in this bill that says that if they are HIV positive they are exempted. There is nothing in this bill that guarantees that these people that are put somewhere even get the basic prisoner rights that the Geneva Convention calls for for prisoners of war.

There is nowhere in this bill that says that the people that were taken would be given the right to communicate with their family like a common criminal on the street gets. There is nothing in this bill that guarantees them the right to make a phone call and tell their family that they are okay.

A lot of quotes were thrown around. I have one more, "Fools rush in where angels fear to tread."

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Heidrich.

Representative **HEIDRICH**: Mr. Speaker, Ladies and Gentlemen of the House. I hate to say that I really had no intention of getting up, but I do remember Pearl Harbor and I do remember some of the restrictions we had. We are still here and we are doing well. We could have lost that war. We have been at war since the 1970s and none of you has woken up to the fact that we are at war now. It took 3,000 people in New York City to die and you are still in Wonderland. Have you ever seen children lying dead on the side of a road? Have you ever seen men and women that looked like skeletons? It could happen here. I have always wanted to protect my rights as an American citizen. I hold them very, very dear. I want to see my grandchildren grow to be men and women. I want to see their children grow. I am not out to scare you, but you have been at war. You are at war and it is time you woke up to the fact. It is going to get a lot worse. I know what everybody is going to say after the big thing happens. Where was our government? Why weren't we prepared?

Ladies and gentlemen, it is time you opened your eyes and looked around. We weren't prepared for Pearl Harbor. We weren't prepared for the towers. We have almost lost every war that we have ever been in because we haven't been prepared. Please, for the love of God open your eyes and see what the future might bring us. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I apologize to the body. I missed a couple roll call votes and missed a lot of this debate. I do want to express an opinion that may have been expressed. Certainly the analogy of WWII and the Japanese was mentioned. I did know a surgeon who is a Japanese American. He is a wonderful fellow. Later in his career he moved to South Dakota and is working to help Native Americans in South Dakota medically. I am sure you spoke about that. I think the response is important. We could always use the money. I think there was a real rush to this money to attach a lot of items that make our Constitution very nervous. I am very nervous. I am not speaking for the Constitution, but I can imagine that the Constitution is nervous here. Recently before the Criminal Justice Committee we invited the newly appointed US Attorney to be with our committee. I have a lot of pride in Paula. She is not a member of my party. She is a member of the other party, but she is an Ellsworth High School graduate and comes from an old Republican family whose grandfather in 1951 was Speaker of the House. He served with distinction in the Senate. She came to our committee at my invitation and she delighted our committee, she dazzled our committee. She was brilliant. We asked her about terrorism in Maine. You can say you are being naive and all that, but her response was in Maine we don't have a real lot of worry. You say these things and think the worst is going to happen. Let's think about it. Maine is a safe state. Maybe something will happen tomorrow, I don't think so. I suppose the actuaries have this all pegged.

I think there is a better way to prepare for the worst and not give away our freedoms. I think that this bill in its present form, not amended, will erode our precious freedoms and that makes

me nervous. Until I can feel less nervous and more comfortable, I cannot support the bill. I will vote against the Indefinite Postponement of this amendment. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative **MITCHELL**: Mr. Speaker, Men and Women of the House. There is a lot of misunderstanding about this bill. It has become very clear. This bill doesn't take away civil liberties in the least bit. Everyone here knows where I have been on civil liberties issues. I will admit when I saw a bill that had bioterrorist in it, I cringed. I am sure a lot of you cringed because of the direct assaults we have seen on our civil liberties from the federal administration under the ruse of calling it a threat of terrorism. I examined the bill with a pretty critical eye, but if this bill is not passed, let's talk about what the current law would do.

Everything that everyone is afraid of happening under this would be worse under current law.

The SPEAKER: Would the Representative please defer? The Chair recognizes the Representative from South Portland, Representative Muse. For what reason does the Representative rise?

Representative **MUSE**: Mr. Speaker, I believe we should be addressing the amendment.

On **POINT OF ORDER**, Representative MUSE of South Portland asked the Chair if the remarks of Representative MITCHELL of Vassalboro were germane to the amendment.

The SPEAKER: The Chair would answer that I have given a great deal of latitude to all the membership including the Representative from South Portland. The Representative may proceed.

The Chair reminded Representative MITCHELL of Vassalboro to stay as close as possible to the issue.

Representative **MITCHELL**: Thank you. Even though I appreciate the Speaker allowing me the same latitude as the rest of the House, including the Representative from South Portland, I will defer. I will simply say if you are worried about protecting civil liberties, I would recommend that you look at the lights of the people who have been fighting for civil liberties for their entire time in the Legislature. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. Eight hundred and thirteen years ago this spring a motley group of barons, gentlemen and clergy men met to sign the Magna Charta with King John. The reason I raise that with reference to this amendment is because the Magna Charta for the first time set out the principal that the Executive shall consult before exercising the powers of the Executive in either peace or war. It set out for the first time a set of principles to be applied in peace and another set to be applied in war. In the past eight centuries we have evolved a set of rights and responsibilities of the Governor and the Governor in circumstances of war and civil emergency.

I am concerned that the original bill, not the amendment, marks a sharp reversal on eight centuries. I believe that this amendment is the appropriate way to go in that it sets out a process for appropriate consultation between the Executive and the Legislature. I also believe as somebody who 20 or more years ago had the misfortune to spend a great deal of time studying the effects of nuclear warfare on cities, I believe it is true that we have never during the time of cold war had the kind of specific draconian legislation that we now see offered in the event of bioterrorism.

Mr. Speaker, we cannot foresee what kinds of evils may befall us. We also know that authorities are notoriously prone to

preparing for the last war or the last crisis. The greatest reserve power that this or any state has in an emergency is the trust of its free people. That trust freely given may be withdrawn if the statute book is laden with oppressive and specific powers to compel, command and confine. There is a difference between preparation and legislation. This amendment is about prudent preparation. I urge you to vote against Indefinite Postponement.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. As everybody knows here, I argued vehemently against the bill. I do support this amendment. If this amendment passes, I can support the bill for the reasons the previous speaker just said. The Representative from Vassalboro said that this was not an attack on civil liberties and I respectfully disagree. If I didn't think it was, then I wouldn't be debating against the original bill. It does delay due process rights. Right now you have to get a court order to do that. If this bill passes, you will not need a court order. That is a loss of liberty. I don't care how you approach it. I don't care when you say it happens, it doesn't happen when it should so it is a loss of liberty. We need this amendment to protect those liberties, to protect that oversight.

The good Representative from Oxford who served very valiantly in time of conflict, I have great, great respect for him. As he well knows, I have great respect for the military. I served in the military. My uncle was in Merrill's Marauders in the South Seas. I had long talks with him about that combat. I can assure you that my uncle who was a decorated war veteran would not be supporting this bill in its present form. Seeing people dead and fighting wars and not being prepared for those wars does not mean you have to give up liberties.

A perfect example of how we are not prepared without doing anything is what happened in the news not too long ago when the INS extended a visa to one of the dead terrorists. There are a lot of ways that we can tighten up and make ourselves more secure. This is not the way to do it. I can support this amendment. If this amendment is on, I can support the bill. I ask you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment presents to you a method of calm and deliberate planning on how to deal with one of these problems. It will replace the bill that was quickly put together and many of us agreed had many questions about it, particularly along the line of civil liberties. I think we would be very wise if we voted to defeat the current motion and accepted this amendment as a way to go and do the responsible thing.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I am also going to vote against the pending motion. I have a reason for that. That is pretty much what my friend, Representative Shields, just stated. For those of you who were here the first night that we debated this bill, the position that I have on this, is not surprise to anyone I am sure. This amendment will give us a process to which there will be some planning done. I am not sure if it is included in this amendment, but if not, it should be. The Executive would be advised as to how to or how not to or when to call such an emergency declaration. It bothers me greatly that without this amendment and with the passage of this legislation, we will be investing in a single individual without much criteria established and with very little standards established, the ability to call an

emergency and set into motion McCarthyism. I can't think of any other word that would better describe it. If there were today, in this chamber, a lady from Skowhegan who wore a rose and if she were to repeat a speech, I think it would bring to all of you memories or to all of you thoughts of books that you have read about that era. God forbid that we return to that. What we are doing with the legislation without this amendment is putting ourselves in greater jeopardy, I think, than we would be facing a strong and solid planning effort. Our civil liberties are always at risk. People often bring up other examples of how people get arrested for certain things and incarcerated for periods of time. We have allowed that. Perhaps we have allowed that for medical or health reasons because they are a danger to themselves or others. I am not going to debate that. Involuntary incarceration under certain circumstances is probably appropriate, but not wholesale and arbitrary declaration in statute of the State of Maine that one Chief Executive has that kind of unlimited power.

I am going to support this amendment and vote against Indefinite Postponement. I hope that it will bring to us a level of reasoning and an opportunity for us to move on and plan and the fear that some people have that something is going to happen in August, September or October or November, if it does, as you have heard umpteen times, there are already laws in the books that allow the Chief Executive to do things and to deal with emergencies. If our liberties are then at risk, they will be even further at risk with this law. I hope that you will follow my light and vote against Indefinite Postponement so that we can enact this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I rise to support the pending motion and to speak in opposition to the words of my good friend from Winterport, Representative Brooks. The language that this amendment proposes to remove, I contend, protects civil liberties in the best way possible from the powers that the Chief Executive already has. I would be happy to discuss that at a later time when maybe it is more appropriate. I feel very strongly that the work that the majority did on this bill protects and enhances civil liberties against what the Chief Executive has available to him under current statute.

Relative to the comments of the Representative from Bristol, I wanted to bring his attention to Article 4, Part Third of the Constitution of Maine, Legislative Power. This gives the Legislature the power to convene itself. In the event that the Chief Executive were to run amuck with the declaration of an extreme health emergency, the statute gives the Legislature the power to overrule his declaration. The Legislature does not depend on the Chief Executive to bring itself into session. The Legislature may do it itself. The protection exists under this proposed statute. I hope this statute goes on to protect our civil liberties from threats that already exist.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this afternoon in support of the pending motion. If you reflect back, not to very long ago to September 11th and the weeks that followed, what reigned was an atmosphere of fear and confusion. The amendment that stands before you necessarily hollows out the parent legislation, which I think would do good for the public in the event of an emergency. If arbitrary power is the concern here, then don't stop at this motion, kill the whole bill and leave everything as it stands under Title 37B. If that is what you are afraid of, exacting itself in a form of warrantless searches and arrests and detainments,

there would be utterly no recourse, whether such an emergency was warranted or not. Historically we have been told, and it has been shown, that the Judicial System tends to uphold those actions in deference to the Executive.

What we have been talking about is some type of a road map to deal with the crisis as it might unfold. Is it complete? Probably not. Is it flawed? Potentially. Is it a start? Absolutely. I have been as concerned as anyone about the preservation of civil liberties in this chamber and outside as well. I would not support the legislation if I thought it would do anything to abrogate my rights as a citizen of this state or the United States.

