

# 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

**Appendix**  
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ONE HUNDRED AND TWENTIETH LEGISLATURE  
FIRST REGULAR SESSION  
47th Legislative Day  
Tuesday, April 9, 2002

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

Prayer by Reverend Doctor Peter L. Misner, United Methodist Church, Manchester (retired).

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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

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 (EMERGENCY)

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

Resolve and accompanying papers **INDEFINITELY POSTPONED** in the House on April 8, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "B" (S-608)** thereto in **NON-CONCURRENCE**.

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

On motion of Representative BRUNO of Raymond, the House **RECONSIDERED** its action whereby it voted to **RECEDE AND CONCUR**.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. This body has done very well on reviewing this bill, what it does and the costs involved with it and now what the Senate Amendment does is put us back to where we are actually borrowing money from the Rainy Day Fund, which we all agreed to earlier on that. It was not a good idea. What I ask is that we stick with our actions in this body rejecting that as an alternative. Mr. Speaker I request a roll call.

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

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 Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. The good Representative is correct, this does return us to the position that was the unanimous report out of the committee, which was to borrow money from the Rainy Day Fund. There is a change though, this amendment from the other body does remove the emergency preamble and if you recall when this was first before the House, several votes ago, there was a majority in this chamber that did support borrowing money from the Rainy Day Fund, and I hope that we can continue to support that.

Also I wanted to take this opportunity, there was a question raised yesterday about how many brochures were to be printed. It's approximately 250,000 brochures. One will be provided per family in the State of Maine. It amounts to a cost of 20 cents, 20 cents per family. I just want to remind everybody again, this is a loan. This will be repaid, this makes the brochures very cost effective to our dentists and I hope we can help them and move the bill forward. Thank you.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I hope you will vote against the recede and concur. We decided the other day that we did not want to borrow money from the Rainy Day Fund, but to me the larger issue here is if you buy into the fact that this is a public health issue, then we should pay for this the same way we pay for other public health pamphlets. If you go to your pediatrician's office, the pamphlets about using your seatbelts and shots for mumps and measles and rubella, the doctor didn't pay for those pamphlets, it's a public health issue and we pay for them as a state, the state pays for those. I think that it is very poor policy for us to be asking dentists to repay the cost of a pamphlet, an 11-page pamphlet, I might add, that we decided that they needed to give them out. I hope you will vote against this on that issue. We need to find a way to fund this that is not a loan. Thank you.

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

**ROLL CALL NO. 655**

YEA - Ash, Berry RL, Brannigan, Brooks, Bryant, Bull, Bunker, Chick, Clark, Colwell, Cote, Cowger, Daigle, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Goodwin, Green, Hall, Hatch, Hutton, Kane, Koffman, LaVerdiere, Lemoine, Lessard, Marley, Matthews, McDonough, McLaughlin, Michaud, Mitchell, Norbert, O'Neil, Paradis, Patrick, Pineau, Richard, Richardson, Savage, Smith, Stanley, Sullivan, Tarazewich, Tuttle, Usher, Volenik, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Blanchette, Bouffard, Bowles, Bruno, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Davis, Dugay, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, Mailhot, Marrache, Mayo, McKenney, McNeil, Morrison, Murphy E, Murphy T, Muse C, Nass, Nutting, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Bliss, Buck, Canavan, Chizmar, Cummings, Estes, Fuller, Gagne, Gerzofsky, Gooley, Hawes, Jacobs, Jones, Landry, Laverriere-Boucher, Lundeen, MacDougall, Madore, McGlocklin, McGowan, McKee, Mendros, Michael, Muse K, Norton, O'Brien JA, O'Brien LL, Perry, Povich, Quint, Rines, Simpson, Skoglund, Thomas, Twomey, Watson.

Yes, 52; No, 61; Absent, 38; Excused, 0.

52 having voted in the affirmative and 61 voted in the negative, with 38 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

On motion of Representative BRUNO of Raymond, the House voted to **INSIST**.

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

**COMMUNICATIONS**

The Following Communication: (H.C. 457)

**STATE OF MAINE**  
**HOUSE OF REPRESENTATIVES**  
**SPEAKER'S OFFICE**  
**AUGUSTA, MAINE 04333-0002**

April 8, 2002

Honorable Millicent MacFarland  
Clerk of the House  
2 State House Station

**AUGUSTA, ME 04333-0003**

Augusta, ME 04333  
Dear Clerk MacFarland:  
Pursuant to my authority under P.L. 1999, ch. 731, Part AAAA, I am pleased to appoint State Representative Thomas Bull of South Freeport to the Maine Fire Protection Services Commission.  
Should you have any questions regarding this appointment, please do not hesitate to contact my office.  
Sincerely,  
S/Michael V. Saxl  
Speaker of the House  
**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 732)  
**SENATE OF MAINE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION  
AUGUSTA, ME 04333-0003**

April 8, 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 Indefinitely Postponed, in Non-Concurrence, Joint Order Directing the Joint Standing Committee on Education and Cultural Affairs to Report Out Legislation to modify the valuation and student enrollment portion of the school funding formula. (H.P. 1707)  
Sincerely,  
S/Pamela L. Cahill  
Secretary of the Senate  
**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 733)  
**SENATE OF MAINE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION  
AUGUSTA, ME 04333-0003**

April 8, 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 Indefinitely Postponed, in Non-Concurrence, Joint Order Directing the Joint Standing Committee on Appropriations and Financial Affairs to report out a Bill transferring the Maine Learning Technology Endowment to the General Purpose Aid Cushion. (H.P. 1730)  
Sincerely,  
S/Pamela L. Cahill  
Secretary of the Senate  
**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (S.C. 737)  
**SENATE OF MAINE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION**

April 8, 2002  
Honorable Millicent M. MacFarland  
Clerk of the House  
120th Legislature  
Augusta, ME 04333  
Dear Clerk MacFarland:  
Please be advised the Senate today Insisted and Joined in a Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill, "An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores." (H.P. 1623) (L.D. 2123)

The President appointed on the part of the Senate:  
Senator Goldthwait of Hancock  
Senator Daggett of Kennebec  
Senator Mills of Somerset  
Sincerely,  
S/Pamela L. Cahill  
Secretary of the Senate  
**READ and ORDERED PLACED ON FILE.**

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**ENACTORS  
Emergency Mandate**

Resolve, Regarding Legislative Review of Portions of Chapter 126: Immunization Requirements for School Children, a Rule of the Department of Human Services, and Portions of Chapter 261: Immunization Requirements for School Children, a Rule of the Department of Education, Major Substantive Rules Jointly Adopted by the Department of Human Services and the Department of Education

(H.P. 1624) (L.D. 2124)  
(S. "A" S-601 to C. "A" H-1026)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 11 against, and accordingly the Mandate was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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**Mandate**

An Act to Implement the Recommendations of the Secretary of State and the University of Maine System to Develop a Comprehensive Plan for Preserving and Protecting Historical Records and Access to Those Records

(H.P. 1721) (L.D. 2209)  
(S. "A" S-603)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 voted in favor of the same and 13 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably  
(S.P. 133) (L.D. 457)  
(S. "A" S-598 to C. "B" S-412)

An Act to Continue the Sales Tax Exemption on Vehicles Sold and Leased and Removed from the State  
(H.P. 916) (L.D. 1230)  
(S. "A" S-599 to C. "B" H-784)

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

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

An Act to Stabilize the Funding of the Department of Inland Fisheries and Wildlife

(H.P. 1432) (L.D. 1929)  
(S. "A" S-600 to C. "A" H-1021; H. "A" H-1061 to C. "A" H-1021)  
Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative KASPRZAK of Newport, 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. 656**

YEA - Ash, Belanger, Berry RL, Blanchette, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gooley, Green, Hall, Hatch, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Norbert, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tobin D, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Andrews, Annis, Bowles, Chick, Cressey, Duncan, Duprey, Foster, Glynn, Goodwin, Haskell, Honey, Kasprzak, Labrecque, MacDougall, McGlocklin, Mendros, Morrison, Nass, Nutting, Pinkham, Snowe-Mello, Stedman, Tobin J, Tracy, Waterhouse.

ABSENT - Bagley, Baker, Berry DP, Bliss, Buck, Chizmar, Estes, Gagne, Gerzofsky, Hawes, Landry, Madore, Michael, Muse K, Norton, Povich, Tessier, Thomas, Watson.

Yes, 106; No, 26; Absent, 19; Excused, 0.

106 having voted in the affirmative and 26 voted in the negative, with 19 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Increase the Workers' Compensation Insurance Assessment to Fund a Hearing Officer Position  
(H.P. 1548) (L.D. 2051)  
(S. "A" S-589)

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

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

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

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

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 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)

- In House, 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)** on April 4, 2002.

- In Senate, 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**.

**TABLED** - April 5, 2002 (Till Later Today) by Representative BERRY of Livermore.

**PENDING - FURTHER CONSIDERATION.**

On motion of Representative BERRY of Livermore, the House voted to **RECEDE**.

The same Representative **PRESENTED House Amendment "C" (H-1108)** to **Committee Amendment "A" (H-1080)**, which was **READ** by the Clerk.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I apologize for not being up on the parliamentary motion that was necessary. I would just like to say that this bond issue now, LD 2128, is part of a package as we will see throughout the day will include the dormitory sprinklers for the federal colleges and the University of Maine System, \$13 million for the school renovation fund, \$500 thousand for the teen homeless center and the Harlow building for the Department of Conservation \$8 million. That would be our June referendum. I hope that the members of the House will support this. Thank you very much.

**House Amendment "C" (H-1108)** to **Committee Amendment "A" (H-1080)** was **ADOPTED**.

Representative GLYNN of South Portland **PRESENTED House Amendment "D" (H-1111) to Committee Amendment "A" (H-1080)**, which was **READ** by the Clerk.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. The body has before it a very simple, one issue policy matter and that's concerning when the voters adopt these bonds or consider the adoption of these bonds under the committee amendment. It is contemplated that the voters are going to vote on this bond issue, under LD 2128, in June. I do not believe that that's correct public policy. The number of voters that vote in a June primary election are very limited. It's very limited to a small subset of Democrats, Republicans and Greens, additionally unenrolled voters or Independents historically do not vote in June primary elections, consequently, this very important public policy decision of the renovations to the dormitories and these buildings will not be decided by all the voters statewide. The amendment seeks to correct that with a very simple change which changes the date of consideration of these bond issues to the November election. I urge it's adoption and Mr. Speaker when the vote is taken I request the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "D" (H-1111) to Committee Amendment "A" (H-1080)**.

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

Representative **BERRY** of Livermore moved that **House Amendment "D" (H-1111) to Committee Amendment "A" (H-1080)** be **INDEFINITELY POSTPONED**.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. The original intent of having a June referendum was in part II, the item of the homeland defense, the bond request for that. It would be wise, I think, the Harlow building, for the Department of Conservation. This work should be done and I think the other items that are included between the facilities and the economic development package, I think would be helpful if they were out there at a June referendum. I think it's just the timing issue that is important. It's helpful, so I hope you will support me in defeating this motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I would have to disagree with the previous speaker. The purpose of this referendum in June is to deceive the public. Hopefully they'll forget about the bond that they enacted in June and they'll be more apt to enact bonds in November. We deceived the public last night and it's very sad that we have to do it again today. Thank you.

Representative **GLYNN** of South Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-1111) to Committee Amendment "A" (H-1080)**.

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 Lewiston, Representative Mendros.

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

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. I know there is a cost differential between adding a

new question to a ballot that already has questions or writing up a whole new ballot. Sending this out to referendum in June would require writing up a whole new ballot, whereas putting in on November where there is already a ballot for everybody would be substantially less. Can anyone tell me how much we'd save by sending this out in November as opposed to sending it in June?

The **SPEAKER**: The Representative from Lewiston, Representative Mendros has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. The usual cost for a referendum, the amount we usually reserve is \$121,000, perhaps this referendum because of the number of pages might be as high as \$129,000. I think I saw that number this morning. If it gets above a certain number I think six questions then you have to add another chunk an equal chunk to that. It's a little uncertain as June and November float around what are issues, and how it splits out. Basically the six questions cost you about \$130,000.

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

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

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I think the questions should be posed to the members of the Legal and Veterans Committee, which I think has oversight responsibility on elections, does anyone have a general figure of what the percentage of eligible voters are that turn out in June as opposed to the percentage that turn out in November?

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinitely Postpone House Amendment "D" (H-1111) to Committee Amendment "A" (H-1080). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 657

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

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

**ABSENT** - Bagley, Baker, Berry DP, Chizmar, Dugay, Estes, Gerzofsky, Goodwin, Hatch, Hawes, Landry, Madore, Michael, O'Neil, Povich, Thomas, Tuttle.

Yes, 74; No, 60; Absent, 17; Excused, 0.

74 having voted in the affirmative and 60 voted in the negative, with 17 being absent, and accordingly **House Amendment "D" (H-1111) to Committee Amendment "A" (H-1080)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (H-1080) as Amended by House Amendment "C" (H-1108)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1080) as Amended by House Amendment "C" (H-1108)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

#### SENATE PAPERS

#### The following Joint Resolution: (S.P. 824) JOINT RESOLUTION RECOGNIZING ADULT EDUCATION IN MAINE

WHEREAS, Public Law 1871, chapter 194 authorized cities and towns to provide for instruction in industrial or mechanical drawing to persons over 15 years of age, either in day or evening schools, establishing the beginning of formal adult education in Maine; and

WHEREAS, the legislation in 1871 was followed by an amendment in 1889, allowing cities and towns to raise money to support evening schools; and

WHEREAS, by 1909, a legislative study determined that 11 cities and towns were maintaining evening schools with an approximate enrollment of 1,400 pupils found to be generally employed in mills or factories; and

WHEREAS, literacy was to become a concern during World War I, and adult education in Maine took a broader focus although the growth of the programs was modest. The Depression saw a decline of programs due to financial reasons, but by 1934, there were classes in 9 communities with a total enrollment of 2,824 pupils; and

WHEREAS, modern adult education is a product of the 1960's and the "War on Poverty" programs. In 1966, 59 communities offered adult education with a total enrollment of 8,086. The growth has continued dramatically throughout recent decades; and

WHEREAS, current trends in adult education reflect the variety of ways the State's programs serve the needs of the State's population. The trends include:

1. Collaboration with postsecondary institutions through career guidance, brush-up and college preparation classes for aspiring students;
2. High school completion and General Equivalency Diploma, GED, programs, with 650 high school diplomas and 3,500 GED's awarded in the State last year;
3. Job readiness, including career guidance and a variety of skills classes, including computer training and many other vocational offerings;
4. Workplace literacy, including courses offered on site at businesses focusing on such topics as math, computer literacy and writing skills;
5. Family literacy, which includes a coordinated approach, including adult education, early literacy, parenting instruction and intergenerational activities; and
6. A vibrant array of community programs reflecting the needs and interests of Maine people; and

WHEREAS, funding for adult education in the State is a partnership that includes state subsidy, local taxpayer support, grants, contracts and fees paid by those enrolled in nonacademic courses; now, therefore, be it

**RESOLVED:** That We, the Members of the 120th Legislature now assembled in the Second Regular Session, pause to acknowledge and applaud adult education programs, which uniquely reflect the needs of the communities they serve and provide a vital system of service to the population of the State as new challenges are faced in economic, community and family life; and be it further

**RESOLVED:** That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Education.

Came from the Senate, **READ and ADOPTED**.  
**READ and ADOPTED** in concurrence.