I remember September 11th very well. I was driving my wife to work and taking my daughter for the day and listening to scattered panic reports on the radio. The White House was on fire. There could be as many as a dozen high-jacked planes in the air. Remember all that. We had no idea and then the anthrax letters started. My mother got a mysterious package from South Africa and had it sent to the State Police because there was no return address and it looked very suspicious. Thousands of those letters were forwarded to the State Police for review. We are now going to have under this amendment materials created to deal with this crisis. It will be distributed by the mail. Remember the panic of a few months ago when you could see what was happening. It was manifested physically. What if the threat comes silently and creeping through the veins? What do we tell the people? We have a plan. We have developed materials. If not martial law, then certainly akin to it. When you are in your holding cell, you can read those materials, whether you are being detained justifiably or not.

My friends, I would urge you to support the pending motion and let's put something in place that at least gives us a compass in the event of a crisis.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. One of the most beautiful things about our country is we can all have a different view about what civil liberty means to us and how to best protect it. I just want to clarify today that I am going to be voting for the motion to Indefinitely Postpone this amendment. I need to say this just to clarify that it doesn't change my position on the bill. I don't want anyone to think it is inconsistent with my position on the bill. I don't like the bill. I don't like the amendment. It is too consistent with the bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I am going to support this amendment. I didn't particularly like the bill, but I was at home on 9-11 watching the morning report. I don't remember what station it was on, but all of a sudden everything got interrupted when that first plane crashed into the towers. What amazed me was here was something that struck at home and I am sure nobody knew too much what to do about it. Come to find out that inside of an hour all the airports were closed, all the planes in the air were said to land at the nearest airport until further notice. That was action. Having this amendment that says that maybe the Chief Executive may be going too far, let's take a look at this. Let's reconvene the Legislature or let's involve the Judiciary Branch. This takes time. By that time many people could be subject to a deadly disease. The bill may not be the best thing that there is, but I think it is a start into looking at something that needs immediate response, not a prolonged agony. September 11th showed me that and it showed me that the United States was quick in responding to a major crisis. That is why I am going to support this amendment.

I think we need to develop some kind of a plan that will show quick action, not something that will be dragged on through courts or any other procedure. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. If we strategize our national military defense along the lines of this amendment, all of us would be appalled. In fact if a potential military threat were to begin to occur in any way, shape or form, would we delay in favor of a more deliberative process? I doubt it. We would insist on our leaders to be prepared to act swiftly on the basis of a detailed implementation plan. That is exactly what is proposed in LD 2164. With carefully crafted provisions to protect civil rights and due process and at the same time instantaneously operationalize a predetermined action plan to mobilize our medical, environmental and emergency management resources, we would consider ourselves in a viable and appropriate defense. All we are looking for is a reliable and appropriate defense to what all of us would agree is for the first time in our lives a real threat. I urge you to support the pending motion in LD 2164. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I just want to point out one very important piece that has been mentioned here tonight. Under the Committee Amendment we have a sunset provision of October 31, 2003. If we pass the original Committee Amendment, the whole thing goes away a year from October. Therefore, over the summer and fall DHS, the Executive, Maine Emergency Management Association and all other interested parties are going to be working on establishing a response policy. If we adopt this amendment and send this bill out with this amendment, we are not going to have any of the safeguards that we have put into the original bill. I urge you to support the pending motion. The study that is being set up in the amendment is going to happen anyways. They are going to be looking at something in place when this bill sunsets next year. They are going to want a replacement. This study is going to be happening, but we should have something in place on the books to safeguard us in the meantime. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I think the very fact that the authors of this bill, the way it was voted on last, have included a sunset provision clearly demonstrates the confusion that surrounds it and the uncertainty of what it will do. Furthermore, and perhaps most importantly, if we are that concerned that the Chief Executive may be given too much power or too much authority, he or she will become some super human who is going to take away all of our rights, I would like to point out that there is nothing in the bill that they are asking you to pass that removes the Chief Executive's authority to do that, to take every piece that was passed, set it aside and say that I am declaring an emergency. I am not paying attention to that anymore. I am going to play my own game and this is how it is going to be played. There is nothing in their bill that addresses that. Thank about that. It is rather odd. It is just one more piece of confusion to throw in the ring.

My good friend, Representative Dunlap, I would like to point out that our Judicial System is not the guardian of our civil liberties, the Constitution is. It is the Constitution that will allow the Chief Executive to do those things. It is also the Constitution that allows us to call ourselves back in to deal with that. All that this amendment is doing is to try and take a look at each of the

necessary pieces to have a carefully calculated plan in the event of a bioterrorist attack.

I don't mean to belittle the attacks on Pearl Harbor, but this is so vastly different. This is not steel bombs being dropped from planes. This is an enemy that we can't see, taste or smell. It is so drastically different and we are so very fortunate that we haven't seen the likes of it. I pray to God that we never do.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. The reason we are the greatest country in the world is our freedom. That is why we won all these wars that we were in. That is maybe why we almost lost them, but then won them in the end. I remember my father used to tell me stories of when he was in the underground in Greece and how excited he was when the Americans entered World War II. The people were there saying, what are they going to do, throw radios at us. That was a big manufacturing item in the United States. That is what they all joked about. We mobilized because we had freedom and we went to fight for that.

I would disagree with the good Representative from South Portland. I think the people who protect our freedoms are the people that fight those wars, elect us and hold us accountable. We need to continue to be held accountable.

You heard that this waters down the powers of the Executive. It does if the Executive decides to use this plan. In the language of the bill, the Executive can decide to use a different plan or the Executive can not use this watered down version, but can declare a full-blown emergency. We are not protecting anybody with this, because the power to declare a full-blown emergency is still there.

I agree with the good Representative from Lewiston, Representative Bouffard. I have a letter here from the good Representative from Cherryfield, Representative Dugay, from Dr. Lilibridge at the Centers for Disease Control saying that they could be here within 24 hours if we have an emergency. They have a plan. We need a solid plan in place if we are going to have anything at all. I would prefer to see nothing pass and not to give into the hysteria and the fear. If we have to do something, then let's study it and do it right.

One final point when I debated this a few days ago, I think of the movie *The Stand* and how everyone is running around all hectic to stop the spread of that disease and they had plans and they had all these things in place, but a plan is just a piece of paper. It is not going to stop the disease. What would have happened under this plan since the good Representative from Old Town brought it up, when the hoax anthrax was sent to the Portland Post Office or people got letters? I didn't get one of those letters. Every one of those people would have been selected by this particular lot and dragged off. Where would they have put them? That hasn't been studied. How would they have dealt with it? That hasn't been studied. There is no plan in effect. Did I get a letter? Did anyone I know get a letter? No. It would not have affected me. I am a legislator so I would have nosed around and gotten involved, especially if there was a chance to get on camera. The fact is most people in Maine wouldn't have cared, because they were not directly involved. All those people would have been carted off with no rights and no guarantee to make a phone call to tell their family what happened if this plan would have been in effect when those anthrax hoax letters went out.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. My good friend from South Portland is absolutely

right. Our rights are guaranteed by the Constitution and not by the courts. However, the courts are endowed with that certain element of judicial review, which the Constitution does not have of itself. History, as I have said, has shown that those statutes that render the Executive such broad authority have traditionally been upheld by the judicial process in these matters.

One thing that I did not mention about September 11 is I made a phone call when I got to one that morning and I said, what do we do? I called the State House and I said, what do we do? The answer came back, we will keep you posted. We don't know. The next thing I heard was that the State House and the State Office Building had been evacuated and that the Chief Executive was in a bunker. Why? Because there was not plan.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. Things of this matter I usually try to get into a realistic approach to the situation as I always have. Let's start with the civil rights that we all hold dear. I, for one, hold those values very high. I have had to enforce the law. Let's start with the basics. This Legislature has seen fit to empower law enforcement officers to make arrests, deny you temporarily of your civil rights and place you in custody. In felonies, you apply to the appropriate magistrate and get your arrest warrant. Domestic violence is a different case. You make the arrest depending upon the circumstances. Your civil rights have been taken away the minute that arrest has been made. Discretion by that police officer is germane. He has taken the time to study and look at the law, follow the law and the powers of arrest is the most important. What happens when you are arrested? If you go over 30 miles an hour on the highway, you are going to be arrested. You might get a summons, but you will appear in court. Less than that, it will be an infraction and you will send your fine in.

A lot of consideration is given before an arrest is made. I always have. I know what it means to be arrested. I have seen the people that I have arrested. Some were rich and some were poor. It hurts, but I have done my job. I feel that I have done my job. Civil rights are detained for a period of time until the individual is either bailed out or their next day in court and appears before a magistrate. I can assure you that if we have a catastrophe of this nature that we are talking about, that those in authority at that time and at that place will do what they have to do and then you can argue later. That will be to salvage, save and to protect life and property at that time. Here we have all around us every day where arrests are made and their civil rights are detained. Here we are talking about a catastrophe that might come up and how do we address it? I can tell you once the word gets out that there will be people there that will preserve your rights. By word, I tell you that they will preserve life and property so that it won't spread either. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-1098) to Committee Amendment "A" (H-1062). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 638

YEA - Belanger, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chick, Chizmar, Collins, Colwell, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Goodwin, Gooley, Green, Hawes, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard,

Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, McNeil, Michaud, Mitchell, Nass, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Sullivan, Tarazewich, Tessier, Thomas, Tobin J, Trahan, Tuttle, Usher, Volenik, Mr. Speaker.

NAY - Annis, Ash, Berry DP, Brooks, Buck, Carr, Chase, Clark, Clough, Dugay, Duncan, Duprey, Glynn, Hall, Haskell, Hatch, Honey, MacDougall, McGowan, McKenney, Mendros, Michael, Murphy T, Muse C, Muse K, Nutting, O'Brien JA, Pinkham, Povich, Sherman, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Tobin D, Tracy, Treadwell, Twomey, Waterhouse, Weston, Winsor.

ABSENT - Andrews, Bagley, Baker, Cote, Estes, Landry, Lovett, Morrison, Murphy E, Watson, Wheeler EM, Wheeler GJ, Young.

Yes, 95; No, 43; Absent, 13; Excused, 0.

95 having voted in the affirmative and 43 voted in the negative, with 13 being absent, and accordingly **House Amendment "B" (H-1098) to Committee Amendment "A" (H-1062) was INDEFINITELY POSTPONED.**

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-1062).**

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 Auburn, Representative Michael.

Representative **MICHAEL**: Mr. Speaker, Men and Women of the House. I would like to urge people to vote against the passage of this bill. Many people might want to avoid being placed on the record demonstrating their embracement of the anti-terrorist policies of Attorney General John Ashcroft. I also wanted to say that the good gentleman from Portland, Representative Dudley, mentioned that the Legislature can call ourselves back into session to correct the actions of the Governor. That is theoretically true, but I actually tried to do that as a legislator once when I was a legislator last time. It had to do with the Auto Emission Testing Program that I and others had voted for. I thought it would be a good opportunity to get us off the hook, which in retrospect would have been real smart to do, because you know how all that turned out. I wrote letters to people and such and, in fact, in order for the Legislature to be brought back in, both parties in each body must agree to come back in and the presiding officers must poll those people. If you have one of the four caucuses disagreeing or either of the two presiding officers refusing to poll the members, you cannot come back into session and we could not get at least one of the presiding officers to poll the members so we could not come in. It would be an issue, which would have been real smart to come back in on. I just wanted you to know.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-1062). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 639

YEA - Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chick, Chizmar, Collins, Colwell, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley,

Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, McNeil, Michaud, Mitchell, Nass, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Quint, Richard, Richardson, Rines, Rosen, Schneider, Snowe-Mello, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Trahan, Tuttle, Twomey, Usher, Mr. Speaker.

NAY - Annis, Ash, Berry DP, Bowles, Brooks, Buck, Carr, Chase, Clark, Clough, Dugay, Duncan, Duprey, Foster, Glynn, Goodwin, Hall, Haskell, Honey, Kasprzak, MacDougall, McGowan, McKenney, Mendros, Michael, Murphy T, Muse C, Muse K, Nutting, O'Brien JA, Perkins, Pinkham, Povich, Savage, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Stedman, Tobin J, Tracy, Treadwell, Volenik, Waterhouse, Weston, Winsor.

ABSENT - Andrews, Bagley, Baker, Cote, Estes, Landry, Lovett, Morrison, Murphy E, Watson, Wheeler EM, Wheeler GJ, Young.

Yes, 90; No, 48; Absent, 13; Excused, 0.

90 having voted in the affirmative and 48 voted in the negative, with 13 being absent, and accordingly **Committee Amendment "A" (H-1062)** was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1062)**.

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act to Implement the Recommendations of the Education Funding Reform Committee"

(H.P. 1581) (L.D. 2086)

Majority (11) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT A" (H-1068) AS AMENDED BY HOUSE AMENDMENT "A" (H-1087)** thereto in the House on April 4, 2002.

Came from the Senate with the Minority (1) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative GREEN of Monmouth, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

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

The House recessed until 7:15 p.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

**SENATE PAPERS
Non-Concurrent Matter**

An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing (EMERGENCY)

(H.P. 1595) (L.D. 2098)
(C. "A" H-887)

FAILED of PASSAGE TO BE ENACTED in the House on April 4, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887) AS AMENDED BY SENATE AMENDMENT "A" (S-537)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

**ENACTORS
Emergency Measure**

An Act to Correct Errors and Inconsistencies in the Laws of Maine

(H.P. 1577) (L.D. 2083)
(S. "A" S-567, S. "C" S-585 and H. "A" H-1097 to C. "A" H-1071)

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. 102 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Promote the Interests of the People of Maine when Public Funds are Used to Acquire Conservation Easements

(H.P. 1593) (L.D. 2096)
(S. "B" S-586 to C. "A" H-990)

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

On motion of Representative McKEE of Wayne, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-990) as Amended by Senate Amendment "B" (S-586)** thereto was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-1100) to Committee Amendment "A" (H-990)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-990) as Amended by House Amendment "A" (H-1100) and Senate Amendment "B" (S-586) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-990) as Amended by House Amendment "A" (H-1100) and Senate Amendment "B" (S-586)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Reference was made to Bill "An Act to Create the Maine Rural Development Authority"

(H.P. 1724) (L.D. 2212)

In reference to the action of the House on April 5, 2002, whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative BRYANT of Dixfield
Representative RICHARDSON of Brunswick
Representative CLOUGH of Scarborough

Reference was made to Bill "An Act to Control Internet 'Spam'"

(H.P. 1538) (L.D. 2041)

In reference to the action of the House on April 5, 2002, whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative GOODWIN of Pembroke
Representative LaVERDIERE of Wilton
Representative BERRY of Belmont

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

An Act to Establish the Maine Consumer Choice Health Plan
(S.P. 793) (L.D. 2146)
(S. "A" S-548 to C. "A" S-530)

TABLED - April 4, 2002 (Till Later Today) by Representative NORBERT of Portland.

PENDING - **PASSAGE TO BE ENACTED.**

Representative SCHNEIDER of Durham **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: 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.

ROLL CALL NO. 640

YEA - Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Snowe-Mello, Stanley, Stedman, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy,

Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Andrews, Bagley, Baker, Crabtree, Dugay, Estes, Goodwin, Landry, Lovett, Morrison, Murphy E, Smith, Sullivan, Wheeler EM, Wheeler GJ, Young.

Yes, 135; No, 0; Absent, 16; Excused, 0.

135 having voted in the affirmative and 0 voted in the negative, with 16 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Create the Office of Program Evaluation and Government Accountability"

(H.P. 1695) (L.D. 2193)

PASSED TO BE ENGROSSED AS AMENDED BY AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1039) in the House on April 1, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1039) AS AMENDED BY SENATE AMENDMENT "C" (S-595)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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

By unanimous consent, Joint Rule 352 was suspended.

Reference was made to Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$19,300,000 to Construct and Upgrade Water Pollution Control Facilities, to Remove Discharges, to Clean up Tire Stockpiles, to Clean up Uncontrolled Hazardous Substance Sites, to Remediate Solid Waste Landfills, to Make Drinking Water System Improvements, to Address Household Hazardous Wastes and to Promote Standardization and Use of Public Geographic Data"

(S.P. 783) (L.D. 2120)

In reference to the action of the House on April 4, 2002, whereby it Insisted and Joined in a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative BERRY of Livermore
Representative JONES of Greenville
Representative ROSEN of Bucksport

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act to Support a Continuum of Quality Long-term Care Services" (EMERGENCY)

(S.P. 722) (L.D. 1924)

(H. "A" H-1091 to C. "A" S-523)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523)**

TABLED - April 4, 2002 (Till Later Today) by Representative BROOKS of Winterport.

PENDING - **PASSAGE TO BE ENGROSSED.**

On motion of Representative KANE of Saco, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-523) as Amended by House Amendment "A" (H-1091)** thereto was **ADOPTED.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-1091) to Committee Amendment "A" (S-523)** was **ADOPTED.**

On further motion of the same Representative, **House Amendment "A" (H-1091) to Committee Amendment "A" (S-523)** was **INDEFINITELY POSTPONED.**

The same Representative presented **House Amendment "B" (H-1102) to Committee Amendment "A" (S-523)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Mr. Speaker, Men and Women of the House. The amendment before you incorporates the provisions of the original amendment that was just Indefinitely Postponed and is an improvement by incorporating and strengthening existing principles of oversight and reimbursement of nursing facilities. It further eliminates an occupancy penalty on nursing facilities to cover the fixed cost such as mortgage payment, heat and maintenance, which continues regardless of occupancy level. Currently when a facility experiences reduction, even temporarily, of occupancy level, the reimbursement level to a facility is reduced even though the fixed costs remain constant. It therefore eliminates the occupancy penalty by providing a modest reimbursement to cover these fixed expenses. Thank you Mr. Speaker.

House Amendment "B" (H-1102) to Committee Amendment "A" (S-523) was **ADOPTED.**

Committee Amendment "A" (S-523) as Amended by House Amendment "B" (H-1102) thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-523) as Amended by House Amendment "B" (H-1102)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The following items were taken up out of order by unanimous consent:

ENACTORS

Acts

An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing

(H.P. 1595) (L.D. 2098)
(S. "A" S-537 to C. "A" H-887)

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

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

The same Representative **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 Durham, Representative Schneider.

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. I would just like to remind you that this is the bill that is preempted by federal law and to urge you to vote against passing this. It really would not be fair to the people who are going to be entering into collective bargaining agreements to rely on this and then later have it preempted by federal law. I urge you to vote against this. Thank you.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. Although I certainly respect my good friend from Durham's opinion, he is a learned man and a well-educated attorney. With all due respect the Attorney General of the State of Maine ruled on this issue. In the State of Maine the Attorney General does provide that kind of guidance for us. I would urge my colleagues to support enactment of this bill. Thank you Mr. Speaker.

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

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. I just have to remind you that the opinion that ruled that this will be preempted by federal law was issued by the National Labor Relations Board after the Attorney General's opinion that said that there was a good argument on both sides. The Attorney General didn't have the benefit of the decision issued March 28 upon which to allow. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I just want to remind my colleagues, and I have filed a number of labor board cases, that this is a labor board opinion by the regional director and not by the full board. I just think that we don't have a definitive answer on the issue from the National Labor Relations Board. We do have an opinion from the Attorney General with respect to the fact that it is open to some debate, but it could be supported in whatever direction you wish to go. I think in this case we ought to be siding with those people who want to see that drug testing be a subject of bargaining. I don't think there is anything wrong with that. Until the US Courts decide this issue, I think we need to go in favor of this motion. Thank you.

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. I am not an AG or a lawyer of any sort, but I have an opinion of my own. I think that this bill supports drug abuse and thus leaving workers in an unsafe position on the job. I would encourage you to vote against it. 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.

ROLL CALL NO. 641

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Mendros, Michael, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Sherman, Simpson, Skoglund, Smith, Stanley, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Chase, Clough, Collins, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, McKenney, McNeil, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perry, Pinkham, Schneider, Shields, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Andrews, Bagley, Baker, Crabtree, Dugay, Estes, Landry, Lovett, Morrison, Murphy E, Perkins, Povich, Sullivan, Wheeler EM, Wheeler GJ, Young.

Yes, 86; No, 49; Absent, 16; Excused, 0.

86 having voted in the affirmative and 49 voted in the negative, with 16 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

SENATE PAPERS

Non-Concurrent Matter

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

(H.P. 1563) (L.D. 2068)

PASSED TO BE ENACTED in the House on April 1, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020) AS AMENDED BY SENATE AMENDMENT "A" (S-579)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act to Implement the Recommendations of the Blue Ribbon Commission on Postsecondary Educational Attainment

(S.P. 767) (L.D. 2102)

PASSED TO BE ENACTED in the House on March 20, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-460)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-460) AS AMENDED BY SENATE AMENDMENT "A" (S-578)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Resolve, Appropriating Funds for the Seeds of Peace International Camp

(H.P. 1434) (L.D. 1931)

FINALLY PASSED in the House on March 14, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-859)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-859) AS AMENDED BY SENATE AMENDMENT "A" (S-590)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

Non-Concurrent Matter

An Act to Support Family Farms

(S.P. 463) (L.D. 1516)

PASSED TO BE ENACTED in the House on March 13, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-424)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-424) AS AMENDED BY SENATE AMENDMENT "A" (S-581)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Resolve, to Reduce Pollution of Androscoggin Lake by Repairing and Altering the Existing State-owned Barrier on Dead River in Leeds

(H.P. 1465) (L.D. 1962)

FINALLY PASSED in the House on March 20, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-902)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-902) AS AMENDED BY SENATE AMENDMENT "A" (S-580)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act to Amend the Motor Vehicle Laws

(H.P. 1485) (L.D. 2018)

PASSED TO BE ENACTED in the House on April 2, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1032) AS AMENDED BY SENATE AMENDMENT "A" (S-593)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

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

(H.P. 1543) (L.D. 2044)

FINALLY PASSED in the House on April 1, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1016)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1016) AS**

AMENDED BY SENATE AMENDMENT "A" (S-592) thereto in NON-CONCURRENCE.