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

#### Non-Concurrent Matter

Resolve, to Allow Julie Harrington to Sue the State  
(H.P. 1659) (L.D. 2165)  
(C. "A" H-1045)

**FINALLY PASSED** in the House on April 4, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045) AS AMENDED BY SENATE AMENDMENT "B" (S-613)** thereto in **NON-CONCURRENCE**.

Representative TUTTLE of Sanford moved that the House **RECEDE AND CONCUR**.

On motion of Representative COLWELL of Gardiner, **TABLED** pending the motion of Representative TUTTLE of Sanford to **RECEDE AND CONCUR** and later today assigned.

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

#### UNFINISHED BUSINESS

The following matters, 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 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)

- In House, 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" (S-561) AS AMENDED BY HOUSE AMENDMENT "A" (H-1096)** thereto on April 5, 2002.

- In Senate, Senate **INSISTED** on its former action whereby the Reports were **READ** and the Bill and accompanying papers were **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.

**TABLED** - April 8, 2002 (Till Later Today) by Representative COLWELL of Gardiner.

**PENDING - FURTHER CONSIDERATION**.

On motion of Representative BERRY of Livermore, the House voted to **RECEDE**.

The same Representative **PRESENTED** House Amendment **"B" (H-1107)** to **Committee Amendment "A" (S-561)**, which was **READ** by the Clerk.

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

Representative BERRY: Mr. Speaker, Men and Women of the House. House Amendment "B" is another version of the economic development package. There are some changes from the report that we previously passed, which obviously we're not going to receive a two-thirds passage. The numbers as they stand in this report are \$6 million for the Maine Rural Development Authority, \$4 million to recapitalize economic recovery loan program, \$4 million to recapitalize the regional economic development loan program, \$400,000 for Scoodic Education Research Center, \$5 million for the product development testing at the University of Maine, \$4 million for the product development and testing at the University of Southern Maine, \$5 and a half million for the biomedical research, the municipal investment trust fund at \$4 million. I have an old list. I know that the cultural tourism is reduced for \$1 million for the St. Mary's item and \$30,000 for the Moosehead, the Katahdin, and \$500,000 for the Center Theater in Dover-Foxcroft. The amount that was originally called the homeland defense issue is down to \$540,000, \$520,000 of that being for the court system security and \$20,000 for a water assessments notifications, so that is also a June referendum as I mentioned earlier. I hope that you would support the pending motion, Mr. Speaker, I would ask for a roll call.

The same Representative REQUESTED a roll call on the motion to **ADOPT House Amendment "B" (H-1107) 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: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "B" (H-1107) to Committee Amendment "A" (S-561). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 658**

YEA - Annis, Ash, Belanger, Berry RL, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chick, Clark, Collins, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Green, Hall, Hatch, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Mendros, Michaud, Mitchell, Murphy E, Muse C, Nass, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Andrews, Blanchette, Bowles, Buck, Chase, Clough, Crabtree, Cressey, Daigle, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Kasprzak, Labrecque, Lovett, MacDougall, McKenney, McNeil, Morrison, Murphy T, Muse K, Nutting, O'Brien JA, Perkins, Perry, Shields, Snowe-Mello, Stedman, Treadwell, Waterhouse.

ABSENT - Bagley, Baker, Berry DP, Chizmar, Estes, Gerzofsky, Goodwin, Hawes, Landry, Madore, McGowan, Michael, Pinkham, Povich, Wheeler EM.

Yes, 101; No, 35; Absent, 15; Excused, 0.

101 having voted in the affirmative and 35 voted in the negative, with 15 being absent, and accordingly **House**

**Amendment "B" (H-1107) to Committee Amendment "A" (S-561) was ADOPTED.**

Representative GLYNN of South Portland **PRESENTED House Amendment "C" (H-1112) to Committee Amendment "A" (S-561)**, which was **READ** by the Clerk.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. This amendment that is before the body is very similar to the amendment that I had offered under LD 2128 and the purpose of it is to move the date of considering this bond referendum instead of in the June primary election to the November election. Let us not forget that the June primary election is just that it is an opportunity for the political parties to choose primary nominees. This is not a general election. This is not an election that the average voter participates in and its certainly not a time in which the average resident of Maine turns out to vote to consider important items such as those considered in this LD. This amendment seeks to change nothing other than when we consider this bond referendum. November is the time that the voters choose to vote, that is the time that they elect their elected officials. It is the time they will be considering the balance of the bonds and it is the time that we should be considering this bond. Ladies and gentlemen I urge you to pass this amendment. Mr. Speaker when the vote is taken I request the yeas and nays.

The same Representative REQUESTED a roll call on the motion to **ADOPT House Amendment "C" (H-1112) to Committee Amendment "A" (S-561)**.

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

Representative BERRY of Livermore moved that **House Amendment "C" (H-1112) to Committee Amendment "A" (S-561) be INDEFINITELY POSTPONED**.

The same Representative REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-1112) 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: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion to indefinitely Postpone this amendment. I agree with my good friend from South Portland, Representative Glynn, how important it is to have this take place in November. Like many of you, I know I will not be voting for any bond package that does not take place at a November election.

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

Representative BERRY: Mr. Speaker, Men and Women of the House. I was going to speak briefly to encourage support of this motion. I think it is important that we need to talk about what we need to do for the economy in Maine. It's a chance to get some things started a little earlier. I think the people of Maine if the items are public, if the newspapers take a responsibility in Maine's economy, I'm sure they'll have information. I know the voters in my town. They've always had good voter turnout no matter what the issue, whether it was just a local issue or statewide. So I would expect a good turnout for my area. Again this is part of a whole bond package. If we're going to have people out there for one issue in June, we ought to make it worth their while to come out. I hope you will support the motion.



The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. The good gentlemen from Livermore, Representative Berry, is absolutely right. This is an important issue. In fact, it is such an important issue that I am very concerned that we are disenfranchising such a large percentage of our voters in the June election. Now I don't know what the statewide enrollment is for non-enrolled voters, but in my community in Sanford 40 percent of the voters are non-enrolled in a political party. That means that 40 percent of the voters in Sanford will be disenfranchised when it comes time for this June election. Now this is crucially important because it is a large amount of money. There are some very important items in this bill and they deserve full consideration. How can I go back to the people in Sanford and tell 4 out of 10, 2 out of 5 voters that we did not think enough of their opinion to include them in this referendum.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I just rise to touch upon a few brief points. First, the good Representative from Sanford, Representative Bowles, is perhaps right to be concerned, but he's absolutely wrong that Independent or unenrolled voters would not be able to vote on these referendums. That's just plain wrong, absolutely wrong. They wouldn't be able to vote for a primary election. They wouldn't be able to vote for a Democrat or a Republican or a Green unless they enrolled, but they would absolutely be able to vote on these bond issues. Secondly, I'd just like to say I think we are under estimating the voters of Maine. Frankly, I think that putting these bond issues on a ballot in June will give them yet another great reason to come out and exercise their Constitutional right to vote. We already have an incredibly exciting Gubernatorial primary, an incredibly exciting Congressional primary in the second district. My good friend from Lewiston is part of that effort and I think this would be yet another reason for people to go out and exercise their Constitutional right and their civic responsibility. May I pose a question through the Chair, Mr. Speaker?

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

Representative **COLWELL**: Thank you Mr. Speaker. To anyone who may answer on the other side, is it the contention that we should mandate all local elections to be held in November?

The **SPEAKER**: The Representative from Gardiner, Representative Colwell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the good Majority Leader will be in the form of a question and the question is, if indeed June is a good time for these bond issues to be voted on, why are not all of the bond issues we're purposing in this Legislature being voted on in June?

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I will not belabor the point, but to my mind, June or November, any election is a good election to vote for investment in education, investment in homeland security defense, investment in clean air, clean water, sewage treatment, investment in all those things that make a difference in the quality of life for the good people of this great state.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I would ask you to support this bond issue going out so vote against the Indefinite Postponement. Let me give you just three real quick reasons why. First of all, if we go out in June interest rates are lower now, we know as we come out this recession, many already say we have started, interest rates should be lower in June than in November. We also know that the faster we can move this to the people, the faster we can start economic recovery throughout all the State of Maine. I would remind you that Maine has an excellent turnout each time that we vote. I would remind you that Maine people come out to vote much better than the rest of the nation. They understand bond issues. They understand where they want to put their money and they will tell you over and over again it is in bond issues and in fact to be able to vote to stimulate this economy. I would ask you to please support this, support the Indefinite Postponement. Thank you.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. It's quite interesting to me here this morning to listen to this debate of the times for votes in a municipality, or the state or whatever and for you that have taken part in municipal affairs over the years, you must well remember the times what the first question will be, when will be our next opportunity to vote and this could be something from the school department or items that have an urgent nature. My experience has been that whatever comes by in the next election provides that opportunity for those people that might have an issue that needs to go to the voters and certainly this one, I would say is entirely proper to be considered in June and in my area people are tuned in even though they may not vote for a primary candidate, they will certainly be there to vote on a bond issue. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Labrecque.

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

The **SPEAKER**: The Representative may pose her question.

Representative **LABRECQUE**: Mr. Speaker, Men and Women of the House. To anybody that can answer, I was always of the impression and perhaps it's wrong, that on these bond packages they aren't immediately funded. Could somebody please clarify when this particular bond package will actually go to the bank?

The **SPEAKER**: The Representative from Gorham, Representative Labrecque has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. In order to answer that question, I think if you looked at the two FAME programs, we were told by the officials at FAME that literally a month after the referendum they went to Wall Street with the bonds and got the money. So it would be a very short period of time thereafter that you'd be able to put this money into the economy. I think that's very important. I point out that there are a number of issues here. We can all talk about what priorities there might be and whether they are pressing and need to be done in June versus November, but currently we have two proven programs which, in fact, are out of money and if we can get the money back in there you'll see low interest loans to municipalities and to businesses to spur further economic growth and I think that's a good thing.

I took the Northern economic development tour some many months ago and it was a very depressing sight in some parts of our state. We have created something to address the needs in rural Maine and that is the Maine Rural Development Authority, which will give in the good times the opportunity for people to build new buildings in depressed areas and in the bad times to use those monies to retrofit the vacant buildings on Maine Street, which are so important, I think, to the fabric of our communities. We also have an opportunity if we can do it in June to start as soon as possible to meet the needs of our manufacturers here in Maine. Seventy manufacturers came together with a study and said we need the advanced manufacturing centers, both at the University of Maine and the University of Southern Maine. These are the pressing needs which we see. We put so much money into research and development, this is the bridge to the development and application of that research that we're going to use out there in the incubators and out there among our manufacturing concerns. Finally, I'd like to say just in respect to R & D that we've looked at, the bio-med money, we know what a return on profit that is, for us. Forty-seven thousand per year for each of those bio-med jobs as an average, that's a good thing. That's something that we ought to consider supporting. Let's put it on the referendum in June. It's an issue everyone can vote for, not just Democrats or Republicans or Greens, but Independents too and I'm going to put my faith in Maine people that they're going to come out and support this kind of package that I feel was so well considered. I just hope that you'll support Indefinite Postponement of this motion for those reasons.

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

Representative **NASS**: Mr. Speaker, Men and Women of the House. Again, in an attempt to answer the question posed recently. It is not true that these bonds when approved immediately go out to the market. Some do and certainly the good Representative from Brunswick just indicated perhaps a case where that will in fact happen, but in general there are other factors, the market, attempts to pool these things, the need for the money all determine when the state goes to the market to actually sell these bonds. In fact, it is my understanding that prior to this effort and these several bond issues, we have currently outstanding approved \$93 million in bonding that hasn't been sent out to market yet. Just to give you an idea over the current life of what bonds are out there now. We have currently \$93 million in approved bonding authority that has not been marketed yet. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I made a mistake the last time. I was under the impression that if I voted to Indefinitely Postpone, I would be giving more people a voice and I will always come down on the side of giving more people a voice, but I was under the impression that they would not be able to vote for the bonds and they will be able to vote for the bonds in the June primary no matter who they are. I will be supporting not to Indefinitely Postpone this. Thank you.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. Just a word more on the timing. We have split up the bonds. We have a very important economic stimulus choice to make in June and that is a good thing. Voters will be able to have the opportunity to give their undivided attention on a very important issue. We can move quickly to

stimulate job growth, particularly in our rural areas. We've heard compelling testimony today on the need to do that and voters will be able to turn their attention to a set of other issues in November. I really urge you to support this motion to Indefinitely Postpone the amendment, support this bond. We can't get started soon enough on job growth in rural Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I think you are really missing the point. We are all tired. We're not saying anything against the bond, but by voting for this Indefinite Postponement, you are definitely alienating the majority of voters in my district. The majority of voters in my district are unenrolled voters. I don't think that's fair, so please I ask you to vote against the Indefinite Postponement and allow people to vote on this in November when the majority of voters get out to vote. If it is such a good bond, wait. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. The Majority Leader, of course, is absolutely correct from a legal standpoint. From a legal standpoint unenrolled voters can vote in the June primary and perhaps a few do, but the Majority Leader also knows, as I know, as all of you know, that it is candidates who draw voters to elections. They will not come out to elections just because there's bonds on a petition. They will come out to vote for candidates and I'm going to stick with the words that I said earlier. Forty percent of the voters in Sanford are not going to show up at that election because they're going to feel that they don't have a stake in it and we know that even amongst registered voters that the turnout in June primary elections are very small, so small in fact, by the time the smoke clears in this primary in Sanford, we're probably going to have less than a quarter of all the registered voters voting on an issue that's of this importance.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. The question was asked earlier what the turnout rates are, it was never answered. Well I've had cause to look at turnout rates in general elections and primaries. I can tell you that in the past 20 years the lowest voter turnout that we ever had in a general election was in 1998 when it was a forgone conclusion who was going to go back to the Blaine House and who was going to be reelected in both the Congressional seats and there wasn't a really big reason to come out and vote in '98 and yet we had over 400,000 votes cast. In contrast the highest primary in recent history, in the past 20 years, was the presidential primary of 2000, where there was a hotly contested primary between Gore and Bradley on one side and McCain and Bush on the other and there were just over 200,000 votes cast. So in your lowest turnout ever in a general election, you had 400,000 votes, and your highest primary in the last 20 years you had half as many votes. In a June primary, in my study of the issue, has never gone over 15 percent, in a June primary of voters. The good Representative from Sanford was wrong when he said 25 percent. You'd be lucky to get 15 percent turnout as opposed to 50 percent in a general.

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

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I guess the university vote hasn't been mentioned here and the university vote can be very important. I suspect that

it can probably be very important in this issue. We all know that the students have gone hither and yon in June and they aren't around, but they're on campus in November, so if the university vote is deemed as very important on this particular issue, it would be better served in November rather than June, so I would say vote against the Indefinite Postponement.

The SPEAKER: The Chair recognizes the Representative from Montville, Representative Weston.

Representative **WESTON**: Mr. Speaker, Ladies and Gentlemen of the House. I rise not in disagreement, but just to share something that I consider a passion and that is a passion for civics, for democracy and for the right that we share in this, but there's also another piece and that's responsibility and I teach a lot in classes about civics, about how government works and my emphasis is always, it only works when you do. When you take responsibility. The polls are open in June, the information is there and the voters do need to take that responsibility. This debate can go on about whether or not it's the best time, but it's truly the voters that decide that. Thank you.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Jones.

Representative **JONES**: Mr. Speaker, Ladies and Gentlemen of the House. I'm so thankful we just heard the comments from Representative Weston. Do we all forget that we have town meetings in March, April, June and August? They know how to vote then. My little town of Beaver Cove in my district, they always have 95 percent voting. People understand, believe me, in this state how much we're hurting and what the needs are. In Piscataquis County recently we had seven towns that came on board for the speculative building program and to share, including the unanimous decision by Piscataquis County Commissioners in March, so I think we're not giving enough credit to the citizens of the State of Maine. If they're compassionate and understand the needs, which I clearly believe that they do, it doesn't matter whether it's March, April, June, or August, they're going to be out to vote for the needs of the State of Maine and let's give them the credit.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-1112) to Committee Amendment "A" (S-561). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 659**

**YEA** - Annis, Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Carr, Chick, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McLaughlin, McNeil, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tobin D, Tracy, Tuttle, Twomey, Usher, Watson, Weston, Wheeler GJ, Young, Mr. Speaker.

**NAY** - Andrews, Belanger, Bowles, Bruno, Buck, Bumps, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, McKenney, Mendros, Morrison, Murphy E, Murphy T, Muse C, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Rosen, Schneider, Shields, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Winsor.

**ABSENT** - Bagley, Baker, Berry DP, Chizmar, Estes, Gerzofsky, Goodwin, Landry, Madore, McKee, Michael, Pinkham, Povich, Tessier, Volenik, Wheeler EM.

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 **House Amendment "C" (H-1112) to Committee Amendment "A" (S-561) was INDEFINITELY POSTPONED.**

Representative MENDROS of Lewiston **PRESENTED House Amendment "D" (H-1113) to Committee Amendment "A" (S-561)**, which was **READ** by the Clerk.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I'm sure this is just an oversight so I put this amendment in to rectify it. What this amendment does is it puts \$5 million to help build the Bangor Auditorium. We had a strong vote in here in support of that for \$15 million. This is just \$5 million, requires matching money to be raised before the money can be released. Now if you think of the economy of Northern Maine as a tent, Bangor is the pole that holds that tent up, without this convention center the economy of Bangor plummeting. We can do all the little tricks and pork here and there and everywhere to boost up other areas of Northern Maine and it's not going to do any good without Bangor thriving. We have plenty of economic development packages that have gone through Southern Maine. Northern Maine needs something and I urge you to vote for the motion or in all probability to vote against the motion that is about to be made to Indefinitely Postpone this.

Representative NASS of Acton moved that the **House Amendment "D" (H-1113) to Committee Amendment "A" (S-561) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-1113) to Committee Amendment "A" (S-561).**

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

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

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

Representative **NASS**: Mr. Speaker, Men and Women of the House. I urge that you vote for Indefinite Postponement on this proposal. We've had the Bangor Civic Center in front of us several times. It's gotten some big votes, but this amendment basically would be an intrusion on what I view as a solid economic development package. I'm concerned, as I have been, on all these bonds, about the bottom line. How much is the total that we're going to be borrowing if these things are approved by the voters. If this additional money is put on that it makes this package very unattractive to me and I would assume a number of other people, so it's the total package that we're talking about here. The Bangor Civic Center is not part of that package so I would urge that you vote for Indefinite Postponement. Let's keep this package meaningful and useful to all the citizens of Maine. Thank you, Mr. Speaker.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I had not planned on putting in another amendment, but when my good friend from Lewiston,

Representative Mendros, choose to go ahead and put one in, I thought I would stand up and speak. I think this is as worthy as almost anything else that's in this bond package and I'll be voting for it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative RINES: Mr. Speaker, Men and Women of the House. Up until this point when we have done the amendments to the bond packages, I've voted against all of them. This one I will be supporting for a lot of reasons. The Eastern, Northern part of the state is in need of some help and support. In the past the Legislature has put money into businesses in Southern Maine, in BIW and the like and they have done a lot for the economic development in the Southern part of the state. I think it's time that we did some work in the other part of the state and help them out as well. Five million dollars is a lot smaller figure than we originally started out at and I think this is a really good idea for us. Thank you.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I hope you vote in favor of the pending motion. \$5 million, ladies and gentlemen, would barely be enough to do a parking lot for a new auditorium. If we're going to do a new auditorium we ought to be up front about it and do it right. Let's not piddle around with \$5 million. Let's look at the entire package. We've had several opportunities to deal with this. Let's deal with one issue at a time and let's not do this. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "D" (H-1113) to Committee Amendment "A" (S-561). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 660**

YEA - Andrews, Annis, Ash, Belanger, Berry RL, Bliss, Brannigan, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chase, Chick, Clough, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Duprey, Etnier, Foster, Fuller, Gagne, Glynn, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Mailhot, Marrache, Matthews, McDonough, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Michaud, Murphy E, Muse C, Muse K, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rosen, Savage, Schneider, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Tobin D, Tracy, Trahan, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler GJ, Winsor.

NAY - Blanchette, Bouffard, Bowles, Brooks, Buck, Carr, Clark, Crabtree, Daigle, Davis, Dugay, Fisher, Gooley, Haskell, Kasprzak, Ledwin, Marley, Mayo, Mendros, Mitchell, Morrison, Murphy T, Norton, Paradis, Perkins, Perry, Rines, Sherman, Simpson, Stedman, Thomas, Tobin J, Treadwell.

ABSENT - Bagley, Baker, Berry DP, Chizmar, Estes, Gerzofsky, Goodwin, Landry, Madore, McKee, Michael, Pinkham, Povich, Volenik, Wheeler EM, Young, Mr. Speaker.

Yes, 101; No, 33; Absent, 17; Excused, 0.

101 having voted in the affirmative and 33 voted in the negative, with 17 being absent, and accordingly **House Amendment "D" (H-1113) to Committee Amendment "A" (S-561) was INDEFINITELY POSTPONED.**

On motion of Representative BERRY of Livermore, the House **RECONSIDERED** its action whereby **House Amendment "A"**

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

On further motion of the same Representative, **House Amendment "A" (H-1096) to Committee Amendment "A" (S-561) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-561) as Amended by House Amendment "B" (H-1107) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-561) as Amended by House Amendment "B" (H-1107) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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An Act to Implement the Unanimous and the Majority Recommendations of the Commission to Study Equity in the Distribution of Gas Tax Revenues Attributable to Snowmobiles, All-terrain Vehicles and Watercraft

(H.P. 1575) (L.D. 2081)

(C. "A" H-1054)

TABLED - April 3, 2002 (Till Later Today) by Representative FISHER of Brewer.

PENDING - **PASSAGE TO BE ENACTED.**

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

**ENACTORS**

**Acts**

An Act to Promote the Fiscal Sustainability of the Highway Fund

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

(C. "A" H-1042)

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

On motion of Representative MURPHY of Kennebunk, was **SET ASIDE.**

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. I'm glad that we're addressing this issue now during the daylight hours rather than after midnight, after Maine's newspapers have been put to bed for the day. We're also looking at an issue here that we have a highway budget that is currently balanced and there's almost hysteria or a rush that we have to address the structural gap and I would have liked to have seen that concern when we enacted a general fund budget that left a structural gap of \$600 million. Now I think one of the things that's happened is that I think people are aware that this is a stealth tax, that you tie it to the CPA. I got home at 2:00 a.m. last night and enough time to turn on CNN and I watched what was happening in the Middle East. I listened to the threat that was made by Iraq to shut off the oil and I had to ask myself, why are we currently buying Iraqi oil? That was compounded also by a strike which has broken out in Venezuela than whenever OPEC shuts off our oil, it's usually produced in this hemisphere or in Africa that will help us offset that. A barrel of oil went up 4 to 5 percent yesterday in one day and many of us that have that protection plan on our fuel oil have been looking at our prepayment and saying we've never hit that gap. I think by the

time you get your May delivery or June delivery, you're going to need that price protection on that cap.

I think what you've done here or what happened last night is that you've tied yourself to world conditions. You've put us on an automatic escalator. You've put us on the express elevator potentially for conditions that could take us back to the 1970's. What you've done is that you've defrauded the citizens, because you tell them that there's a tax increase July 1st, 2003, but it's a retroactive tax increase back to 1999 and we're told that it's only going to be two and three-quarters or maybe three cents. The inflation meter is running and that inflation meter will run till that July. You've been told a commissioner, we can't say commissioner so and so, because we don't yet who that commissioner is, can submit a bill and that's walking away from your responsibilities. No one has reputed that in a long session of the Legislature that it would take a two-thirds vote, giving the timing, to repeal that tax increase and many of us in this chamber have worked beyond July 1st, in this chamber, and that tax will go into place before that long session and I have a feeling that those of us that are coming back next year probably better plan on spending the summer here given some of the problems we're looking at.

The other thing is that because of term limits our window is very short. Very few of us get to straddle the end of one administration and the beginning of another and what happens is that when you get to the end of one administration, especially a Chief Executive that has served two full terms, the ideas become very tired. Solutions become very much a rut, we've got a problem in the highway budget so raise the gas tax. It becomes an old worn out tired solution. What happens when you have an election for a new Chief Executive, you have a breath of fresh air that comes in and you have people looking at the vision of the next four years to eight years instead of the short term and they come in with new ideas and new solutions. My concern is if this bill stands and you use this gas tax, you've used your last option, because even the supporters last night said, we'll probably have to come back. Well when you come to the well this time for an automatic gas tax, the cover is going to be on that well and you're not going to find any other solutions.

I think you also received a letter from the Maine Municipal Transport Association and I think many members that thought they could do a stealth tax, get reelected and then surprise, it's here. The sunshine is beginning to shine and even though that tax won't go into effect until July 2003, the sunshine is beginning to tell the voters of the fraud that has been perpetrated upon them.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. It is daylight, the Representative from Kennebunk is correct, and I don't think many of us have changed our minds. Maine roads need to be fixed. Maine bridges need to be fixed. I just wish that all these ideas that are being floated around had been with our committee in the last two years when we've been working on this idea, but unfortunately I don't remember seeing any of the familiar faces that are in this body right now in front of our committee with their ideas. The most disturbing thing to me folks is to go home and watch CNN and to watch how gas prices have risen, 20, 30 cents in the past three months but not one person in this body, I don't think, has written a letter to our Congressional leaders or to our administration in Washington, D.C. You know why, because the big business, the big oil men are getting their pockets lined at our expense and we don't fight it, but when we have a two cent, or half a cent tax that's going to go into our roads or bridges we seem to fight it folks. What is

more expensive 30 cents or a half of cent? I hope you defend the highway committee and defend our roads and bridges and defend economic development that we all preach and praise up here and help our infrastructure in this state so that we can grow as a state. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Members of the House. I'll be very brief, but I wanted to say that I was before that highway committee and I had an idea. I asked that committee to attach an amendment to their budget to allow the highway fund to be evaluated independently, to be restructured, to work over the summer together to restructure the highway fund to find other sources of funding, so there have been other ideas. That idea was buried.

I just want to share a little story with you. Two of the most honest truck drivers in my community have been fined recently under our new truck weight law. One of them is going out of business, the other is selling everything he has to pay his fine. There are policies that come out of this committee that have crippled the trucking industry. This is just one more brick on top of the pile. How long before our trucking industry breaks? I ask you to remember that when you vote. Thank you.

Representative WATERHOUSE of Bridgton **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 PRO TEM: The Chair recognizes the Representative from Portland, Representative Marley.

Representative **MARLEY**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to point out a few things that the good Representative from Kennebunk had talked about, a letter from the Maine Motor Transportation Association, and as he talked about that escalator that only goes up, in that letter it's noted that since 1913 when the United States Department of Labor began keeping the CPI it has gone negative 12 times, so it can in effect go up and down. The other thing is imagine this debate was around the issue of if we were going to index the sales tax or the income tax, that rather than it going up, we see it going out of control. That this Legislature had the control to come in and stop that and that's what we're saying we can do with that. That would be something that the other side of the aisle would embrace, that would be a more conservative approach. We like to hide behind the issue that we have no control behind indexing and that's what made indexing a dead issue on the committee, so several of the more conservative members wanted to make sure there was legislative oversight and that is why we've put in this repeal piece and those are many of the same members that have now turned and want to use that as the issue of why this is deceitful or fraud. So we've put this in simply for the ability of the Legislature to have the oversight and the ability to see if that is going out of sight and is having a detrimental affect, that we can repeal it. I certainly, once again, have no problem going back to my citizens explaining about the projects, the roads, the economic development we're bringing, but please keep in mind that this is truly something that is needed. I'd rather raise a half cent now than let the roads get in worse disrepair. There's over 4,000 miles of roads that haven't seen work in this state in over 50 years. We have hundreds of bridges, if not thousands, that need the work. We can do it now for a very small incremental increase or we can wait and you can be having a five cent increase down the road. This is a very fiscally responsible way of doing this and I certainly hope you will support Enactment. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I cannot believe my ears in what I've just heard. This is not a responsible way of running our government. You do not tie the hands of future legislators. You do not make laws for next year's Legislature. We don't even know who is going to be here next year. Increasing the cost of delivery of our product is going to increase the cost of our produce and our vegetables. It's going to increase the cost of food that we need to put on our tables to feed our families. Did anyone think of that?

Mr. Downing was a constituent of mine, just came back from a trip down South and he happened to notice the gas prices, driving on the way home. He just called me this morning and he just could not understand, he's a business owner, that we voted on this bill and we voted in favor of it. He said that Minot Avenue in Auburn, Maine had the highest cost of gasoline price in the whole Eastern seaboard, folks. I've been here now six years and I'll tell you when it comes to repealing things, it is a rarity. It is a rarity. I'm sorry if I sound angry, but I'm fighting for my people back home. This is very, very serious folks. Let us not be selfish and worry about our projects, they will get done, they will eventually get done, but passing a trigger is a very dangerous thing. To constantly increase the cost of gas tax, the folks up here in Maine cannot afford it. You must understand and know where we are located in the United States, we're not in the center of the United States, we're not in the metropolitan area, we're in the Northeast, folks. It is very costly to get our produce here to Maine.

Forget economic development, just forget it. We might have the most beautiful roads and bridges, but people won't be able to afford to drive their cars. Personally, I'm even going to talk about myself. I struggle during the off-season when we're not here to put gas in my car. I can imagine the everyday citizen who works a few jobs. You know at low wages trying to struggle to put fuel in their cars to get back and forth to work. I ask you to please, for those of you who voted to support this tax increase to think again. Thank you.