The House voted to **RECEDE AND CONCUR.**

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-574)** on Bill "An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act"

(S.P. 822) (L.D. 2202)

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

BUNKER of Kossuth Township

MATTHEWS of Winslow

HUTTON of Bowdoinham

NORTON of Bangor

SMITH of Van Buren

TARAZEWICH of Waterboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-575)** on same Bill.

Signed:

Senators:

SAWYER of Penobscot

TURNER of Cumberland

Representatives:

TREADWELL of Carmel

MacDOUGALL of North Berwick

DAVIS of Falmouth

CRESSEY of Baldwin

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-575).**

READ.

Representative BUNKER of Kossuth Township moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

The **SPEAKER:** A roll call has been ordered. The pending question before the House is acceptance of the Minority **Ought to Pass as Amended** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 642

YEA - Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Hall, Haskell, Hatch, Hawes, Heidrich,

Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Pinkham, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Winsor, Mr. Speaker.

NAY - Bryant.

ABSENT - Andrews, Bagley, Baker, Belanger, Crabtree, Dugay, Estes, Landry, Lovett, Morrison, Murphy E, Perkins, Povich, Sullivan, Wheeler EM, Wheeler GJ, Young.

Yes, 133; No, 1; Absent, 17; Excused, 0.

133 having voted in the affirmative and 1 voted in the negative, with 17 being absent, and accordingly the Minority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE.** **Committee Amendment "B" (S-575)** was **READ** by the Clerk.

On motion of Representative ETNIER of Harpswell, **Committee Amendment "B" (S-575)** was **INDEFINITELY POSTPONED.**

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

The same Representative **PRESENTED House Amendment "A" (H-1101),** which was **READ** by the Clerk.

The **SPEAKER:** The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER:** Mr. Speaker, Men and Women of the House. I am proud to present this amendment, House Amendment "A" that is before you now. It is an attempt, a very honest and sincere and legitimate attempt to address the myriad of concerns that have been flashing around in the State of Maine and the halls of this State House for the last couple of weeks. I supported the Chief Executive's bill because I wanted to repeal Kotch. I wanted to save the workers' comp system millions of dollars. I wanted to deal with the issue about prior non-work related injuries being added to work related injuries and the claims of the incredible cost to the system. I didn't want that to happen to the business of the State of Maine. I wanted to repeal Kotch. Frankly, that is all I wanted to do. I have gotten quite an education for the last couple of weeks about the workers' comp system, of the great State of Maine and about the good men and women on both sides of the aisle who work on the beleaguered Labor Committee. I have always known that was one committee I didn't want to get anywhere near having dived briefly in workers' comp issues, that is for sure that I never want to go there ever again. It is the most complex thing I have ever encountered and I still don't pretend to have any great depth of knowledge on it. What I have learned from it is that the Chief Executive's bill, LD 2202 went too far. It went to a place, as I got educated on the issues, a place that I could no longer go in good conscience to the people of the State of Maine. The amendment before you today, House Amendment "A" deals with Kotch and Kotch alone and that is what we should be dealing with, nothing more and nothing less.

There has been a lot of good work put into this by a number of folks trying to reconcile the concerns raised and to try to reach some middle ground. It has been going back and forth almost 24 hours a day for I don't know how many days. It is good people

working hard and trying to resolve these issues. I have occasionally inserted myself in there and came away shaking my head. I have gotten disgusted, gotten depressed, gotten concerned and gotten frustrated and finally we have gotten down to this point with the Majority Report, which isn't before us now, which I couldn't have supported. I did just support the Minority Report in an attempt to get this amendment on it. It is the only way out of this quandary. I got frustrated, frankly, because I heard the phrases, this is the last and final offer. I guess it was said on both sides of the issue. I don't much care who said it where and when. This issue is too important to the people of the State of Maine to make a claim like that that this is where we have to stop working on this. This is too big of an issue. The issues to both the business community and the workers of the State of Maine that are at stake here are too big to not allow further discussion and negotiation. That is why I think this amendment here gets us to where we need to be. It deals with the issues presented in Kotch and that is all it does. That is all I can support at this point in time.

The amendment contains a number of things if you read through it. It deals specifically with the unrelated non-work injuries in the workers' comp system and this amendment prevents that from being considered. There is unallocated language in here that makes it absolutely clear that the intent of this legislation is to override the law court's decision in Kotch and no more. It also has a retroactivity clause that says that past decided cases cannot be reopened. It makes it very clear. LD 2202 also had a retroactivity clause in it. This is even a stronger one than was allowed under that bill. The difference between the two, really, the Minority Report and House Amendment "A" is that this allows prior work injury to be combined with new work injury when it contributes to the incapacity. That, to my understanding, is eliminating Kotch and taking us back to the case known as Churchill, which you will probably hear about tonight if you haven't already out in the halls. That is as far as we need to go in the State of Maine. It addresses the concerns. I urge to please support House Amendment "A." It will address the concerns of workers and business in a fair and equitable fashion. It says that there is not a last offer being made. It says that there is additional ground to be discovered in the negotiation process. I believe this is it. I believe it is very fair and equitable. I urge you to support it.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-1101)**.

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 Carmel, Representative Treadwell.

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. This is a very complicated bill. I would agree with the previous speaker, but it is also potentially a very expensive bill. We already have a workers' comp system where the costs are on the rise and we are rapidly headed back toward the pre-1992 situation that we had with workers' comp. The amendment that has just been presented in Line 10, Page 2 says that any work injury other than the work injury at issue in the determination that combines with that injury and contributes to the employee's incapacity, which is one of the factors that are figured. The words any work injury are very troubling. That is a wide open door for litigation. That is wide enough to let four lawyers abreast come through. We are toying around with something that could be potentially as costly as the system that we had back prior to 1992.

I would like to talk a little bit about retroactivity. This bill allows the stacking of two or more work related injuries for all

injuries since 1993. This means that lawyers can reopen old files and even older work injuries some place in Maine, maybe not in Maine, or maybe not even in this country, should be stacked to now turn the case into an extended benefits case. This will create litigation and it will add retroactive costs to the system because when the board was drawing the line at 11.8 percent in 1998 the board never considered the issue of stacked PI cases. Some suggest that the board or lawyers knew that stacking was the law of the land since 1993. If that is so, then why did the hearing officer in the Churchill case hold that it was not the law of Maine to allow stacking of injuries to the same body part?

Finally, many have mentioned how it is fair and just to allow a worker with two or three injuries to combine them to clear the 11.8 percent line. I do not agree with that. However, keep in mind that as the board collects stacked PI assessments the board will necessarily raise the 11.8 percent line to account for those stacked cases. In the long run for even cases where we think it is fair for someone with three injuries to be entitled to extended benefits there will be a worker with just one injury who because of the new line is not entitled to those benefits. I do not think this is fair. I do not believe that it is good policy for Maine to allow one person with several injuries that may have happened working for other employers and other states, perhaps in the military, to have lifetime entitlements compared to a Maine worker with a single injury that happened when working for a Maine employer. I would ask that we defeat the pending motion and go on to pass the Minority Report unamended.

The **SPEAKER**: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. What brings us here today is a gentleman by the name of Arthur Kotch. This unfortunate man had a work related back injury in 1994 and also had a non-work related knee injury in 1981. Because he was incapacitated he went to the board and he asked that his impairments be combined so that he could qualify for continuing benefits. The law court said that they will combine your non-work related injury with your work related injury. From that case, insurers rang alarms, printed badges and swamped the Labor Committee and halls with frightened employers who had been told that this was going to raise your rates 15 percent. Well, we took care of the problem in this bill, in this amendment. No longer will a non-work related injury like Mr. Kotch be added in to develop the permanent impairment. Mr. Kotch, under this amendment, would no longer be entitled to continuing benefits. We have solved the Kotch problem. We have, however, left other protections that were in existence before Kotch for employees. This is exactly where we differ with the Governor's bill.

If you look at House Amendment "A," you will see on the second page where the injuries that will be utilized in determining the permanent impairment are defined. Paragraph "A" says what will be included as permanent impairment from the work injury at issue and the determination. In other words, the most recent injury. Paragraph "C" talks about any preexisting condition or injury that is aggravated or accelerated by the work injury at issue. This is existing law. There is a section in the workers' compensation law known as Section 201, which addresses this. This is in existing law. Our position is set forth in Paragraph "D" that any work injury other than the work injury at issue in the determination that combines with that injury and contributes to the employee's incapacity. We submit to you that that is what has been the law. That is the law that is expressed in the Churchill case that was in 1999.

In the Churchill case the law court said quite clearly that Section 213 permits the consideration of multiple work related

impairments in the determination of the 11.8 percent threshold. This is where we believe it should go and no further. The Governor's bill would only look at the immediate injury. That is not reasonable and doesn't make sense when we consider the rest of our law. Consider, for example, a waitress who has developed a carpal tunnel problem with one of her hands or anybody of that nature. She has carpal tunnel surgery to correct that impairment and wears the brace we so often have seen. That is one injury to one hand. As happens in life compensating for the weakened right hand by overusing the left hand and then lo and behold, we have a left hand injury that is incapacitated. Under the Governor's bill, these two incapacities could not be considered together, although they would be what would make her incapacitated. Under our bill it recognizes the reality that this woman has two work injuries that combine to make her incapacitated. If we are going to pay her benefits based on two injuries, the permanent impairment threshold should be based on the same two injuries.

There were questions raised in the hysteria also about retroactivity. This bill addresses retroactivity. It says that it will apply retroactively to pending cases and to injuries occurring on or after January 1, 1993. It is retroactive. Beyond that, it says in Section 4, that it does not allow a change in any permanent impairment assessment and where it has been a final decree. Beyond that, it does not permit reopening of any individual case where their rights under Section 213 have expired. It is a hard amendment because it doesn't allow any slack. Anybody who has been frozen out in the cold, I guarantee you is still out in the cold. I don't like it. This is the process it brought us to.

We have also heard about costs on the rise. One of the things in the Labor Committee we heard many tales about costs. The data was acquired by the least scientific method I have ever heard, phone calls from actuaries to adjustors, what do you think it will cost? Anyway, that was the phone call approach. In looking at cost, I would like to find something more reliable. What I have looked at was the report, which was readily published by the Bureau of Insurance. The last one was December 2001. Let me show you what I found by looking through that. On Page 6 of that report they state that NCCI had proposed and received approval for a 3.4 percent decrease in that advisory lost cost for the calendar year 2002. The costs were going down. What are the advisory lost costs? That is what it costs to cover the losses and the cost of adjusting these claims. On Page 7 it says advisory lost costs were 38.5 percent lower in 2001 than before the 1992 reforms. Anybody that tells you that the cost are going back up is not as well informed as this report is.

There is also information about self-insurance. Self-insurance is about 45 or 50 percent of the market. These figures don't back up any claims that they are losing money. In the year 2000 they had paid losses of \$89.5 million. They charged premiums of \$126 million. I submit to you that somehow that \$36 or \$37 million difference is enough to keep them afloat. Let's look at another figure. From the State of Maine, their report of November 2001, states that their weekly indemnity payments have gone down from \$6.5 million in 1995 to \$3.9 million in 2001. Anybody that is going to suggest to you that somehow we are going back to 1992 hasn't read the reports being published. What I want to suggest to you is that this amendment represents a compromise. We have pushed back right to the wall the benefits and we have gone even further back than what Kotch did. Before Kotch we covered all work injuries. Now we are just covering work injuries that contribute to the incapacity. I suggest to you that this is reasonable. The employers have saved money. If there is going to be a problem with insurers increasing the rates, I think there is one other area you have to look at. We

do have a problem with insurance rates in this state, but I think they track not to the cost, but to the fact that anytime an insurer wants an increase in a rate, whether it is health insurance or workers' compensation, they go straight to the insurance department. This is what we want and that is what they get. It is up to the government to hold down those rates, not take it out of the injured workers. Thank you.

After Midnight

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I will make this brief. I received a call from a friend who is an oil man. He has delivered oil to my house for the last 50 years, he and his brother. I am not going to give you his name because you probably would know his name. He pays \$56,000 a year on workers' compensation. When you are an oil man you go into cellars. It is considered dangerous work. It is high risk. He has a very good safety record. He has 17 people working for him. He is thinking about going out of business because the workers' comp is higher and higher each year.

I also had multiple calls from people in the greater Portland area who feel they can't stand anymore workers' compensation raises. Basically to make this as short as I can, I think there is a connection between corporations, labor unions and small business. They all must pull together. I don't see that happening. George Romney in 1968 at the University of Maine predicted that there wouldn't be any business in the United States. It would all be big labor and big corporations. We need to be cognoscente of what they contribute to this, especially the State of Maine where 90 percent is small business. There are many, many businesses of 10 and under. Just think of their compensation problems.

I urge you to defeat amendment "A" from the good Representative from Harpswell. I would call your attention to "C" on Page 2. Any preexisting condition or injury that is aggravated or accelerated by the work injury at issue, I can think of all the people I played high school football with, and if they all hurt those working or loading or unloading trucks, the company would be responsible for their sports injuries. I could go on, but I would urge you to think about this. You cannot crucify small business on workers' compensation. I think that is what is happening. I urge you to think very carefully of your vote. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I, too, made a promise that we wouldn't extend debate. I don't intend to do that. What I wanted to be very clear about is we heard the information on both sides here that we have narrowly focused this on the Kotch issue, which is the issue that the Chief Executive brought to us and it is the issue that employers all over the state brought to us to solve. I am very proud that the committee of jurisdiction heard the message and decided that our businesses can't handle the increases that were entailed in Kotch. We took that very, very seriously. I disagree that we had a chance to do it together and work together in an open forum. That is very, very difficult to do when no side wants to move. It felt like we went through a corporation labor negotiation here instead of the good work our committee of jurisdiction normally does. I want you to know that Representative Smith and Representative Treadwell and all the work of both sides of the aisle is what brought us here today to unanimously support repeal of Kotch. I am very, very proud to be on the side of the vote to repeal Kotch. I think the most important message all of us has to do is to say that the Legislature heard the problem, embraced the solution and we solved the problem that was brought to the Legislature. I would ask you all to support the amendment that clearly reverses Kotch and saves all our businesses from any increased costs and also protected the employees, which are the reason the whole workers' comp system exists. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Like the Representative from Falmouth, I would like to bring your attention to Section "C," any preexisting condition or injury that is aggravated or accelerated by the work injury at issue. That is existing law, right now, in the case of Churchill. I bring your attention to Paragraph 13 for those you who are following along. A permanent impairment from a preexisting condition cannot be considered unless the preexisting condition is aggravated by, accelerated by or combines with a work related injury. The fact is that Section "C" is already existing law, which brings us to the real point here. Are we being asked to overturn Kotch or are we being asked to go back and overturn Churchill? We were told that we were being asked to overturn Kotch. I agree that we should overturn Kotch. The amendment on the floor right now overturns Kotch. Please vote for it.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. The Minority Report simply reverts the impact of the decision of Kotch and to restore the benefits to status quo that existed prior to Kotch. That decision was in February. It does not alter the benefit provisions in any way in the workers' comp act and therefore remains cost neutral.

The Minority Report does not reverse the Churchill decision. The Churchill decision permits the stacking of work injury with prior injury or condition if that prior condition is aggravated or accelerated by the work injury. The Minority Report upholds that.

The previous speaker had mentioned that there was hysteria in the hallways a week or so ago when we had the public hearing on this issue. I wouldn't call it hysteria. I would call it a concerned business community from north, south, east and west of the state. There were some large, some small and some just coming to plead to restore stability. This particular issue is very destabilizing to the Maine economy. The whole workers' comp issue when the impact of a case like this comes to the forefront and sends chills into the economy, the people of Maine. The stability and balance are essential for business people to run their businesses so that they know what the ground rules are, what their costs are going to be as they go forward conducting their business. I suggest to you, ladies and gentlemen, the Minority Report, the Chief Executive's bill, seeks to achieve that stability. The amendment that we have before us, as Representative Treadwell pointed out and Representative Davis pointed out in the items that they read, the particular part about the retroactivity and the impact of costs are very troubling. It is like Russian roulette, except one bullet in the chamber we keep adding several. It is like playing Russian roulette with an Uzi. This is going to have an impact on all Maine people, Maine families, employers and employees.

In the testimony there were almost 30 speakers in favor of the bill. I have tried to choose a few excerpts from those testimonies that were common in the presentation. Most businesses weren't sure how they were going to continue to pay competitive pay and good benefits because they are currently being impacted with rising workers' comp costs, pre-Kotch. It was happening anyway. It complies to all employees and employers in the state.

Maine School Management talked about 15 percent or more increase and Maine is ranked 43rd out of the 45 states. They are the third highest in costs and referred to the recent plant closings that we have had in our state and now the more recent one in Waterville. Of course there are impacts in the communities ability and the tax base and the working men and women of that

community. It applies to all our towns, all our communities and all our districts. No one escapes. There was testimony from eight hospitals who have joined together to self-insure their workers' compensation programs. I am concerned it will impact the type of workers that get hired. They pride themselves that they hire people with prior disabilities and it will impact that area of policy for them because of the potential costs. The NFIB, the National Federation of Independent Business, who represent small businesses in our state, many of the businesses have never had an injury. They contend it is not surprising because of the excellent people that own these businesses. They are Maine people. They are our neighbors. They are people we know. They offer very, very safe workplaces.

As the law is currently written, prior to our discussion on this whole proposal, significant increases in the past few years in workers' comp rates have been a fact of life along with rising health care costs. The permanent impairment threshold has been lowered and the duration limit on incapacity benefits have been extending from five years to seven years. Money to pay the increased cost of workers' comp insurance have to be taken out from other budgeted areas of their budget. It just simply has to be. In the presentation of the bill, Senator Kilkelly from Lincoln County talked about her 22 towns. They are very small businesses. Some are only single proprietorships. Their margins above expenses were very, very small and can't absorb the potential increase in this policy area. The increase would be devastating. Those are the words she used. Senator Nutting from Androscoggin, a small businessman himself, was very troubled by the decision. He talked about the relationship between workers' comp, health benefits, salaries and job expansion and that they are all interconnected. That is true.

A company, I won't mention the name, because they do have some figures in here, talked about their customer base being impacted with the cost of doing business in Maine so that their customers aren't doing the business they once did. Their business is being impacted in a negative fashion. Not only that, but that involves their cash flow, their bottom line, their expenses and when they are dealing with their banks and financial apparatus, the banks are getting concerned. If they want to add on or do some expansion to continue in their plans for the future, they are running into financial roadblocks. These are very real things, ladies and gentlemen of the House. I submit we are getting to the point where it will be carnage to Maine families and communities because of the cost of doing business in Maine.

A couple of nights ago we debated another area of workers' comp in terms of the composition of the Workers' Comp Board and some other issues. I referred to that booklet, *The Measures of Growth*, put out by the Maine Growth Council. That is a great book. It has been published, I think, for three or four years now. Again, the category of personal income, there has been a lack of progress. In terms of new business starts, the rate of new business starts in Maine lag behind New England states. It is also an indicator of what people perceive as economic opportunity. Maine, compared to other states, is not perceived as a place of opportunity for new business starts.

Job growth, in that category, the word was stagnant. Existing businesses aren't adding new jobs. New projects and services, this is an important category, in lieu of the fact that some of our manufacturing plants are closing. There is lack of historical improvement and it is a fundamental measure of business innovation. You need innovation and changes in a new way to make things, do things and offer things if you are going to change when companies go out of business. You have to have something to replace it. These are very troubling categories. At this point in time the State of Maine is not doing well in them.

The cost of doing business is 11.2 points higher than the national average. It is a serious deficit that Maine needs to overcome. An axiom that I think is pretty true is that there are no jobs without employers. I am an employee and I am looking forward to returning to work full time very soon.

Ladies and gentlemen, the public policy area we are debating here, the Chief Executive's bill simply reduces the Kotch decision. It tries to restore stability. The various things I have just shared with you is outside the workers' comp policy arena. It is very much a description of the Maine economy. In your vote tonight you will either take us further into the abyss or you will take a step forward towards an economy that we can all be proud of and that can help our Maine families.

Make no mistake, there will be an impact from this. There were complaints that the NCCI data is insufficient. We have been using them for years. They have a 98.5 percent accuracy rate. They have been proven over and over again to be a worthy measuring tool in items of workers' comp. I see no reason to discount what they have given the committee.