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

Representative **MORRISON**: Mr. Speaker, Ladies and Gentlemen of the House. Living out in the boonies or boondocks like I do and a number of us do here in this House, in the Legislature, it's a very, very difficult decision. Now if I lived along the I-95 corridor I think it would be much easier, gee my roads are fine, I don't have to worry about this tax increase and so forth. I'd just simply say, I don't believe in the index and to heck with it. Last night, I'm there tossing back and forth, being an old educator I went home, believe it or not, while Representative from Kennebunk, Representative Murphy, was watching TV, I was doing some homework on this. Talking, asking and little discussion to find out what is the best way. We're going to get hit hard with the tax over in our country. We desperately need roads and highways. It's a very tough decision. I don't like the indexing. I don't think it's the way to go. I did get some assurance when I found out last night. I will be changing my vote today. I did get some assurance that the highway fund is presently okay. I'm not sure what the answer was, or what the details was, and they say the devil is into details, but what the plan was that between now and the next Legislature there will be a plan on the books, it may be a bonding thing to take care of some much needed construction, certainly a lot safer than this indexing thing as far as I'm concerned.

Being an emotional issue, I guess I got accused of being a fraud on the Maine voters last night and my response to that is someone who's been in the Legislature the last 6, 8 10 years, I'm not sure what has happened to the Maine people in that case, maybe it's called high crimes and misdemeanors and I haven't been here long enough to be charged with that. The basic fact is that gas prices 90 miles from Brewer right now are twelve to fourteen cents per gallon more. I guess we're already paying the tax over in our country. The fact is, we're not, that's not going into tax it's not going towards the highway, it's going into somebody's pockets. I know the good Representative from Portland, Representative Norbert, had a bill before our committee, the gorging bill and I asked the oil industry people, don't you think that's gorging? No, no, it's a rack price and all this other stuff they give you, not it's not gorging. I said if that's not gorging, then there isn't such a thing, we don't need the bill. I think that's gorging, 90 miles away and twelve to fourteen cents per gallon difference. Twenty cents per gallon difference between little Getty out here on Western Avenue and Baileyville, twenty cents per gallon. So we're already socked with high prices of gasoline over in our country. We already and have had over the years poor roads, now they've done a lot of good work on Route 9 and that's great, as far as getting the East West Highway, very unthinkable. I think that's a dream that may come well beyond our lifetimes and several lifetimes probably.

Infrastructure is important to economic development. It would be nice to have an East West Highway and I was all in favor of it. The chances of that are very, very slim, as far as I can see. I was in favor of the turnpike widening. I've gone through that turnpike, it needed it, it was dangerous. Two lanes going each way was extremely dangerous. You needed that extra lane. I do travel and go out of state now and then and I was putting my life in jeopardy so I had a self-interest there too. I want to save my own life. That third lane on the turnpike was important and I voted in favor of it.

We got in a lot of hot rhetoric last night and around and around we went, but like I said you can almost flip a coin if you're living out in our country. We need the roads. We don't need the tax. We're already paying so much more for gas than anybody else anywhere in the state, I guess, well except for Aroostook County. Basically I-95 is the key, we've known it. Development works along I-95, that I-95 corridor goes right up through the middle of the state. The deterioration of the roads are directly proportional to the distance East and West of I-95, basically, the further you get out the worse it gets. As I said I think that we've got to have a better thing than the indexing. I'm not in favor of the indexing. I think that's probably, of the two evils here, increasing the taxes through indexing or maybe losing the highway fund, but I'm guaranteed, at least that's what I've been told, I could be sorely disappointed, but that's the way it goes. You vote and you say oops I missed the mark and we don't get bridges and highways or whatever. Apparently the highway fund is okay for this time and by the next time around we'll have to come up with some kind of appropriate way to fund the highway fund. It needs to be funded for sure, no question about it. 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 won't take too much of your time, don't think I have in the past. Roads are very important to us here in Maine, we all know that. Roads are the lifeblood especially of rural Maine. As far as what we did last night in voting for this legislation, nothing is etched in stone when it comes to the Legislature. I'd just like to say one thing, that 20 to 25 percent of the gas tax is paid by out-



of-staters and I'd like to make reference to the flyer that came on our desk here this morning from the Maine Motor Transport and it says on paragraph five, this fuel tax increase will place Maine among the highest in the nation, so I wondered about that. I went out and I asked the question and the answer is that Maine is about 25th or in the middle. We're not among the highest in the nation, so I'd like to have you think that over when you come to vote on this again. I did vote for it last night and I plan to vote for it again.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. If I could respond to my good friend from Portland who earlier expressed a little confusion about how the principle of index can work one way or the other. I think maybe I can clear that up for him and it might help him understand maybe us a little bit more over here on this side of the aisle. We believe that Maine government should never be the beneficiary of inflation and we also believe our Maine citizens should never be penalized by inflation. Now I can repeat that and say it slower if you want to write it down and be able to use that as a guiding principle, government should never be the beneficiary of inflation and that's what we did last night. We need to protect Maine citizens so they're never penalized by that inflation because the inflation becomes a double level of taxation.

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

Representative **FISHER**: Mr. Speaker, Men and Women of the House. The debate today started out by a discussion of bringing this up in the light of day and I'm not at all ashamed to bringing it up in the light of day. I would hope that our debate could be short so we could finish in the light of day if that's legal and proper.

To respond to three or four of the things that have been said, certainly we do not need to address the structural gap. What we need to do is set up a mechanism so that the commissioner can establish a budget for next year. We can't make up the budget. Secondly, this is not automatic the next Legislature has the right to vote to reject the increase and it can go even further, it can vote to reject the whole concept entirely, you can wipe it off the books. The next Legislature is not held to what we have done here today. You want an example of how the Legislature has cut back, look at the '70s. In the early '70s we were producing 300 plus miles of reconstructing roads a year. That was cut back to less than 40, back in the early 90s for a variety of reasons, biggest of course were our economic problems. When the state had some severe economic difficulties and if my good friend from Kennebunk is right, we may have them next year. We will just have to tell the Department of Transportation to ratchet back on your plans, we can't do it. That's the responsibility of the next elected body here.

Comments about Maine Motor Transport, let me just suggest to you one great example, the work done on Route 9 between Bangor and Calais. Maine Motor Transport benefits greatly by it, a round trip is one hour less than it took before. Roads are better. They make better time and I would assume by being able to travel in a steady fashion and not have to hit the pedal to the metal and have backups that they can do it in a much more fuel efficient fashion. If they can carve an hour off their round trip the food prices, if these people give the benefit of that time savings back to the public, it should be a little bit less.

A comment made just a moment ago about penalizing the people of the State of Maine, I would suggest we should also be very concerned about penalizing the people of the State of Maine by our inaction. I question whether or not previous Legislatures

have been responsible for some of the activities that they have participated in dealing with the highways. Back in the '70s for example, there were a lot of things postponed when the state was financially able, now we're paying for that.

Lastly, the Transportation Committee will be meeting in the interim and you can bet that on the plate this summer and next fall, in the three or four meetings we have scheduled, there will be the discussion, how are we going to adequately fund our highways, efficiently build our roads, continue the good work of the present Department of Transportation leadership. I would encourage you to support the vote we had last night. I used this expression last night to protect our families, our friends, and our neighbors and the people who come here to visit the State of Maine. I accept a lot of these visitors from outside because they pay a good deal of this tax. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. Believe it or not, back home I'm considered a conservative, if not an ultraconservative, but I have always believed that a conservative knew when to spend money on our local roads. We've found it costs us about \$30,000 a mile to overlay that road. I've checked with DOT and they're giving me a figure of about \$1 million per mile to reconstruct. If we miss just one building season and don't have a full building season, we're going to be swapping overlayment of \$30,000 a mile for \$1 million a mile. A true conservative, which I hope the people on both sides of the aisle are, I hope we vote to fund this DOT issue and let's get on with it. It's almost lunch time.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I know we debated this last evening, I just want to reemphasize that this bill is only a mechanism to allow the good commissioner of Transportation to continue his work this summer with all your architects in the various areas of this state to put together a plan for us to take a look at next year. The result of that plan will then be the pin to the discussion that this bill precipitates and causes to happen. We know that this bill will cause the whole Legislature to look at the tax increase in the highway. It's going to have to sit down and say, how is the general fund going to be a partner, or a potential partner in our infrastructure in the future, wrestle with the flat tax situation with gasoline consumption and bring all the parties together and apply the right pressure from all of those different committees of jurisdiction that typically just want to protect their piece of the pie and say no we don't want anybody in here, we don't want anybody into our funds. I think it really sets the stage for a wonderful discussion next year whether we're going to increase the tax, go with the general fund or go with some special revenues, all of which I've heard some great things being said today has been offered up. I don't think the committee of jurisdiction is going to allow any good suggestion to go unresearched as this process goes forward.

I want to respond to at least one of the discussions here about increased costs. I've heard people talking about their business and their constituents and how this is going to cost them a great amount of money. One thought was mentioned to me and it makes a lot of sense. I lived in the rural part of the State of Maine like the good Representative from Baileyville, Representative Morrison, and I know we have twenty and thirty cent gas differential between here and the good capital of Augusta; but I know one thing that our truckers tell us is that they have to take an extra hour to circulate the whole State of Maine from one end to the other to get their commodity to

market, two cents a gallon in their fuel tax is nothing compared to the loss of productivity of delivering a product in a timely manner. We know that time is money and in business, time and delivery of money and the number of stops you can make in a certain period of time is far more valuable to our business folks than if they have to pay two cents more in tax, so I hope you keep this thing all in perspective. The discussion of the real increases is going to happen, yes, next year we're bringing all the players to the table, but don't disallow the commissioner and the good folks that are out there working on your various architects across the state from the process of planning so that we will make the right decision next year, but we don't want to lose a whole season of capital improvements and planning to move that forward for all the areas of the state. I don't think anything I've said sounds anywhere near a threat of any kind. It's a proper approach, a conservative approach, to continue the good work we've done in this state for transportation. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Members of the House. I don't know if somebody would notice, but I've got up on this a couple of times and I've been kind of quiet during the session, I haven't said a lot, unlike some of the other sessions that I'd served here. This issue in particular has really kind of got under my skin and I'll tell you why. I think this issue has kind of been drawn into another area, another area that has pitted one committee and members of that committee against some people within the Legislature. I received a lot of the same pressures and threats that many of you did in here about the roads and what was going to be done in your community. I'm a big boy, I can take that, but I consider many of the members on the Transportation Committee friends, people that I work with every day, people that I respect. I'm really kind of troubled that I'm getting stares and people walking through the hall grumbling at me. I just had words with one of the committee members who I consider a friend. Ladies and gentlemen we debate policy and issues here. I like to think that we can respect each other and respect other people's opinions. I do that with many members in this body and I kind of expect that in return. I wonder why people are taking this so personally, for me this is a policy debate. I don't believe in retroactive taxation, for fuel that's already been purchased and expended, taxing people for that. I believe that that's my personal opinion and I hope that others here honor that, but I don't like this aura that is about us, that somehow if we don't support this then our projects in our communities will be threatened. Ladies and gentlemen, my citizens pay gasoline tax, like everyone else in this state, they deserve their projects, but don't try to stifle debate on policy, please and no more blank stares and grumbling threats. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion. We've heard this is bad tax policy and we're putting a mechanism in place that is bad tax policy that doesn't sunset. We hear that it could get voted away, if that were true and if it really were supposed to go away then there would be a sunset and it would have to be kept on. We're putting a bad tax policy in place as a tool instead of going after general fund money, which is where the money should come from for road construction. Now this tool will be in place and it'll stay in place and we will have executed bad tax policy for eternity.

Now we have to plan for the future, well the new executive, whoever comes into office next year can take that V-tip and toss it the trash can and come up with their own and have whoever

they put in charge of transportation make their own plan and they probably will. All we're doing now by putting this in place is punishing Maine citizens, so from now on when Maine citizens, just like before you go to Canada you fill your car up with gas because it's so expensive there, that's what people are going to do in New Hampshire. They're going to fill their car up with gas before they come to Maine so they can buy as little as possible here in Maine because in 20 years our gas prices are going to be exorbitantly higher than anyone else, probably in 10 years. What people are going to do along the borders, when they go across the border to buy their cigarettes, which are cheaper in New Hampshire, they're going to fill up with gas. So you might as well shut down the gas stations on the border and finally the people we're going to punish the most with this tax is the poorest people in Maine, because whether you drive a 1980 Escort or 2002 Escort, you do the same damage to the roads. You have the same weight on those roads, but the people who have the older cars are going to pay more, because they're not as fuel-efficient and they're the ones that we're punishing. The poorest people who can least afford to pay it, we're going to punish with this gas tax.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I hated to stand up on this one, but I just felt that I have to tell you why I am opposed to this. First of all, we think by the title of this bill we have solved the highway fund deficit and we have not. It raises \$48 million. You have an \$84 million deficit and you need to bond the rest, because you haven't solved the problem. So you're going to vote for a tax increase and think you solved the problem and when you come back in January, you got to go where are we going to get the other \$40 million from. That's the problem with this bill. It's not a total solution. It goes halfway. If you're going to come up with a title that says promote fiscal sustainability, be real about it, be true about it. Don't say we solved it halfway and we're going to come back in January and we're going to have a bond issue for you and then if you vote for the bond issue, yea we'll solve our structural deficit, but if it doesn't pass, then we're in trouble and we'll need to raise it another two and a half cents and then we still won't solve the problem, because a gas tax doesn't solve the problem. That's why I'm opposed to it.

I supported a gas tax in 1999, because that's what we needed to do, but this bill only get you halfway there and doesn't solve the problem and if you're going to pass legislation like this, you ought to solve the problem. Thank you, Mr. Speaker.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. The reason the Transportation Committee has indulged in the gas tax as a way to fix our roads and bridges, because it's a user fee. Unfortunately we would try to fix it in another manner through the general fund, but leadership from both sides of the aisle have denied us that right, so we've looked at the user fee, which is the gas tax, to fix our roads and bridges and to keep Maine moving forward. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. If we're going to continue to raise the gas tax to fix the highway structural fund, \$88 million, we need to raise it over 10 cents a gallon. Let's do it right now, put an amendment out and we'll fix it right now. It needs 10 cents a gallon, otherwise we've got to do just what they did at IF&W and dig into the general fund, maybe undedicated the highway fund,



there's all kinds of things we need to talk about, but this doesn't fix it.

The SPEAKER PRO TEM: 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. 661**

YEA - Ash, Berry RL, Blanchette, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Clark, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gooley, Green, Hall, Hatch, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Marley, Marrache, Matthews, Mayo, McGowan, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Rines, Savage, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tuttle, Usher, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Bliss, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Goodwin, Haskell, Hawes, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Mailhot, McDonough, McGlocklin, McKenney, Mendros, Morrison, Murphy T, Muse C, Muse K, Nass, Nutting, Peavey, Perkins, Pinkham, Richardson, Rosen, Schneider, Sherman, Shields, Simpson, Snowe-Mello, Stanley, Stedman, Tobin J, Tracy, Trahan, Treadwell, Twomey, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Berry DP, Chizmar, Colwell, Estes, Gerzofsky, Landry, Madore, McKee, Michael, Povich, Volenik.

Yes, 71; No, 67; Absent, 13; Excused, 0.