I am coming to a close of my legislative time up here and I have never been so concerned about what we are about to do in certain policy areas. I think Maine businesses expect us to do the right thing. For those of you who are campaigning this fall, there will be impacted people, small businesses, big businesses, communities and the cost of running schools because they will be impacted. Nonprofits will be impacted. Every facet of Maine people will be affected by your decision tonight. I would ask you to vote against the pending motion and go on to support the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. Good morning. We have heard from lots of folks, mostly from the Labor Committee, who have been embroiled in this bill for a couple of weeks now. I took it upon myself at the public hearing to run back and forth just because of my position on Banking and Insurance. I thought that I might out to pay a little bit of attention to this. I don't want to overstep my bounds, but I want to pay attention, to go and sit in with them through that seven hours of grueling public hearing. I was incredibly impressed at the high level of discourse that took place that night. We heard from the biggest businesses in Maine. We heard from some of the small mom-and-pops. Just about every one of them said you can't allow the guy that jumps out of the plane or the fella with a football injury from high school to come in and add his claim to the work related claim. Well, the amendment that the good Representative from Harpswell presented, my way of thinking, satisfies that. It does something more than that. One of the things that I have learned here, I have always paid a little bit of attention to workers' comp, we all know there is a little bit of a disconnect. The Labor Committee covers some of this and the Banking and Insurance Committee covers some of this. Therein is a systemic flaw, I think, that maybe some of us can talk about that at a future date, where maybe there is an abyss, to coin a phrase from the previous Representative, where some things might fall in. It was my intent to learn as much as I could about the case before us. One of the things that struck me most clearly was the ambiguity and the room for interpretation in the current statute. When I really got a good look at LD 2202, Section 1, Subsection 2, Line 24 and 25, it was pretty clear to me, in an ambiguous sort of way, if you can figure that out, in line 24 that results from a work injury, including permanent impairment that exists as a result of the injury's, that is singular possessive, one injury. The corresponding language that I think the good Representative from Harpswell has introduced has helped to

clarify that. The work injury at issue in the determination, any work injury other than the work injury narrowed down and any preexisting condition that is aggravated. It seems entirely fair to me by a work injury.

I find it ironic that the clarifications embedded in the amendment before us tonight on paper at least would seem to pull some of those evil lawyers out of the system, all those lawyers that want to jump in whenever litigation is needed just to clarify whether there is a claim. It is interesting to note that there are other states around the country where their NCCI does lots of things. NAIC, National Association of Insurance Commissioners, keeps statistics on lots of things. The State of Wisconsin, I learned has a level of claims that are controverted at 4 percent. We are up around 30 percent. It seems to me that all of us should, God love lawyers, they have helped me a lot in the past, but certainly we have seen our fill of them the last couple of days, but thank God they have been here. Most of us will agree that it is easy to demonize them when they get into the comp system.

The alternative to this amendment that the Representative from Harpswell has presented, is the Executive's bill. I will tell you that initially I looked at that and said, son of a gun, we can't do all this. We just reinvented the Maine State Lottery. It will put the lottery out of business. Everybody is going to come up with their old injuries after this Kotch case. I was initially inclined to say that we can't do that. If you look at the Executive's bill, if we enacted that alternative to the amendment before us tonight, we can all go back. The good Representative from York County mentioned the campaign trail. I will run into people. I will bump into a street sweeper in downtown Saco and I will say that thanks to the Executive's bill if you get injured on the job, you better hope it hurts really badly. You had better hope your limb falls off. If you get hurt four or five times, you had better hope at least one of them, probably the last one, is a really bad injury. There is no way you combine that even if you are a complete mess. We have in the amendment what is fair and what is clear. That is why I support it.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. It is very, very unfortunate for this political process that we are here in the last couple of days of the session and presented with an issue and a bill of the magnitude that we have talked about today and yesterday and the last few days. This particular issue, I believe, was a ruse from the beginning from the Chief Executive. The law case was in February. The bill was submitted at the end of March.

Let's talk about the public hearing. It wasn't a public hearing. There were very, very, very few members of the public that were notified. We received the bill the same day we scheduled a hearing. Where was the public? They could have attended had they been notified or given a chance to be notified, but we in the Legislative Branch and the Speaker and the President of the other body were not given that opportunity. Someone was controlling the strings. We started to see the tent city of the \$300 an hour individuals in the halls of the State House camped out. Lord knows what they make. They were demonizing hard working good citizens of the State of Maine that unfortunately got injured. I was here in '92. I have had a lot of time to think about what we are doing here. I will never ever make the mistake that I made in '92. That was not a good deal, in my opinion, for injured workers. They have not had any increase in benefits or any deals to improve their situation since '92, but we have had a radically different system, one which has as the information has pointed out, benefited employers.

There was one little piece of the comp law in 1992 that was geared to injured workers, Section 213. The Governor's attempt has been to wipe out 213 and to take that little portion that gave them some simple equity and justice, that said when you are injured and you are seriously injured, you are gonna be compensated and made whole. My God, how dare we entertain the notion to take that small piece away? I won't stand for it. I won't let it happen. I will stay here until I die if it takes that long. The whole thing was perpetrated. I am angry that it was perpetrated on this Legislative Branch, on the injured workers of the State of Maine, on working families of the State of Maine. It was not fair. I hope someone hears me below me. It needs to be said. There are individuals here in this state that know what happened in '92.

Mr. Arthur Kotch played by the rules. He did nothing wrong. He came to our committee with a cane limping and asked the Committee of Labor, what have I done wrong? You did nothing wrong, Mr. Arthur Kotch. The comp system awarded your benefits as you should have had them legally due that the law court unanimously upheld the decision. He did nothing wrong. We have chosen, today, and I support today, to repeal the Arthur Kotch case. I don't like doing it and I want it said for the record. I am going to do it today. I am also going to keep that little bit of equity and justice and fair play that is the Maine way, the American way to stand for injured workers. We will not repeal 213. I hope next year, whether I am here or anyone else is here, that we will remember that simple justice is what we need to do every day. The balance of equity and justice, on one side you have the business community and on the other side you have injured workers. They need to be recognized too. They are people and we can't forget them. I won't forget them. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. If you want to allow stacking, certainly vote for the gentleman from Harpswell's amendment. If you think that is not a good policy that companies should pay for one injury on the job, then vote for the Minority Report, as we already have. I think that is the issue and I think we ought to stick to that. Look in your heart to what is really the best thing and the just thing to do. You have stacking and you still have stacking with the good Representative from Harpswell and the gentleman from Saco backing him up and so on or you will take care of the injury that happens on the job as it should be. Thank you.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. There are several things that have been mentioned here this evening that I think I have to address. First of all, the good Representative from Van Buren, Representative Smith says the costs for worker's comp are not going up. I defy you to find any person who pays comp insurance that won't tell you that their premiums have gone up.

I was in a meeting in Bangor about three weeks ago and there were several businessmen there. One of them had just received a renewal premium increase of 60 percent. I would beg to differ with the comment that the premiums haven't gone up.

The good Representative from Buxton, Representative Savage, inferred that I was quoting Section C of the amendment. I did not quote Section C. I quoted Section B, Line 10 on Page 2 of the amendment, which says that any work injury may be compensable under this amendment. Any work injury means exactly that. It is an injury that could have occurred at any time and any place prior to the injury that is being adjudged.

Let's get to Representative Matthews from Winslow. He is inferring that the Kotch decision will be overturned and that is not true. Mr. Kotch will continue to receive his benefits as long as his disability lasts. I would assume that that probably would be the rest of his life. He will not be affected by LD 2202. Since Representative Matthews has given me freedom of talking about the process, I would like to do the same thing. The first public hearing on this bill was on March 26. Nothing was done, no work session, nothing was done until the following Tuesday. That was one full week later. We had another work session that following Tuesday. The following day on Wednesday when we came back into this chamber at about 3:45 in the afternoon, the good Speaker made the announcement that the Labor Committee was going to meet at 4:00 in the Legislative Council Chambers. I did not know what we were meeting for at that time. I had no official notice until then that we were going to be meeting there. We met and at about 4:10 the meeting was called to order. We were given what now is the Majority Report and given about 10 to 15 minutes to digest it. Nobody, including the Chief Executive, whose bill it is that we were working on, knew nothing about this majority amendment. I say that the process was very seriously flawed in this bill. It reminds me of going to a carnival and trying to pick out which nut the peanut is under. That is about the way I felt when we finally got through with that last work session on this bill. We have all seen what has been going on here for the last two or three days. I am not very pleased at the way things have gone on here in the Legislature for the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. I could go on and on about different situations, where we have been and why we were there. I would like to address the issue to the amendment that is in front of us on Page 3, Section 5, legislative intent. It is the intent of the Legislature by this act to override the Maine Law Court's decision in Kotch versus American Protective Services and that is all it is. It also states that it is not our intention to go into Churchill. That is the question. Business came up here and said we can't live with the Kotch decision and we agreed with them. We can't live with going any farther in that. That is the bottom line. The legislative intent is clear in the language. No one can argue that. That is where we should stop. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. My good friend from Dixfield brings up an excellent point. It comes as a bit of confusion to me in terms of the opposition to the amendment that we heard here tonight. I have done an awful lot of work to try to become educated on this issue. I was not in the Legislature in 1992. I came some time after that. I remember what happened. I remember the discussions at the time. It was something that was very, very contentious and made for lively discussion where I worked at the time.

In the last few weeks I have gotten a significant amount of mail. It is not an overwhelming amount of mail. I have received an overwhelming amount of mail on other issues. If you think that this is a difficult thing to deal with in terms of mail volume, take on the issue of jet skis for a while. That will defeat this in terms of mail. I have gotten a number of phone calls and all of them from the business community. Each of those calls and letters to a tee says that the Kotch decision is going to put us in a disadvantageous position, the effect of the Kotch decision. I told them I would look at it and I would learn as much as I could. I have been here all week. I have not seen my one-year old

daughter in five days. Since I can't, rather than feel sorry for myself about it, I figured I would do some work. I stayed here late at night and I have heard the discussions. I have read the statutes and I have seen what has been going on. Every aspect of the discussion has revolved around how to solve the problem. I think this is something that the people of the State of Maine can take great heart in. We have been looking at some way to solve the problem as it has been presented to us, which is the Kotch decision and the ramifications in law of the Kotch decision.

We have here before us tonight, my good friends from around the state, an amendment. Since we cannot agree on any other component of the debate around workers' compensation and since the problem, as it has been framed, is the ramification of the Kotch decision, here we have an amendment that repeals the Kotch decision. Maybe I am not getting something here, but I am hearing opposition to this amendment. I guess I don't understand. Is there opposition to the repeal of the Kotch decision, because it doesn't go far enough? Is the real bone of contention here that Section 5, the unallocated language, which says this only repeals the Kotch decision? Maybe what we desire, as has been hinted at, it has been said on the floor tonight by my good friend from Carmel, that Mr. Kotch is not going to be affected by the outcome of his. We don't truly repeal the Kotch decision. If that is what is meant, maybe we intend to take away the benefits of his decision somehow? I doubt it. Maybe it is the entire issue of injury, what a permanent injury is and how it is defined. The original bill does go farther than this amendment. I cannot support that. I can support this amendment and maybe in some small way support Arthur Kotch. If we go farther than repealing Kotch, then I believe we become embroiled in very, very dangerous territory as my good friend from North Berwick said, we do, in fact, stand at the edge of an abyss. When we look down we may look at those who are already at the bottom of the abyss, those injured workers who are not covered currently under law because we had these arbitrary things and I have seen nothing to show that they are nothing but arbitrary, these 75/25 splits, 11.8 percent of somehow magically coming up with something that means you can't work anymore. I think the arbitrariness of it all is where the abyss truly lies.