71 having voted in the affirmative and 67 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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**BILL RECALLED FROM LEGISLATIVE FILES**

(Pursuant to Joint Order – House Paper 1736)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$43,000,000 to Improve Homeland Security in Maine, to Renovate a State Office Facility, to Build a New Correctional Facility in Machias and to Make Improvements to the Maine Correctional Center in South Windham"

(H.P. 1629) (L.D. 2129)

The Bill was **READ ONCE**.

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

Representative BERRY of Livermore **PRESENTED** House Amendment "A" (H-1110), which was **READ** by the Clerk.

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

Representative BERRY: Mr. Speaker, Men and Women of the House. This bill was recalled from the legislative files to provide the vehicle to put the corrections facilities bond out on its own. It would include a Downeast Correctional facility in Machias

and the Maine Correctional Center improvements in Windham. The referendum would be in November. Not to rehash the whole debate the other day on this particular item, but this is following through on plans that we began, I believe in the 118th Legislature, since an ongoing project, this is the final phase of the effort that we started. I know personally I'd like to think that we were able to follow through on that and actually complete something we've started, not leave it for another session or another day. We've been criticized in the past for the way of funding. I hope you will allow this to go out to the voters for a vote on general fund bonding. Again I will just ask you to support the motion. Thank you, Mr. Speaker.

**House Amendment "A" (H-1110) was ADOPTED.**

Representative NORBERT of Portland **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

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 Passage to be Engrossed. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 662**

YEA - Andrews, Annis, Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Carr, Chase, Chick, Clark, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Goodwin, Green, Hall, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McLaughlin, McNeil, Michaud, Mitchell, Morrison, Murphy E, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Quint, Richard, Richardson, Rines, Savage, Sherman, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Belanger, Bowles, Buck, Bumps, Clough, Collins, Daigle, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Honey, Jodrey, Kasprzak, Ledwin, Lovett, MacDougall, McKenney, Mendros, Murphy T, Muse C, Muse K, Nass, Nutting, Rosen, Schneider, Shields, Stedman, Waterhouse, Weston, Winsor.

ABSENT - Bagley, Baker, Berry DP, Chizmar, Estes, Gerzofsky, Landry, Madore, McKee, Michael, Povich, Volenik.

Yes, 106; No, 33; Absent, 12; Excused, 0.

106 having voted in the affirmative and 33 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1110) in NON-CONCURRENCE** and sent for concurrence.

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

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**Non-Concurrent Matter**

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)

**PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1101) in the House on April 6, 2002.**

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-575) AND HOUSE AMENDMENT "A" (H-1101) AS AMENDED BY SENATE AMENDMENT "A" (S-609)** thereto in **NON-CONCURRENCE**.

Representative **BUNKER** of Kossuth Township moved that the House **ADHERE**.

Representative **TREADWELL** of Carmel moved that the House **RECEDE AND CONCUR**.

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

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, Ladies and Gentlemen of the House. We right now have a second opportunity to do what's right for the economy of the State of Maine. Last Friday night and Saturday morning we debated at length the Kotch bill, as it's been referred to, LD 2202, and I urge you not to be fooled. The workers' comp costs in the State of Maine are real, prior to Kotch there was a company in Portland and I'll put a name and a face on this company. It was Fortune, Inc. of Falmouth, Maine. They make canvas sails. They had a worker's comp premium that jumped from \$13,000 in 2001 to \$38,000 in 2002. That's almost a 300 percent increase in their comp premium. Prior to Kotch an employee was not permitted to combine two unrelated work injuries to establish permanent impairment for purposes of Section 213 and the personal impairment threshold, which is now at 11.8 percent.

HP 1101, which is the amendment that was submitted by the Representative from Harpswell, Representative Etnier, is well intentioned, but it's very expensive. It would allow all injuries to be combined with another work related injury after January 1st of 1993, making an employee eligible for lifetime benefits if the PI rating exceeded 11.8 percent. This will cause enormous unanticipated costs to the system. This threshold of 11.8 percent permanent impairment used to determine who was eligible for lifetime benefits was not established based on data that included unrelated work injuries being combined.

The bill that is before us now is Senate Amendment (S-609) that was submitted by Senator Kilkelly bridges the gap allowing unrelated work injuries to be combined meeting the policy goal of H "A" (H-1101) amendment, but on the basis that it will not impose on unanticipated costs on Maine employers. S "A" (S-609) allows the combining of work related injuries occurring after January 1st of 2004 provided the threshold has been adjusted by the board. By making the combination prospective with an adjusted PI threshold, enormous unanticipated costs estimated as high as \$200 million will be avoided. We have heard concerns about the Churchill case mentioned here. The amendment does not change the ruling of the Churchill case, because it allows injuries that are aggravated by the work injury to be included in the permanent impairment rate. Churchill is unaffected and starting in 2004 a new category of stacking will be permitted. Work injuries may be combined even is unrelated. Over 70 percent of the workers' compensation market is self-injured or insured by MEMIC. If the proposed stacking was retroactive, there would be a very substantial unfunded liability for employers. This burden is avoided by making the changes prospective. In 1999, the PI threshold was lowered from 15 percent to 11.8 percent. Weekly partial cases from 1993 through 1999 that have a permanent impairment rating between 11.8 and 15 percent are paid for by surcharges on Maine employers that started this

January from the supplemental benefits fund. The exposure for this fund is enormous and will be paid by Maine employers, not the insurance companies for years. The stacking allowed by the Etnier amendment (H-1101), would cause four cases to fall into this category. The Senate Amendment (S-609) avoids this increase to the fund and the increases in surcharges to employers. I would urge all of you to do what's right for the State of Maine today. What's right for the employees of the state, the schools, the communities, the non-profits and all those other people that paid compensation insurance premiums and not make this a political issue. Let's make this a reasonable issue and go ahead and Recede and Concur to the bill that is before us.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I'm sure the discussion that was given by my good friend on the committee, Representative Treadwell, is not any different than the information in the data that we discussed on Friday evening. You know this is a very, very tough thing for the committee of jurisdiction because we have, as you can see, even if you've read the new amendment, that amendment is going in a completely different policy direction and policy implications that nobody's had any time to work on, modify, clarify and correct. There's a whole host of problems with the approach that the other body is sending this way. What is really clear to me is that the people came, the Chief Executive came, the business folks they all came with a clear message that we have a problem with the Supreme Court ruling of Kotch and I know that this body on Friday evening on both sides of the aisle voted unanimously, almost, to repeal that problem and that was to repeal Kotch. We were graced with the problem and we repealed the problem and I think that's what we are doing here. We're going to ask to vote down this Recede and Concur and move on to adhering to our prior action, which simply does what the people and the business folks of the State of Maine asked us to do. The other fall out and the other issues that were conveniently attached to the Kotch, the sky is falling argument, there are arguments that the committee of jurisdiction need to continue to work on and I think we have always agreed to continue to work on those issues and as I stand here today if somebody submitted a bill to repeal employee injured worker's rights on January 1st of this year, well back beyond the current existing case law that existed on January 1st of this year, we wouldn't even be standing here today, ladies and gentlemen. So let's stick to the point at hand. Allow the committee of jurisdiction to continue to work on the other problems and their enormous laundry list of problems with workers' comp and the comp board and the functioning and we're all 100 percent committed to continue that, but please don't allow the sky is falling mentality of the Kotch ruling to drive and enable anybody to make policy changes that haven't been well thought out and haven't been worked and haven't been perfected to make sure that what action we take today improves workers' compensation for both the employer and the employee.

In the brief discussions we have had we realize the real problem exists with the insurance company and the people that are funding these things and playing the middle person in this situation. It's not the employer we're working with to correct the implications of Kotch with employers and contain costs and we're also working to ensure that the hard earned benefits that the employees have gained back since 1993 in accordance with that settlement go on into the future and this is not that time or the place to make rash changes in the total system without a whole program approach. I'd ask for you to stick with our prior stance of repealing Kotch, which is the unanimous situation that we all

agree to and I'd ask that let's not get into debating the merits of the other policy decisions outside of Kotch because, quite frankly, you can do that until the cows come home and you won't see any resolution in this body about the policy decisions that are being floated around here today. Let's stick to our guns, repeal Kotch and move on to vote. Thank you.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I appreciate Representative Bunker referring to seeing when the cows come home. We can debate this all day long. It's been debated far too long as far as I can see, but the one thing that has been abundantly clear in that debate is that this whole issue, the confusion that surrounds this issue. Initially if we didn't repeal Kotch, it was going to cost the state over \$100 million, now we repeal Kotch and it's going to cost us \$800 million. I think the one thing that has become abundantly clear is that with all of the confusion that's surrounding this issue, first of all, I think we need to hold to our position. I think the good Representative Bunker is absolutely correct in that matter, but I think one thing that has been brought to light by this, I hope that members on both sides of the aisle in the corners will use this issue as a catalyst perhaps to launch an entire investigation, a complete investigation, into the payments and the process of the insurance industry in the State of Maine, because I think it is as bizarre as looking out the window and seeing a flock of flying monkeys. Something isn't right. I hope that we will hold to our original position, Mr. Speaker. Thank you.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. If we do not overturn the Kotch case the ability for business to expand will be limited. People may be laid off, people will be reluctant to hire more workers, health insurance will continue to go up or not be as available as it has in the past and we'll not be able to retain the employment business levels that we have in the past. I think this is a compromise. We really want small business to survive and flourish and I'm not worried about monkeys flying, but I am worried about elephants flying. Ladies and gentlemen, please consider and pass this. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. The action this body took on Friday night to Saturday morning did not do what was necessary to maintain a vibrant economy in the State of Maine. The amended version that this body passed has an impact of some significant cost to the Maine economy, which trickles down from the abstract to the economy to the real people of Maine. I would suggest to you that there is going to be carnage if the House version of this particular legislation stays in force and becomes law. The impact on ongoing costs will be in the \$30's of millions of dollars and the retroactivity costs from \$100 to \$200 million, which is a large swing, but it tells you the instability that this would create.

In the winding days of session, of course we hear a lot of debates, fuller debates perhaps than earlier in the session, the good Representative from Millinocket, Representative Clark, talked in referring to an earlier bill to supplement Maine's academic attainment and to retain talents, when we were discussing that bill. He talked about that you have to have jobs. He's absolutely correct. You have to have jobs and this bill as in current form, if we do not Recede and Concur will be an anti-jobs piece of legislation. Earlier this morning we discussion a stimulus bond for rural Maine and the concern, of course, is about

economic growth, but those of you who support that particular piece if you do not vote to Recede and Concur are doing the very opposite, because you're infusing uncertainty and major costs to Maine businesses which will translate into lost jobs and it doesn't just refer to businesses it's referring to schools, our municipalities and our very small businesses of which we have many, many thousands throughout the state. Schools, municipalities and businesses all have to maintain a balance to maintain an economical stable business. They have to balance all those things and the investment from our perspective, from state investment as a piece of it, cost of energy, there's fixed cost, the infrastructure of buildings and machines and those things that businesses need to manufacture, to provide services, cost of transportation, cost of salaries and benefits, unemployment insurance and workers' comp and obviously if an organization has to pay out more, it has to deal with that in some way, in rising costs. When you're in a global economy, you can't just automatically raise your costs and still maintain your market share, so we'll have Maine businesses unable to do that and it will have to affect either their payroll or their benefit package in some manner and perhaps in some manner their future investments.

I'm sometimes convicted by my friends that I get too abstract and intellectual. It's not an intellectual argument here, ladies and gentlemen of the House, it's very real people, very real businesses. There was a gentleman who came to the public hearing and prior to Kotch has had a compensation premium of 300 percent increase, from \$13,000 to \$38,000 in one year. For a small business that is huge, absolutely huge, very destabilizing. It can put a road block in terms of expansion and even worse it could even cost the life of the business.

The amendment that this House passed on Friday night, very well intentioned was very expensive and the good Senator from Lincoln, Senator Kilkelly, tried to modify that in a very responsible way and I believe she did, because her amendment allows unrelated work injuries to be combined meeting the policy goal that was discussed, but on a basis that will not impose unanticipated costs of Maine employers, municipalities, non-profits and schools.

I had mentioned the other night, ladies and gentlemen, of the booklet *Measures of Growth in Various Categories* and as they rank various categories with business in terms for employees and employers and talked about some categories like personal income that there has been a lack of progress, that new business starts, the rate of New England states outpaces Maine. I talked about job growth as being stagnant. New products and services, which are absolutely vital for the Maine economy and into the future because when we have businesses such as Hathaway and others going out of business or leaving we have to have something to replace it. We cannot maintain a status quo in economy and expect to be changing some of these dynamics. The fundamental measure of business innovation is that someone can have an idea and fashion it in some way and go forward with it. The cost of doing business is a serious defect that Maine needs to overcome. Receding and Concurring will go a long way to at least maintaining the status quo and maybe reversing some of those trends.

Saturday morning, when we recessed, I got a few hours sleep and got up on Saturday morning and went to work. I ran into one of the foreman where I work and he was still shaking from something he had to do a little earlier in the week and that was we laid off 7 or 8 people and he said you know Jay what's really tough about that is, where are they going to go? Now I live in Southern Maine, I'm in York County, and he's right, I'm very close to the New Hampshire border and I would dare say where I live

there's more opportunities in some other parts of Maine and yet that was his remark. These were people trying to earn a living for their families, but the fact of the matter is a business has to make those decisions and I talked about balance a little earlier, the cost of business and what you have to spend out and the money that's coming in. It's just like your own personal budget, families have to do that all the time, and it's no less true with a business. As he was walking these employees out and a few of them were in tears, it broke his heart. These people had no place to go and in their minds and in their heart, they're thinking what do I do for a paycheck. I can get a job, but it will be less money and no benefits or can I wait it out for a few weeks and maybe I'll get called back. Their career paths are on hold, that uncertainty, very real. Real people that we all live with. Their heart of hope had been severed. No employer wants this particular situation. Many businesses across this state are in marginal positions today. Prior to Kotch, major increases in cost in a host of areas are putting businesses in peril, which means putting Maine families in peril.

Ladies and gentlemen, I urge you to Recede and Concur for failure to do so will drive a stake into the heart of hope of Maine citizens. I urge you to vote the right way. Thank you.

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

Representative **TESSIER**: Mr. Speaker, Men and Women of the House. I'll be voting to Recede and Concur, which essentially is a vote for the Senate Amendment "A" the so-called Kilkelly Amendment. Earlier today you received a comparison matrix comparing the two amendments, the House and the Senate and this was put together by Senator Kilkelly. I'm not going to go over that matrix. You can do that on your own. I'm supporting this amendment because it does two important things. I believe it does not change the ruling of Churchill and that it is cost neutral according to the National Council on Compensation Insurance. It's an amendment that I can support. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I hope you will come along to Recede and Concur on this bill. As I said the other night this is probably the most important bill facing us this session. I have to take issue with some things that were said, that the House Amendment that was passed the other night repeals Kotch and I would say that it really doesn't. We were also told the other night that there was no cost to that amendment and then I distributed a letter from NCCI today, telling you that there are costs, \$38 million prospectively and at least \$100 going back, so intellectually you have to ask yourself, do you really believe you repealed Kotch the other night and that there were no costs to that amendment? Now a lot of people are saying, well NCCI came up with those numbers, well NCCI is what's used by 44 states to determine their workers' comp rates. That's who we listen to, it's just like listening to OFPR on a fiscal note, you may not like it, but that's who we listen to and that's what we have to deal with.