If we do more than repeal the Kotch decision, we truly do stand at the edge of an abyss. Let's solve the problem and pass this amendment. My good friend from Brunswick, the Chief Executive, has regaled with his awe at our National Anthem and how it ends with a question. There is another famous question along this line if you know your stuff and if we go farther than Kotch, the question may very well be posed, are there no workhouses? Are there no prisons for these people?

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. I am not an expert on workers' compensation, but over four months ago I stopped into a sawmill to transact some business, which essentially was selling some logs to them and after that the owner related to me a situation whereby he had hired a person some 12 years ago and he had a disease, which has not been revealed to him. It got to the point where this person, who was a good worker, could not longer do his job. That person now, there was a claim made, his is receiving workers' compensation. The owner's question to me was, why should I pay for something that did not happen in my place of business? I couldn't answer his question. I still can't answer his question.

He has 20 employees in the sawmill. He also has a retail business. As you know, worker's compensation is more expensive in a sawmill than it is in the retail business. He is the

person who sooner or later has to make a decision, I think, at least that is what he told me. I want to relate to you one other thing, which is going to have an impact on that decision. He wanted to show me something. He took me down to the shed where he has stored lumber for retail purposes. He showed me a stack of pine lumber that he had purchased from Russia for \$50 more than it cost him to buy the logs to manufacture a similar product. It means that there is no way that he could buy logs and manufacture a product and compete with that price. He told me that when you consider what I look at for my workers' compensation costs because his costs went up as a result of the claim. I can either shut down the mill and leave 20 people without jobs and go entirely into the retail business. That is what he is looking at. As you know, the manufacturing business create wealth and service businesses do not. The question that we are dealing here tonight may make the difference with this person. He is not one to leave an employee dangling out on a limb with a serious problem. It really bothers him because it was one that he was not responsible for.

If this particular legislation goes through with what you call stacking, the cost to him may go up and those 20 employees may be out of business and that would be a shame.

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

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. This issue that we are facing tonight faces us with a really stark policy decision. It presents us with the decision of the kind that the Legislature is required to make from time to time and that policy decision is whether we should keep the workers' comp system stable and whether we should keep the costs of workers' comp to employers in the State of Maine stable or whether we should further impair the economic climate in the State of Maine by injecting instability into the workers' comp system and by increasing the costs of the workers' comp system in the State of Maine?

The NCCI study that has been mentioned before, and that I am sure that everybody has seen, has totaled an amount of money that they estimate that the employers in the State of Maine would have to pay additionally as a result of the Kotch decision. In making their estimates, they included stacking of injuries, work injuries on work injuries and work injuries on non-work related injuries. In making those estimates, they estimated \$45 to \$50 million additional for a year if the Kotch decision stays in place. That is not to mention the cost of going back of \$160 to \$240 million.

Since they included both work injury stacked on work injuries and non-work injuries stacked with work injuries, we have to assume that there was some cost of both. If we assume that two-thirds of the additional cases based on the Kotch decision were work injuries stacked on non-work injuries, that still leaves one-third of the cases, being the cases that are described in this amendment, which are work injuries stacked on work injuries. If you follow that analysis to its logical conclusion, you would conclude that the additional cost per year to employers in the State of Maine is somewhere in the \$15 to \$17 million range. When I spoke of the uncertainty that this injects into the system, I was speaking specifically of the term work injury, which figures prominently in this amendment.

I haven't found a definition of work injury anywhere in Title 39A, which means that that will have to be the subject of litigation to define what work injury means. Actually, I am not so sure that Arthur Kotch wouldn't have recovered under this amendment. I actually took the time to give Arthur Kotch a phone call. I spoke to him for quite a while. I spoke with him about his injuries. I spoke with him about his situation. He told me his original injury

had occurred in the Marine Corp while he was working. I think that sounds like a work injury. Would that Marine Corp work injury be stacked with his present work injury under this amendment? I think it might very well be. It would certainly be a matter that we would have to litigate. Ladies and gentlemen, this amendment does not undo the Kotch decision. It just injects uncertainty into the field. It injects probable great additional costs into the field. I urge you to defeat this amendment and to go back to the vote that we cast on the minority amendment to this bill. Thank you very much.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. I thank you for your indulgence. It is nice to see people still listening to the debate. This is probably the most important issue in this session. What I am really concerned about is that there are many people in this body who think that the Legislature is actually correcting the Kotch decision. This amendment does not do that. You think it does because it says we are going to reverse the Kotch decision, but if you look at Section 2, you are adding things into the workers' comp law. I don't think there is anyone, including the author of this amendment, who can tell me that this amendment does not increase costs in the workers' comp system. Is it as much as the original Kotch decision? Probably not. My guess, as the Representative from Durham stated, is it is probably a \$15 to \$17 million cost per year going forward and probably close to \$70 million going back. There is a cost to this bill and that is the problem.

LD 2202 was supposed to take that cost out and it doesn't. You have only lessened the impact with this amendment. I heard that costs are not going up in the workers' comp system. That is blatantly untrue. For the last two years my workers' comp costs have gone up 15 percent a year, the last two years. I am paying over \$100,000 in workers' comp costs. Can I absorb it? Yes, but it hurts. It comes right off the bottom line. It is what you pay your bonuses to your employees, their raises. You try not to pass on every health insurance cost that comes down the pike. You try to take care of them.

I want you to think about this scenario. Someone comes in for a job interview with a cane or a wheelchair, do you want to hire that person? Did they get injured on the job somewhere and then maybe they get hurt working for you and then you stack the two together and you go, my God, I just picked up a workers' comp case that I can't afford. Have you thought about that? How are you helping a disabled worker to get back to work? You are not with this amendment. As an employer, you want to sit there and say that I am open minded about things. In the back of your mind you know that I have to look at that person coming in for an interview a little different now. That is not fair to the worker.

If you have taken a look at the corporate tax receipts in the State of Maine over the last six months, you will see you are running a huge deficit. Businesses are not doing well right now. Tax receipts from corporations are down 15 percent. This is going to hurt even more. What I am really upset about is this business versus worker thing. That is what I am really upset about. You know what? I love my employees. Let me tell you about some of the things I have done. I am going to tell you what I have done. I had a woman with breast cancer. She could have gone out on disability and collected two-thirds of her pay, but she couldn't afford it. I told her we wouldn't do that to you. We will pay you. You will work when you can. When you feel good, come into the office. We did that for nine months. I didn't have to do it. I care about my employees. You know what? Ninety-

nine percent of the businesses out there care about their employees. I can guarantee it. We do things like that all the time. We sponsor Little League teams, basketball team and hockey teams. Where do you go when you want money for a sponsorship for that 11-year old Little League team? Do you go to your worker or do you come to the business and say you need to be a good corporate citizen and sponsor this? Don't take it out on businesses. We are not all bad. Think about the injured worker. We want to help them as much as you do. The fact of the matter is this amendment has a cost to it and it helps no one. Workers' comp is a very difficult issue to understand. It is not easy. You may think you have done something with this amendment, but you really haven't and people will remember that. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. The day is long. The pay is light. We are all here to do it right. That is a fact. I would like to throw myself way back into the stone age along with the Representative from Winslow, Representative Matthews, because I was here in 1992. This is a cakewalk compared to '92. For those of you who weren't here, you can thank your lucky stars and pray to the Lord that you weren't here.

While I am up, I would like to pose a question through the chair. Representative Bruno mentioned that Section 2 is new language. If that is so, I wish somebody would explain it to me if it is new language. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky.

Representative GERZOFSKY: Mr. Speaker, Men and Women of the House. I don't very often get up and speak here. I did last year once. I started off by talking a little bit about my background. Many of you here don't know me. My background is in manufacturing. I manufactured furniture for 35 years. I have employed an awful lot of people. I have always paid workers' compensation. I go back to the '60 during the Nixon hay day years and the Vietnam years when it was hard to get workers. I went through the '70s and '80s. In the early '90s we had a good economy going when another President was here. I was able to sell my company and make a little bit of money and be able to come back to Maine and now sit in this beautiful building, the house of the people. I have sat here all evening listening to people talk about Mr. Kotch, who happens to be one of my constituents. He lives around the corner from me. Mr. Kotch wrote me the other day that he had just finished reading the April 10 copy of the *Maine Times*. He hoped that I had done the same. In the article he gave his unvarnished opinion of the current workers' compensation law and what he believed the insurance industry was trying to do to injured workers. He said that I have done everything I can to get back to work. I believe I am an honorable man, but apparently I haven't done enough to make the insurance company believe the same. In the *Maine Times* article, Attorney Garr, from the industry side said that Arthur Kotch was a classic example of the workers' comp guy. Is that kind of like trailer trash, maybe? I take this to be a slap at everything I have done to get off the comp rolls. I also believe it is really brave of someone with an ivy league education to belittle a working class guy just trying to scrape by, especially someone who is injured doing his job and playing by the rules. The rules were in place when he was working.

"Representative Gerzofsky, I have tried my best. I don't need to be kicked in the teeth. I may have been injured, but I still have a family, pride and self-esteem. Mr. Meril won't be happy until he has that too. I implore you to fight to keep the law as it is right

now. The way the justices voted, the way it was meant to work." Obviously we are not going to be able to do that. We are doing away with Kotch law as I keep on hearing it referred to. We are going to go back to a time before that. I hope we are not going back to a time where we had had sweat shops in this state and when an injured furniture maker cut off one hand and the straw boss would say, fine, learn to use the other. Those days are in our distant past. I would hope that it is in such a distant memory that we won't go back to those days.

I have another constituent in Brunswick. It is a great time. I love when I am in committee and I get to say that I represent District 50. It is beautiful downtown Brunswick, which is full of nice small shops, garages, small businesses and a lot of working men and women. Also in my district I have the Chief Executive. He gave me some communication. "Mr. Kotch is expressly grandfathered into our bill. He would get the benefits awarded by the court if this bill passes. Please be sure he knows this." I am going to call up Mr. Kotch tomorrow morning and I am going to tell him not worry. You got your money. There are an awful lot of people coming down the road behind you that might have a little bit stiffer battle, because this house, the house of the people, those working men and women that have sent us here to represent them. Since I have been here the last two years we have gotten more health coverage for our poor kids, more health coverage for poor, working families. We have also been able to say we are going to send laptops home with seventh graders. We have also gone out and said that we are going to try to make this a better state to live in and to raise our families. I hope that this beautiful house of the people is not going to turn its back on those working men and women that we have come here to serve. I hope and I pray and I ask this house of the people to support this amendment and not take us back to the days where they used to tell us, learn to use your other hand. Thank you ladies and gentlemen.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative TRACY: Mr. Speaker, Men and Women of the House. I would like to pose the same question to the chair that the good Representative from Raymond, Representative Bruno, said about Section 2, new language. I have not heard anybody answer my question. This is very important to me and probably to the rest of the people in these chambers. If this is new language in there and nobody in these chambers can say it is new language, then apparently is not new language. Would somebody please do me the favor and answer the question?

The SPEAKER: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Cummings.