In the last two days we've heard about economic development and the economic development bond and stimulus, if we don't adjust and Recede and Concur on this motion, you can throw that bond right out the window, because it won't do anything to stimulate the economy because there will be no economy in Maine. You'll have a retail trade and a service economy is what you'll have. You might as well forget about manufacturing. You can go paint and refurbish all the buildings you want, but once somebody looks at what the workers' comp rates are in Maine, they will not come here. I will guarantee that. You can give them all the TIF's and STIFS and whatever else

you want to give them. This affects everybody. It affects all employees, it's not only the employers. The employees are the ones that don't benefit from economic growth and the business growing in the state. It affects non-profits, schools, municipal governments, all those costs go up. I just made a call to the fiscal office and I said what are the March preliminary numbers, how good are they? Here are the results, individual income tax, down \$10 million, corporate income tax down \$5 million, know what that means, that means that businesses in the state are hurting, individuals are being laid off and people are losing jobs. If you want to drive another nail into the coffin, you vote against Recede and Concur. The fact of the matter is businesses need help, employees need help and the State of Maine needs help. I ask you to vote to Recede and Concur.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. It is an important vote, probably the most important vote. I probably would agree with that, although we have cast many important votes. We've voted to invest in education and health care. They are all important. I do have to set the record straight. The Minority Leader made the assertion that we did not repeal Kotch the other night and I'm here to tell you that we did. We were concerned because we did want to have independent verification, frankly a number of folks in the insurance lobby in private conversations would tell me at my desk that we did repeal Kotch, but that really wasn't what they had asked for, we just misunderstood the question when the entire business community and the Governor said they wanted to repeal Kotch. We just didn't know that Kotch meant all existing case law prior to Kotch, but in fact the Senate Amendment is very honest about that and I would just like to point that out, although they did kind of hide it in a section hard to notice. In the original House Amendment that we passed the other night repealing Kotch we had a Section 5, called Legislative intent and in it we said it is the intent of the Legislature by this Act to override the Maine law court's decision in Kotch versus American Protective Services, Inc., but not to override the law court's decision in Churchill versus Central Aroostook Association for Retarded Citizens and the line of cases relating to permanent impairment that preceded the Churchill decision.

If you look on Page 2 of the supposedly balanced Senate Amendment under Section 4, right below the first paragraph there's a part that says there's no Section 5, there's a part that says further amend the amendment in Section 5 in the last two lines by striking out the following and the line of cases relating to permanent impairment that preceded the Churchill decision. Pretty honest, they hid it, but it's pretty honest that they're actually after, maybe not Churchill, although there's some question about that, but the entire line of cases relating to permanent impairment that preceded the Churchill decision. I think that's a startling admission, perhaps it's one that if, in fact, the request was not as we thought to repeal Kotch, it's probably one that the business community should have been honest, and the Governor should have been honest, owned up to at the beginning of this debate and the beginning of this whole issue.

The other night I said I was a simple guy and we have a very simple handout here, it's on blue paper. House Amendment "A" repeals the Kotch decision. House Amendment "A" preserves the reforms of the '93 workers' comp act. Well I did want to have an independent voice on that issue, although the business community in private admitted that we had done that to me on a number of occasions, so we called Professor Freedman, down at the University of Maine Law School. He's the leading labor law expert in the State of Maine. He's not representing workers, he's

not representing business, he's not representing big insurance. He teaches labor law and he is the acknowledged expert, I guess. We had him analyze our amendment and it took him a day or so because he's very thorough and we asked him, did we repeal Kotch and he said, House Amendment "A", Representative Etnier's amendment absolutely repealed the Kotch decision. He said we actually went a little further and repealed some things maybe we didn't want to repeal, but they were to the advantage of the employers in the state and we're sensitive to their needs, that's why we wanted to repeal Kotch and we did. Well look, I want all my colleagues to know we have to defeat this Recede and Concur motion so that we can have an intellectually honest debate about it. It is what we are going to do so that this body can stick to its original position to the original request of the Governor, of the business community to repeal Kotch and so that we can march down to the other end of the hall and engage in meaningful negotiations at trying to find some sort of real compromise, not one such as this Senate Amendment, although it does have a lot of nice sounding things in it, if in fact you look at the nuts and bolts, and being a simple guy that's what I look at, all these supposed added benefits for injured workers are predicated upon the Workers' Comp Board making decisions about the permanent impairment level. Well guess what folks? They can't make a decision, that's the whole point. They can't do it, so this means nothing, because the Workers' Comp Board cannot decide. They will not decide and that means you're not representing legitimately injured workers if you vote for this Senate Amendment. You may think you are, but you're not.

There is another problem with it and that's that this Senate Amendment would only allow injuries that occurred in Maine to be considered as a previous injury, now that sounds good, but hey, I used to work construction all over the Northeast. I worked for a large non-union contractor in this state. We worked up and down the Eastern seaboard and if I got injured down on a hydro-electric project in New York, I was covered under workers' comp law in New York, that's how it works and then when I came back to Maine to work for that same Maine company, all the time I'm working for a Maine company, if I came back here and re-aggravated that injury while working for the same Maine company, the first injury that I received in New York wouldn't be covered under this Senate Amendment and I guess I think that's intellectually dishonest.

As far as NCCI, that is the group, the Minority Leader is right, they're the group that gives you the numbers. They're also the group, the company that is funded solely by money from the insurance industry and I would suggest that the problem here is not employers in the State of Maine, not the workers in the State of Maine, the problem is that the insurance industry is out of control in the State of Maine, big insurance and we need a superintendent that will on occasion vote for people, and vote for businesses and vote for workers in the State of Maine. So that is what I wanted to say. I went on too long. I do apologize for that, but it's really important we defeat the Recede and Concur motion. We Adhere to our previous position and we move on to a truly honest debate about this, about what it is we're trying to do here. 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. When I taught school in West Africa there was a saying Aroohoo, which means let's all pull together. It may come as no surprise to many of us that we need big business, small business, AFL-CIO. We need the workers. We need to pull together to get through this, can you imagine what the papers are going to do with this all summer if we can't resolve this issue. I

remind you Senator Kilkelly is a Democratic Senator, some of the cosponsors were Republican and Democrat. Let's solve this. Let's go home today. Let's Recede and Concur. Let's give some justice to this system. I'm sure it will be back. I'm sure we'll be arguing next year, but at this time this is the best anybody can do so please vote for Recede and Concur. Thank you.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. I just want to touch on two points. The first has to do with exactly what is the story with regard to these so-called losses that are going to be incurred if we don't give the Chief Executive what he wants on this bill. We do know that when this push first started that what the chamber and insurance industry was looking for was to repeal the Kotch decision and they said this was going to cause dramatic costs because now non-work injuries would be included. We gave them exactly what they first asked for in the March 21, 2002, impact under the Kotch decision individuals with a partial incapacity resulting from a preexisting condition that's non-work related could combine that partial incapacity rating with a work related injury and become eligible for lifetime benefits. That's what they wanted to avoid and we gave it to them, but that's not what they were after. They were looking to roll back benefits beyond what they were rolled back in '92. Now all these costs that they're telling you are going to happen now because of Kotch, when we took out Kotch, let's look and see where we were in December 2001, just three or four months ago before Kotch. You have it in your handout page 7 from a report prepared by the Maine Bureau of Insurance, which entitled the state of competition in Maine Workers' Compensation market. In that report they state, despite two straight increases in December 2000 and 2001, advisory lost costs were still more than 36 percent lower than they were in '92. What's an advisory lost cost? That is what is paid out for the benefits, medical and incapacity or whatever else, plus the cost of the insurer to settle the case, to handle it whether they got medical doctors to advance their position and such things, so this is what is really being paid out and what it's really costing, advisory lost cost. Now this report goes on to say that in 2002 advisory lost costs will decrease, not increase for the first time in three years, advisory lost costs will be 38.5 percent lower than they were prior to the 1992 reforms. This is what they said in December 2001, four months ago, nothing has changed. The only thing that has changed is that the industry has seized upon a law court decision to try to railroad back the benefits that employees had which were first cut in '92. Now do you want to rely on what the Bureau of Insurance presented to us in December 2001? Do you want to give that credibility or do you want to give credibility to these letters that keep coming out from the NCCI? Consider this, on February 25, 2002, barely over a month ago an affidavit was submitted to the law court by the actuary for NCCI and this had to do with the request for reconsideration of the Kotch case and keep in mind that an affidavit is sworn, there is a strict obligation to tell the truth in an affidavit. In that affidavit, Mr. Davis from NCCI says that he is unaware of any data that defines or otherwise analyzes permanent impairment in the general population on any basis. Without this information, I do not believe it would be possible to complete an independent actuarial review of the thresholds of lifetime entitlement to partial indemnity benefits based on actuarially sound data and methodology. This is what they say when they're under oath. What are they telling you when they're not under oath, when you can't even see what the method is, where the information is coming from. You're getting all kinds of figures that are pulled right out of the sky. I ask you, as you sit here as judges for the people of Maine, and



the injured workers of Maine, what are you going to rely on? I submit to you these numbers that have been thrown around are nothing more than a campaign to railroad down the injured workers of Maine.

Let's talk for a moment, point two, about what this amendment from the Senate does. It's not written by a Senator, I guarantee you. It's written no doubt by some attorney for the insurance industry and they have some things in there that will exclude workers who have multiple work related injuries. It says that it will only consider any prior compensable work injury. Now isn't that a lovely word? That means that if you had a case, you were injured by your employer and you wanted to be a good guy, you didn't want to claim benefits from your employer because it was such a great family atmosphere there and you didn't claim those benefits and two years goes by, guess what? Your claim is not compensable, sorry Joe, you're a nice guy, but we're not going to help you. It also provides that it won't include prior injuries where the employer hasn't filed a report of injury. Well here again in this world, why should an employer file a report of injury, because then there's nothing to include that in the future. So the employer can, by inaction, exclude these people from being considered. There is a lot more damage than what I have just disclosed to you in this Senate Amendment. It is a very drastic roll back of protections for injured workers and I ask you to defeat the Recede and Concur. Let's go on to Adhere. We've done the right thing for injured workers in Maine. If there is going to be any problem with increased premiums, let the Governor and the Department of Insurance protect the employers as they were suppose to do throughout the last eight years. Thank you.

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

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. We're tied to a slow motion train wreck on this workers' comp system right now and if you do not Recede and Concur, you'll be strapping down the accelerator on the train and speeding us ever faster towards that train wreck. In 1998, Maine was 21st highest cost among the states with workers' comp systems. In 1999 we were 14th, in 2000, we were 12th, in 2001, we were 6th. Ladies and gentlemen if you do not vote Recede and Concur, the estimate will be that you'll be adding \$31 to \$38 million dollars a year to the cost of workers' compensation in the State of Maine. You'll be adding \$109 million to \$202 million of retroactive costs to the cost of workers' compensation in the State of Maine.

I urge you to take a look at the comparison handed out by the good Representative Tessier. It does a good honest straight forward job of comparing the House Amendment to the Senate Amendment. If the House Amendment truly does repeal Kotch and we're going to be intellectually honest about this, I ask you to ask yourself, why the cost is going up so dramatically? The only answer is is that it does not repeal Kotch. Take a look at the Senate Amendment. The Senate Amendment does repeal Kotch, but then it allows compensable work injuries to be stacked after 2004, after the impairment level has been adjusted to keep it cost neutral. That's the way to accomplish both goals. It's a way to allow stacking of work related injuries, but still keep the system cost neutral. Ladies and gentlemen, I urge you to Recede and Concur. I urge you to avoid this train wreck that's happening right in front of us.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I've been listening quietly for days as the debate has gone back and forth and it occurred to me that the Assistant Minority Leader just raised the crucial question and that is why

are the costs going up. The assumption is there must be an expanded claims due to more generous benefits. Representative Smith in his testimony, explanations, described the hard data in terms of the downward track in claims. The question of the Assistant Minority Leader is still the crucial question. It may be that is the question and the issue that ought to bring these bodies together and that is it is not employers, it's not employees that are driving the costs up. Why are the insurance rates continuing to spiral up and imposing such a tremendous financial drain on our employers and I submit, ladies and gentlemen of the House, that the place to come together is an investigation of what is happening in that industry that is in spite of the downward movement of claims continuing to escalate the costs. I don't have the answer, but I hope that we don't walk away from this debate without knowing that that continues to be the dominant unanswered question. Thank you, Mr. Speaker.

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

**ROLL CALL NO. 663**

**YEA** - Andrews, Annis, Belanger, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Foster, Fuller, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Marrache, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, 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, Wheeler EM, Winsor, Young.

**NAY** - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, McDonough, 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, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Wheeler GJ, Mr. Speaker.

**ABSENT** - Bagley, Baker, Berry DP, Chizmar, Estes, Landry, Madore, McKee, Perkins, Povich, Volenik.

Yes, 65; No, 75; Absent, 11; Excused, 0.

65 having voted in the affirmative and 75 voted in the negative, with 11 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

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

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The House recessed until 2:30 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

**ENACTORS**  
**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$28,500,000 to Capitalize the School Revolving Renovation Fund, to Provide Grants to Public Educational Institutions to Install Sprinkler Systems in Dormitories, to Renovate the Harlow Office Building and to Provide a Center for Homeless Teenagers

(H.P. 1628) (L.D. 2128)  
(H. "C" H-1108 to C. "A" H-1080)

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

Representative STEDMAN of Hartland **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.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken.

**ROLL CALL NO. 664**

**YEA** - Andrews, Annis, Ash, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Clark, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gerzofsky, Glynn, Gooley, Green, Hall, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, O'Brien JA, O'Brien LL, O'Neil, Patrick, Peavey, Perkins, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Usher, Watson, Weston, Wheeler GJ, Winsor, Young, Mr. Speaker.

**NAY** - Bowles, Clough, Cressey, Daigle, Duncan, Duprey, Foster, Haskell, Honey, Kasprzak, Labrecque, Lovett, MacDougall, Morrison, Nutting, Snowe-Mello, Stedman, Treadwell, Waterhouse, Wheeler EM.

**ABSENT** - Bagley, Baker, Berry DP, Bryant, Buck, Chizmar, Estes, Gagne, Goodwin, Landry, LaVerdiere, Norton, Paradis, Perry, Pinkham, Povich, Volenik.

Yes, 114; No, 20; Absent, 17; Excused, 0.

114 having voted in the affirmative and 20 voted in the negative, with 17 being absent, and accordingly the Bond Issue was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act to Amend the County Jail Prisoner Support and Community Corrections Fund

(S.P. 810) (L.D. 2175)  
(S. "A" S-602)

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

On motion of Representative QUINT of Portland, was **SET ASIDE**.

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

The same Representative **PRESENTED House Amendment "A" (H-1115)**, which was **READ** by the Clerk.

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

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

The **SPEAKER**: The Representative may pose her question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. Would someone who knows kindly explain what this amendment will do? Thank you

The **SPEAKER**: The Representative from Newport, Representative Kasprzak has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Quint.

Representative **QUINT**: Mr. Speaker, Men and Women of the House. To answer the question it was a language correction in how county jails were suppose to be reimbursed. In the language it says that the Criminal Justice Committee gave the final approval for reimbursement for services at our county jails, which was not supposed to be the case, in fact, that's unconstitutional. What it does it reflects that the Department needs to report back to the Criminal Justice Committee with regards to what the reimbursement is and at that point if there's any issues, lack of reimbursement or so forth there can be a public hearing and an adjustment can be made at that time. That's all that this does.

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

Representative **KASPRZAK**: Mr. Speaker, Ladies and Gentlemen of the House. I'll read the summary and then I'll leave you to figure out whether or not that's what this does. It says this amendment clarifies that it is the Department of Corrections that may approve a county's request for an increase in the amount of state funding the county receives for support of prisoners. I'm confused. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. If I could answer that question. When we had the Community Corrections Act change a few years ago each county got a certain amount of subsidy for their jails and part of that changed a few years ago, which was worked out between county commissioners, the Department of Corrections, the Criminal Justice Committee was that when a county reached 10 percent over the amount that they had been allotted in terms of their expenses, they could come back to the department and to the committee and they could state how much they were over and get some extra reimbursement. This amendment is sort of an amendment to what we did, there were three counties that reached that threshold and came back to the Committee and the Department and this amendment just states that it's the Department that officially comes back to the Committee with that request. It's a trigger that a county meets to trigger some extra subsidy, the 10 percent over the original amount and it's the Department that will take that request, come to the committee and grant that request. I hope that answers the question.

**House Amendment "A" (H-1115) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1115) and Senate Amendment**

**"A" (S-602) in NON-CONCURRENCE** and sent for concurrence.  
**ORDERED SENT FORTHWITH.**

**ENACTORS**  
**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$25,000,000 to Build a New Correctional Facility in Machias and to Make Improvements to the Maine Correctional Center in South Windham

(H.P. 1629) (L.D. 2129)

(H. "A" H-1110)

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

Representative **STEDMAN** of Hartland **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.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken.

**ROLL CALL NO. 665**

**YEA** - Andrews, Annis, Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bull, Bunker, Canavan, Carr, Chase, Chick, Clark, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michaud, Mitchell, Morrison, Murphy E, Norbert, O'Brien JA, O'Brien LL, O'Neil, Patrick, Peavey, Perkins, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Usher, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

**NAY** - Belanger, Bowles, Bumps, Clough, Collins, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Honey, Kasprzak, Ledwin, Lovett, MacDougall, McKenney, Mendros, Michael, Murphy T, Muse C, Muse K, Nass, Nutting, Rosen, Schneider, Sherman, Shields, Stedman, Treadwell, Waterhouse, Weston, Winsor.

**ABSENT** - Bagley, Baker, Berry DP, Bryant, Buck, Chizmar, Estes, Goodwin, Landry, LaVerdiere, Norton, Paradise, Perry, Pinkham, Povich, Volenik.

Yes, 102; No, 33; Absent, 16; Excused, 0.

102 having voted in the affirmative and 33 voted in the negative, with 16 being absent, and accordingly the Bond Issue was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$34,970,000 to Stimulate Job Growth in Maine, to Renovate Certain State Facilities and to Promote Homeland Security and Tourism

(S.P. 785) (L.D. 2130)

(H. "B" H-1107 to C. "A" S-561)

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

Representative **DAIGLE** of Arundel **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Earlier today before we passed this particular bond issue to be engrossed there was a discussion about the date in which the election will take place. Just a moment ago we passed a bond regarding schools and I understand criticality of that, I see no sense of urgency with this particular bond, especially given the other economic situations we're likely to find ourselves into. It's my personal preference that we should have done this in November, therefore I'm going to vote against this. I urge you to do the same and Mr. Speaker I ask for a roll call.

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 Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I agree with my neighbor from Arundel, I have a real concern about the dates on two of these bonds. As I look at this package, I see at the core I think something that will be very positive for all the regions of Maine, especially the rural areas. Where my concerns are, one of the items improving response capabilities, which deals with the courts and security, there's no way that passes the straight face test of economic development. It should have been in the facilities. Two other items, the municipal investment trust fund which had a 12 to 1 Ought Not to Pass in the committee because it has as its focus a multitude of things including parking garages and downtown beautification and then the last item cultural tourism, which basically the only way you can define that is pork and I've got a nice museum at home, the Brick Store Museum. We've got the trolley museum in our region. I'm afraid with those two items the trust fund and cultural tourism, you made a decision in committee to give this bill, or bond, legs, but I think when the voters look at it, you're going to put a core proposal at risk, because they're going to look and see cultural tourism and they are going to look at the specifics and say, this isn't economic development, this is pork. I don't know if in the next Legislature we all just ought to bring along our favorite boards and organizations that we serve as members of the board of directors or trustees and just bring them in and pack that cultural tourism and think we're doing economic development, but despite the date and despite the pork and the inclusion of the bill that the committee overwhelming voted 12 to 1 against, all the other items will have a positive affect. So very reluctantly based on what the Appropriations Committee did on setting the date what they included, I will be holding my nose and voting yes.

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

Representative **KASPRZAK**: Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker is exactly correct. This bond package is so full of pork that I am salivating. I would encourage you to vote against it. Thank you.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. There's been several comments made, I think if we were in Texas we would be in trouble if we used the word beef. I think the pork industry is getting a bad name. This seriously though, the items in this list are important to the areas of the



State of Maine. There's some areas that are dependent on the tourism industry and to have items of interest that will create some kind of a center of attention and hopefully some future growth around that, I wouldn't consider that to be pork. I think the Representative mentioned that improving response capabilities didn't belong in here, well we had to fit it in somewhere and through the process it got pushed into this one, whether it's a perfect fit, I can't say that it is, but it is labeled the homeland security issue, it's a new buzz word, I guess, we've got to do something to address the security concerns in the courts possible terrorist type attacks. The Municipal Investment Trust Fund is a program that was voted on in previous legislatures. It's never been funded. We put in \$300,000 in last years budget, but I think some people service coalitions might find that surprising that I'm the one speaking to this item, but I think it's one of the items that are out there that support our municipalities. It's not just the cities, it's the small and the large municipalities to support the infrastructure in your communities, so as a member of the Appropriations Committee sometimes we come into this body and we're overruled and I know that the Business and Economic Development would probably feel that way from their bond package that they reported up. We had the Executive's economic development bond in front of the Appropriations Committee.

The Appropriations Committee had three reports and we worked to bring a report up here that we thought would attract a two-thirds vote. Committee Amendment "A" got a pretty decent vote here, but it wasn't enough and I think that the other reports would have been similar or I suspect in worst shape by themselves. This however is an arrangement, I think, that's hopefully you'll find that it's acceptable, it's really pretty decent. It's going to pull in some nice federal matching money. There are several items that pull in a direct federal match. We know from experience that the biomedical research investments have pulled in from those one time type capital investments have pulled in some very nice ongoing type matching funds and that's what we need to get out there. We need to get that happening. I know that the bond had a great support in this room previously. I appreciate the work of the people that made this final proposal here for you, the Appropriations Committee did work hard to get the pieces there and I know the Business Committee worked very hard to bring a package, as we did, that would be acceptable to both bodies and the Executive. I hope you will support this. I just want to say as far as the date change, personally any changes at this point, from what I've gone through, this will be my last vote. If this does not go through as it is, I'll be voting against it next time. It's not a threat, that's just the way it's going to be for me. I've done all I can and I think we need to accept this and move on. 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.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken.

**ROLL CALL NO. 666**

YEA - Andrews, Annis, Ash, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McGowan,

McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy E, Murphy T, Nass, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Treadwell, Tuttle, Twomey, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Bowles, Cressey, Daigle, Duncan, Duprey, Foster, Glynn, Haskell, Honey, Kasprzak, Labrecque, Lovett, MacDougall, Morrison, Muse C, Muse K, Nutting, O'Brien JA, Stedman, Trahan, Waterhouse.

ABSENT - Bagley, Baker, Berry DP, Buck, Chizmar, Estes, Goodwin, Landry, LaVerdiere, Matthews, Perry, Pinkham, Povich, Volenik.

Yes, 116; No, 21; Absent, 14; Excused, 0.

116 having voted in the affirmative and 21 voted in the negative, with 14 being absent, and accordingly the Bond Issue was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

An Act to Increase the Workers' Compensation Insurance Assessment to Fund a Hearing Officer Position  
(H.P. 1548) (L.D. 2051)  
(S. "A" S-589)

Which was **TABLED** by Representative COLWELL of Gardiner 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. 667**

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

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

ABSENT - Bagley, Baker, Berry DP, Buck, Chizmar, Estes, Goodwin, Jones, Landry, LaVerdiere, Murphy E, Perry, Pinkham, Povich, Volenik.

Yes, 85; No, 51; Absent, 15; Excused, 0.

85 having voted in the affirmative and 51 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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Reference was made to An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores

(H.P. 1623) (L.D. 2123)

In reference to the action of the House on April 8, 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 TUTTLE of Sanford  
Representative PATRICK of Rumford  
Representative MAYO of Bath

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

Resolve, to Allow Julie Harrington to Sue the State  
(H.P. 1659) (L.D. 2165)  
(C. "A" H-1045)

Which was **TABLED** by Representative COLWELL of Gardiner pending the motion of Representative TUTTLE of Sanford to **RECEDE AND CONCUR**.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. I just want to make a comment on the fiscal note on this bill. It would take \$30,000 out of the Risk Management Fund. We self-insure the State of Maine for our liabilities and I am just opposed to someone funding bills where they found no other place to fund by raiding the Risk Management Pool. Also problems with it are that there's a balance here with federal funds because we charged the federal government for the cost of insurance on federal programs that we insure. We would have to do some negotiations in some way with the federal government around this. I just wanted to put on the record that I oppose the funding mechanism. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I do understand the concerns of the good Representative from Portland, Representative Brannigan. We had discussed the fiscal note of finding a way to fund the \$30,000. My question is why do we need to even have that figure when we have the attorney general that might be able to represent us down the road and there are discussions in that area, so I talk with my co-chair and members of the other body and we did come together with this amendment. It authorizes the transfer by the commission on administrative and finance services up to \$30,000 from the self-insurance fund, which is set

up expressly for purposes like that and with that I would like to have the Clerk read the committee report.

Representative TUTTLE of Sanford **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

Representative BERRY of Livermore **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I just want to bring to the attention that the Senate Amendment as it is before us does cover the cost of the lawsuit from the self-insurance, the Risk Management Fund. I might as well just read this short letter to you, just to have this on the record.

This is from the administration, I think its important to note it. This is a copyright suit, which the state is immune from under the United States Constitutional Eleventh Amendment. The Eleventh Amendment provides that no state may be sued without the permission of Congress or its own permission. The Congress has not granted permission for any state to be sued under federal copyright law. The State of Maine is immune from this lawsuit unless the State Legislature waives its Constitutional protection. I'm not a lawyer. I can't speak to that. I'm going to get to the self-insurance fund, that's the important part, as far as the appropriation is concerned.

It says our self-insurance does not cover copyright law matters, the state in the division of risk management does not provide self-insurance coverage for any liability where immunity exists under the Maine Tort Claims Act, under any statute, or under common law. Because the risk management self-insurance fund does not cover this type of suit, funds cannot be used to pay for defense costs or any other costs associated with any lawsuit not covered. Each year the state enters into a contract with the federal government regarding the operation of all internal service funds and self-insurance funds and the use of the fund's assets. Because this type of suit is not an agreed part of the plan we cannot divert any of funds assets to cover costs arising out of this action. The state will be sanctioned by the federal government with questioned costs. The final note was that this creates very bad precedence for raiding the risk management fund for an improper use. I just appreciate your time in allowing me to read that. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Milford, Representative Haskell.

Representative **HASKELL**: Mr. Speaker, Ladies and Gentlemen of the House. My constituent Julie Harrington lives in Milford. She's a teacher. For several years she has been employed at the Youth Correctional Center in Charleston. Soon after her employment there Julie realized that they had an antiquated and inadequate system of keeping track of their clients. Julie, being a very bright, alert and energetic young lady devoted her time at home and using her own equipment to develop a software program. This program was so comprehensive that it kept track of each inhabitant's health information, their criminal record, their academic status, even their laundry. They could even deliver laundry to each child properly because of Julie's software. It was used throughout the Charleston Correctional Facility. It was referred to as Julie's program. It was always considered her program. She found out that they had in turn passed this software on to the Correctional Center in South Portland. She was not very thrilled about that, but she realized that it had been very helpful to them in

Charleston and when South Portland asked her to expand the program to fit a further need of theirs, she did so. Julie copyrighted her program. She has been commended by the Department of Corrections for developing this program on her own time with her own equipment, they have put it in writing several times.

The Governor recognized her in a special ceremony for doing this on her own time with her own equipment. Then as time went on Julie has continued to do her job, she has been promoted to an administrative position now and has since found out that the Department of Corrections has given her software program out to major vendors to review and to decide whether or not they could expand it. The last word I heard on this particular transaction was that the Department of Corrections has agreed to pay \$4.5 million to a Canadian firm to expand this program. They did not ask Julie to expand it, they never even told her they were doing this. This is her copyrighted property.

I can tell you that for several weeks I tried diligently to get the Department of Corrections to sit down and to talk about this. Julie asked in the beginning only that someone talk to her, to explain to her, why they thought it was proper to take her personal property and to give it out in such a manner. We met with very little success. Julie has since filed a suit. The Department of Corrections, in my opinion, has kind of skated all over the rink on this with me at least. They have said it was in her job description. I replied that I was a teacher for 30 years and never once was it in my job description that I had to develop software for anyone. They then said that they had paid her extra for doing this. It turned out that the extra pay was a \$1,200 step increase, which is very common to teachers. Then they claimed that they didn't know that she had made this program. They had no idea that she had done it and considered that it was hers or anything, so I find that their reasoning is very changeable to say the least, but Julie's is solid. She asked only that she be given control of her personal property, her copyrighted property, in order to do that, the only way she can defend herself is to sue the state. I don't think that's an unreasonable request for anybody to ask and I don't know how we can deny anyone the right to defend their own property. The state is made up of people. People make mistakes. If we're going to be so hard-nosed that we can't admit that maybe somebody made a mistake here and deal with it, then we're doing a disservice to the person who made the mistake as well as the person who is affected by it. I ask you please to consider Julie's request to allow her to sue. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I have served as a member of the Legal and Veterans Affairs Committee now for four years, or nearly four years and this is one of two occasions that I can remember that the committee has been unanimous in making a recommendation that this suit be allowed to go forward. We spend as a committee a great deal of time on these issues, they are not fun, believe me. We've had some very difficult ones this year and in years past, but it is a unanimous recommendation of the committee and I would urge this body this afternoon to vote to allow Julie Harrington to move forward and to reach an amicable settlement in this case.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I'm a little confused as to what the \$30,000 is, is that the

legal fees or to pay damages from a suit. I just need that clarified, if I could.

The SPEAKER: The Representative from Lincoln, Representative Carr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. That's tentatively for the legal fees, but I would even question that, because it's my hopes that the Attorney General will pursue this and save us the money.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CARR**: Mr. Speaker, Men and Women of the House. Is it not common for the Attorney General's Office to represent the state on its behalf on lawsuits such as this?