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative's question, I have before me a copy of the Churchill case. If you look at Section 1A and Section B, which has been referred to a number of times today it says, "Any work injury other than the work injury at issue in the determination that combines with that injury and contributes to the employee's incapacity." This matches almost identically with Churchill that previously existed. We know that Churchill is the system in which we have been previously operating. Let me read from Churchill. "Any preexisting condition that is aggravated by, accelerated by or combined with a work related injury and the resulting disability." We have before us a very clear correlation between

the preexisting law and this amendment verifies that there is a preexisting law that we want to maintain.

I must disagree with my good friend from Falmouth, Representative Davis. The issue is not about whether it is stacking work related or non-work related. It is about whether we are committed in this body to truly repealing Kotch for the benefit of Maine businesses, but to truly stop at that line for also the benefit of Maine workers.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to elaborate on Representative Cumming's remarks. The Churchill case is indeed the source of the language in Section B. The Churchill case in Paragraph 12 of that decision says that Section 213 embraces the whole body approach and reflects a legislative intent to preserve longer term benefits for those employees with the most severe disabilities. Section 213 permits the consideration of multiple work-related impairments in the determination of the 11.8 threshold. What we have done in Section B is reduce that statement. We have reduced it from any work related impairments to just those work related impairments that affect the employees work capacity. This gives the employee less than what they had under Churchill.

One other thing that I would like to address while I am standing. There was a question raised about whether or not the Kotch injury, pre-existing injury, was a work injury. In fact, in the Kotch decision the court explicitly found that the 1981 Marine Corp injury was a pre-existing non-work injury. It is right in the language. The court has no trouble deciding what is a non-work injury. I would suggest to you that we don't want to leave our employees at the mercy of attorneys who try to twist the language. It is right in there right now. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Please forgive me for wanting to be a female voice and going on record on this very, very important issue. The last time I checked anyone who goes into business, it is not guaranteed. You are going into business and you accept the cost of going into business. Some of these costs, we are not asking for charity here. These people go to work and for some very little pay. This isn't charity. This is a right. I sat here and I said, no, don't speak. This isn't your committee. Be a good little do bee. I couldn't do it. I had to go on record for my grandmother who came from Canada and worked in the mills who could not speak English, that helped to organized unions, who had to fight to be heard. This is what I stand for tonight, for the working people. This isn't charity. They go to work to help your business. Representative Bruno, I commend you for what you do for your workers. I commend you. That is a good thing for you. I am sure you have a good reputation and people want to go to work for you. This is about a right of an injured worker, not charity. Let us not lose sight of this. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Not to prolong the debate here, but any language that is underlined in statute means it is new language.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I reluctantly rise, but the other corner both spoke so I felt compelled to speak as well. The piece that is underlined in that section is merely referencing Subsection 1A. I am a simple guy. I am a working guy. I worked my whole life. If you

want to put another face on somebody who has been a workers' comp guy, I am a workers' comp guy. I used to work heavy construction. I built dams and paper mills. I liked it. I am still a working guy. I still have working guys working for me. Maybe the Chief Executive should come and lay a little tile with me some day. Maybe he should go rig up a load of steel and get your glove caught in it and have that load go off and have the front half of your finger come right back through, then he would be a workers' comp guy. It is no fault of your own. You take six weeks working for the largest non-union contractor in the state. Take six weeks for your finger to heal so you can go back to rigging up loads and putting big pieces of machinery together. You go back to work because you want to go to work. Maybe a year or so after that a concrete bucket comes by and there is a handle welded on the side of that concrete bucket. You see the handle and you grab it. The crane is swinging it over and you grab the handle and the handle is placed right next to the linkage so that when the guy dumping the concrete opens it up, your fingertip gets crushed and then you find out your were the third person to be injured by that same bucket and the production schedule of that large company was so aggressive that they never bothered to get rid of that bucket or fix the handle.

I do believe that the good Representative from Raymond takes care of his people. I do believe that that large non-union contractor takes care of its people now. I do believe that we are reducing costs in the workers' comp system. It is pretty clear that the payouts are less. I just thought you should see another face on it.

I am a simple guy. I really am. Two weeks ago the business community came to this Legislature and they had a simple request. They said that we can't have the bungee jumper who hurts himself on the weekend, we can't have those injuries be part of our workers' comp system. You have it right here with this amendment. The majority party agrees with the business community. They came here with a very simple problem. They didn't want non-work related injuries to be part of the workers' comp system. You got a chance to vote for it right here. We are fixing it. We listened to them and we believe them. It is a problem. I am not sure the \$42 million NCCI and \$162 million NCCI numbers are real. They said they didn't know if they were real themselves. They don't do that stuff until they do the actual work experience. You know what, I am going to give them the benefit of the doubt and I am going to say that you had \$250 million problem and by God we are going to fix it right here. The majority party is going to do it. Hopefully the minority party will join us. We believe it. The bungee jumper, the weekend warrior, the hockey player, the Vietnam Vet that hurt himself while he was fighting for our country, it is a non-work related injury and we don't want it to be part of the workers' comp system because that wouldn't be fair to Maine business. We want to support Maine business.

I don't disagree that the workers' comp premiums are rising. They are because health care costs are rising. Since 9-11 liability insurance is rising. The insurance industry says they need the money and God knows we have a commissioner and a superintendent that when the insurance industry comes and says they need money, they give it to them. I would say that if the business community is concerned, and I think they should be, about Kotch that we are going to repeal it right here tonight. Don't be concerned about Kotch. We are going to take care of it. We are concerned about the rising costs of their premiums in health insurance and all these other insurances including workers' comp insurance. I would say call the Chief Executive. It is his commissioner. It is his superintendent of insurance. They

are the ones that have never said no to a rate increase. I have never seen it.

It is very simple. We heard the business community. We agree with them. We are going to repeal any non-work related injuries included in workers' comp, but we are not going to go back any further. For years we have heard that the '92 reforms were etched in stone. Well, the '92 reforms include the combining of injuries. As a matter of fact, the good Senator from Somerset, he is much more of a scholar than I am, he went all the way back to 1915 in the statutes in the State of Maine that included the combining of injury. I don't think we need to go back to 1915. I don't even think the minority party wants to do that. I doubt it. We got to take care of people who are legitimately injured on the job. That is what we are doing here. If you have a work related injury, you will be taken care of. If you have a non-work related injury, we are not going to burden the business community with that. I think it really is time that we understand what we are doing here tonight. That is what we are doing. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker, the Representative from Gardiner, Representative Colwell, the business community was concerned about Kotch, but there are two other components that the current amendment doesn't address. Their concerns were increased costs through the system and stability to the system. This current amendment fails on those areas.

The current threshold of 11.8 percent was not based upon the stacking of two unrelated work injuries. Although the amendment would no longer permit the stacking on non-related preexisting conditions work injuries, it would permit stacking of unrelated work injuries without adjusting the threshold to account for the stacking. This will freeze out insignificant costs to Maine. That was the clarion cry of the employment community. The amendment does not require the earlier work injury to be in Maine to be a compensable injury or even establishes work related.

Over 70 percent of the market is self-insured or insured by MEMIC. The retroactive affect is an unfunded liability for employers and will have to be recognized and funded. In fact, in the fiscal note in the second paragraph on Page 3, it says that as amended this bill will partially reduce the amount of an unbudgeted increase in cost to state agencies through increased workers' compensation payment and premiums beginning in fiscal year 2002-03 associated with those elements of Kotch decision that allow for combining prior work injuries that contribute to the incapacity, but do not aggravate or accelerate the current work injury. The total savings cannot be determined at this time, but it is a partial reduction, there is still cost that is not accounted for to the state agencies and in the market place as well.

In Churchill that has been discussed tonight, that involved a '95 back injury that was a significant aggravation of a '85 back injury. Prior work injuries were combined only if they were aggravated by the later work injury. The current amendment before us has cost drivers and instability that were the will of the Maine economy. Those earlier points I made from the measures of growth were going in the wrong direction.

I work in a Maine company. My Maine company competes nationally, not locally. The more costs to do business in Maine, the more difficult it becomes to compete and it comes out in terms of benefits and salaries that my employer is able to offer or indeed the next expansion, which offers opportunity for Maine

families. This does affect Maine people. I urge you to vote against the pending motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-1101). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 643

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McGlocklin, McKee, McLaughlin, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Andrews, Bagley, Baker, Crabtree, Dugay, Estes, Landry, Lovett, Morrison, Murphy E, Perkins, Povich, Sullivan, Wheeler EM, Wheeler GJ, Young.

Yes, 79; No, 56; Absent, 16; Excused, 0.

79 having voted in the affirmative and 56 voted in the negative, with 16 being absent, and accordingly **House Amendment "A" (H-1101) was ADOPTED.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1101) in NON-CONCURRENCE** and sent for concurrence.

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

**ENACTORS
Emergency Measure**

Resolve, to Promote the Interests of the People of Maine when Public Funds are Used to Acquire Conservation Easements (H.P. 1593) (L.D. 2096)
(S. "B" S-586 and H. "A" H-1100 to C. "A" H-990)

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. 112 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Create the Office of Program Evaluation and Government Accountability (H.P. 1695) (L.D. 2193)
(S. "C" S-595 to C. "A" H-1039)

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

On motion of Representative CLOUGH of Scarborough, was **SET ASIDE**.

The same Representative **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**: 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.

ROLL CALL NO. 644

YEA - Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Pinkham, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Andrews, Bagley, Baker, Crabtree, Dugay, Duprey, Estes, Hall, Landry, Lovett, Morrison, Murphy E, Perkins, Povich, Sullivan, Wheeler EM, Wheeler GJ, Young.

Yes, 133; No, 0; Absent, 18; Excused, 0.

133 having voted in the affirmative and 0 voted in the negative, with 18 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**REPORTS OF COMMITTEE
Committee of Conference**

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Create the Maine Rural Development Authority"

(H.P. 1724) (L.D. 2212)

has had the same under consideration, and asks leave to report:

That the Senate **RECEDE** from Passage to be Engrossed as Amended by Senate Amendment "A" (S-559) and **CONCUR** with Passage to be Engrossed as Amended by Senate Amendment "A" (S-559) and House Amendment "B" (H-1086).

Signed:

Representatives:

BRYANT of Dixfield

RICHARDSON of Brunswick

CLOUGH of Scarborough

Senators:

SHOREY of Washington

BROMLEY of Cumberland

YOUNGBLOOD of Penobscot

The Report was **READ** and **ACCEPTED** and sent for concurrence

On motion of Representative McGLOCKLIN of Embden, the House **RECONSIDERED** its action whereby Resolve, Regarding Legislative Review of Chapter 296: Patient Brochure and Poster on Dental Amalgam and Alternatives, a Major Substantive Rule of the Department of Human Services

(H.P. 1637) (L.D. 2140)

(S. "A" S-582 to C. "A" H-1046)

FAILED FINAL PASSAGE.

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

On motion of Representative BRYANT of Dixfield, the House adjourned at 1:30 a.m., until 10:00 a.m., Monday, April 8, 2002.