The SPEAKER: The Representative from Lincoln, Representative Carr has posed a question through the Chair to the Representative from Sanford, Representative Tuttle. The Chair recognizes that Representative.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. Yes, that is affirmative and I'm hoping that in this case it will be the same.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. My understanding is that because of the nature, copyright law, etc., the Attorney General would have to hire an expert witness. He does not have that expertise among his lawyers. I believe that is what the \$30,000 is for. 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. You're probably wondering how I got dragged into this and I did, because the amendment as it's presented, the amendment from the other body comes to us and it contains the word insurance. It's not like me to ever get up on a bill that didn't come out of the Banking and Insurance Committee, but I kind of got dragged into this. Janet Waldron pigeon holed me out there and said, you know you can't do this. I'm dispassionate. I don't know Julie Harrington, I haven't heard the particulars of the case. I happened to read a snippet about in the paper, so let's get that out of the way. As I understand it, the good Representative from Portland and the good Representative from Livermore hit the nail on the head in as much as the Risk Management Pool can't really be used as a source of funding because there are federal funds that are pooled in that and, A. you're going to set a precedent that is probably not one that we want to set, but for risk management purposes, we're putting the state in a position to be sanctioned by the federal government, as I understand it, then you're also increasing the exposure down the road, not the exposure per se, but premiums assessed against state agencies stand to suffer down the road. I think I have to vote against the motion. It's not a big deal to me one way or the other. Generally speaking I would just add that as I understand it these right to sue the state cases have a hard time happening and this is another reason why, sometimes it's the 3rd or the 4th try where they do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. For those of you who know me, you have known that I have been extremely hard-nosed about suits

against the state. It's like somebody coming up and asking me, can I sue you. However, there are time when because we are human we make a mistake and we have to be responsible for those mistakes. I understand the immunity that a state worker is suppose to have and I appreciate that, but there are times when the evidence is such that something needs to be done and this is one of those cases and I ask you please to vote in favor of the motion.

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

**ROLL CALL NO. 668**

YEA - Andrews, Annis, Belanger, Blanchette, Bliss, Bouffard, Bowles, Brooks, Bruno, Bryant, Bumps, Bunker, Canavan, Carr, Chase, Chick, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Kane, Kasprzak, Labrecque, Laverriere-Boucher, Ledwin, Lessard, Lundeen, MacDougall, Madore, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKenney, McNeil, Mendros, Michael, Michaud, Mitchell, Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, Paradis, Peavey, Perkins, Pineau, Quint, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Berry RL, Brannigan, Bull, Dorr, Etnier, Hall, Jones, Koffman, Lemoine, Mailhot, McKee, McLaughlin, O'Neil, Patrick, Richard, Simpson, Tessier.

ABSENT - Ash, Bagley, Baker, Berry DP, Buck, Chizmar, Estes, Landry, LaVerdiere, Lovett, McGowan, Murphy E, Perry, Pinkham, Povich, Volenik, Mr. Speaker.

Yes, 117; No, 17; Absent, 17; Excused, 0.

117 having voted in the affirmative and 17 voted in the negative, with 17 being absent, and accordingly the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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

**ENACTORS  
Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$24,100,000 for Water Pollution Control, Drinking Water, Water for Crops and Fish-rearing Facilities, to Clean up Hazardous Substances and Tire Stockpiles, Promote Public Geographic Data, Recapitalize the Potato Marketing Fund and Capitalize the Dam Repair Fund

(S.P. 783) (L.D. 2120)  
(CC. "A" S-607)

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

Representative **STEDMAN** of Hartland **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.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken.

**ROLL CALL NO. 669**

YEA - Andrews, Annis, Belanger, Berry RL, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Carr, Chase, Chick, Clark, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Blanchette, Bowles, Clough, Collins, Duprey, Foster, Goodwin, Haskell, Kasprzak, Labrecque, Lovett, MacDougall, McKenney, Morrison, Murphy T, O'Brien JA, Perkins, Stedman, Treadwell, Waterhouse.

ABSENT - Ash, Bagley, Baker, Berry DP, Buck, Bumps, Chizmar, Estes, Landry, LaVerdiere, McGowan, Murphy E, Perry, Pinkham, Povich, Volenik.

Yes, 115; No, 20; Absent, 16; Excused, 0.

115 having voted in the affirmative and 20 voted in the negative, with 16 being absent, and accordingly the Bond Issue was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

On motion of Representative **COWGER** of Hallowell, the House **RECONSIDERED** its action whereby the House voted to **INSIST** on 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 (EMERGENCY)

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

The same Representative moved that the House **RECEDE AND CONCUR.**

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

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 Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. Very briefly, I held the bill this morning because there were quite a few members who were not present in the chamber to have an opportunity to vote. I'd like to give us one last opportunity to support this and just to remind members that these are major substantive rules, that if we are non-concurrence with the other body, the rules go into affect anyway and we do not have a funding source to help print these posters at an affordable cost for our dentists and they'll have to print them themselves. I hope you will support the Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I will be brief. I hope you will stick with the position

that we have taken on this bill every time it has come through here and I have lost count of how many times that is. Please vote against Recede and Concur. If this is a health issue and if you buy into the fact that it's a health issue, we should fund it like a health issue, just like we do the pamphlets in the pediatrician's office, like we do so many other things. The Department of Health needs to fund the pamphlets. We should not be having the dentist pay for this pamphlet. Thank you and I hope you will vote against Recede and Concur.

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

**ROLL CALL NO. 670**

YEA - Ash, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Clark, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dugay, Duplessie, Etnier, Fuller, Gagne, Gerzofsky, Green, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Marley, Matthews, McDonough, McGlocklin, McKee, McLaughlin, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tuttle, Twomey, Watson, Mr. Speaker.

NAY - Andrews, Annis, Blanchette, Bouffard, Bowles, Bruno, Carr, Chase, Clough, Collins, Crabtree, Cressey, Davis, Dudley, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Lovett, MacDougall, Madore, Mailhot, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy T, Muse C, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Belanger, Berry DP, Berry RL, Buck, Bumps, Chizmar, Dunlap, Estes, Fisher, Hall, Haskell, Landry, LaVerdiere, Ledwin, Michaud, Murphy E, Perry, Pinkham, Povich, Volenik.

Yes, 65; No, 64; Absent, 22; Excused, 0.

65 having voted in the affirmative and 64 voted in the negative, with 22 being absent, and accordingly the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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

**SENATE PAPERS**

**Non-Concurrent Matter**

An Act to Implement the Recommendations of the Committee to Review the Child Protective System

(H.P. 1644) (L.D. 2149)

**PASSED TO BE ENACTED** in the House on April 4, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1078)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1078) AS AMENDED BY SENATE AMENDMENT "B" (S-614)** thereto in **NON-CONCURRENCE.**

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

On motion of Representative KASPRZAK of Newport, the House **RECONSIDERED** its action whereby it voted to **RECEDE AND CONCUR.**

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. I certainly don't intend to argue this matter, or

waste your time as we are trying to finish up here, but I just want to say on the record that I'm extremely disappointed that we couldn't find the funds to make this bill work, after all the work that went on this past summer and all the people who came forward on DHS matters. I'll just say for the record, that this amendment eliminates the elevation of the standard of proof that's required from the preponderance of evidence to clear and convincing evidence when there is a determination either not to commence or to cease reunification. I think that's a shame. This amendment deletes the requirement that the proceeding within, which there is a determination, either not to commence reunification efforts, or to cease reunification efforts, must be a full evidentiary hearing, shameful again. This amendment as well deletes the specific authority for court appointed attorneys to represent parents in certain family matters proceedings. I'm sorry we've taken this action. Thank you.

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

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 Van Buren, Representative Smith.

Representative **SMITH:** Mr. Speaker, Ladies and Gentlemen of the House. I thank Representative Kasprzak for bring to our attention the severe inroads of this Amendment "B", I will be voting, whatever direction its going to be, to delete this amendment. Thank you.

On motion of Representative NORBERT of Portland, **TABLED** pending the motion **RECEDE AND CONCUR** and later today assigned. (Roll Call Ordered)

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The House recessed until 6:30 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

**ENACTORS**

**Resolves**

Resolve, to Allow Julie Harrington to Sue the State

(H.P. 1659) (L.D. 2165)

(S. "B" S-613 to C. "A" H-1045)

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

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

**SENATE PAPERS**

Bill "An Act to Address the Cash Flow and Funding Needs of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003"

(S.P. 834) (L.D. 2215)

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

Came from the Senate, under suspension of rules and **WITHOUT REFERENCE** to a Committee, the Bill **READ TWICE** and **PASSED TO BE ENGROSSED**.

Under suspension of the rules, the Bill was given its **FIRST READING WITHOUT REFERENCE** to a committee.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. If you notice the summary on this piece of legislation, this bill strikes the limit on the tax anticipation note authority currently established at \$100 million. This is another issue addressing Article 9, section 14, in the Maine Constitution, trying to keep down our ability to borrow and spend money. I hope that we will not do this and Mr. Speaker, I ask for the yeas and nays on engrossment.

Representative **WATERHOUSE** of Bridgton **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

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 Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. The good Representative, Representative Waterhouse, is in fact correct. This is a large borrowing scheme and it is very important. It is what we need to do to straighten out our cash flow needs for certainly the period looking forward about a year. It is my understanding that in March or April about a year from now, our cash flow needs will be in the neighborhood, and again these are rough numbers of somewhat around \$300 million. We will be just about out of cash, that's the projection, so the treasurer and the people at BASS have come to us. We knew this was going to happen. We just didn't know how much and asked to change the cap for tax anticipation note borrowing. It's my understanding of what this does is remove the \$100 million cap and provide for borrowing as high as the Constitutional limit, which is approximately 10 percent of the appropriated amount of money for both the general fund and the highway fund and at current levels that would be slightly higher than \$290 million of temporary borrowing. We haven't had to talk about numbers this large, except for once this year, so far, and that was the Maine State Housing Authority borrowing capacity. So we will need the ability to borrow on a temporary basis in the near future and by temporary basis. We're talking about borrowing that gets paid back within the fiscal year that the funds are borrowed and that's what this bill does. Thank you, Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. Anyone who may care to answer, what is the anticipated need for cash flow and if it is less than the \$293 million, that is represented by the 10 percent figure, my question would be, why was not the cap simply raised until removing the cap and then maxing out our ability to attain cash flow?

The SPEAKER: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. In answer to the question, it is my understanding, this all happened just today, so I'm a little bit fuzzy, we could not raise the cap high enough under our constitutional provisions to meet, what I understood to be the cash flow needs of the state, the anticipated cash flow needs of the state, out in that period I was talking about, about a year from now. It was characterized to me that being somewhere in the \$300 to \$350 million area, this is again temporary borrowing and our constitutional limit is less when you do the numbers at 10 percent of the appropriated general fund budget, you come up with a number slightly higher than \$292 million.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Acton is correct in a number of things, unfortunately, I guess the good Representative couldn't see his way clear to realize that we have cash flow problem because of our spending and our lack of ability to pay and keep up with the cash flow. I see this as a wake up call to step up to the plate and have some fiscal discipline and this is a way of getting around that fiscal discipline and I hope that you will vote against passage.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative McKenney.

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

The SPEAKER: The Representative may pose his question.

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. If the Rainy Day Fund was full to the \$120 or \$130 million that it normally holds, would that be a source of funds for short-term borrowing for anticipation needs?

The SPEAKER: The Representative from Cumberland, Representative McKenney has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. That is correct. It would be and that's the reason we aren't borrowing right now, because most of the money that was spent in this supplemental budget is still in the Rainy Day Fund, so that plus the collection of other funds has provided us with the cash that we needed to operate government in the State of Maine in the near term and currently, as soon as we spend that money in according to the plan set out in the supplemental budget, we will have significant cash flow shortages.

The SPEAKER: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. I'm looking at these numbers with the shortfall approaching \$500 million. This is only going to cover half of the shortfall in the spring of 2003, so in no way is this going to pull us out of the dire hole that we are going to be in with that shortfall and I'm not about to raise the cap. I'm opposed to this violently, I don't think this is the way to go. I haven't thought that way all this session and I can't vote for this.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **NASS**: Mr. Speaker, Men and Women of the House. Representative Goodwin, you and I have a little personal conversation here, this did not happen with this bill, this happened when we started spending money. When we spend on



programs, we end up short of cash and now we have to do this, so this is not something that's happened in isolation here, folks.

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, Men and Women of the House. Did the awareness of this problem just come today, April 9th?

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 want to first thank the Representative from Acton for feeling all the questions. This has been something that in all good faith he's been good at warning us about for sometime. This is the cash flow of the state and the changes that we have made with our recent budget do require us to do some different planning to address those cash flow needs. I've heard the comment that it's because of our spending, well that spending includes some pretty sizable tax cuts, tax exemptions, quite a sizable increase to the GPA, a lot of restorations to some pretty important health and human services type needs. This bill was related to the cash flow. For quite some time even though we've said that there's \$143 million in the Rainy Day Fund, that's still been used as our ongoing cash flow. It has helped us avoid that temporary borrowing which has been a fairly common practice before we built up the Rainy Day Fund, so part of it is the economy, part of it is the choices that we have made. This bill is necessary to address the next year's cash flow. It's still part of a balanced budget, it's just necessary to address those day-to-day cash balances.

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

Representative **ROSEN**: Mr. Speaker, Ladies and Gentlemen of the House. In response to the Representative from Hartland, Representative Stedman's question, the specifics and the arrival of this proposal are only recently before us, we clearly knew we have been in a negative cash flow situation since last November, on again, off again, from week to week, but certainly the longest stretch of a negative cash flow period for several years now, but for the last several years the state has been in a positive cash flow, month after month, but that changed last fall. The specifics of how the bill is before you and the administration's specific proposal to address it only recently arrived, but we were all clearly aware that there would be some type of a proposal presented that would address the pending cash flow problem.

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

**ROLL CALL NO. 671**

YEA - Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Carr, Chick, Colwell, Cote, Cowger, Daigle, Davis, Desmond, Dudley, Duncan, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, McNeil, Michaud, Morrison, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson,

Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Trahan, Twomey, Watson, Weston, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Andrews, Bouffard, Bowles, Chase, Clark, Clough, Collins, Cressey, Dunlap, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Jodrey, Kasprzak, Labrecque, Lovett, MacDougall, McKenney, Mendros, Murphy T, Sherman, Snowe-Mello, Stedman, Tobin J, Tracy, Treadwell, Tuttle, Usher, Waterhouse, Wheeler EM.

ABSENT - Bagley, Baker, Buck, Bumps, Chizmar, Crabtree, Cummings, Dorr, Dugay, Estes, Landry, McGowan, Michael, Mitchell, Murphy E, Muse C, Muse K, Pinkham, Volenik.

Yes, 99; No, 33; Absent, 19; Excused, 0.

99 having voted in the affirmative and 33 voted in the negative, with 19 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED** in concurrence.

**ENACTORS**

**Acts**

An Act to Amend the County Jail Prisoner Support and Community Corrections Fund

(S.P. 810) (L.D. 2175)

(H. "A" H-1115; S. "A" S-602)

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

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

**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. "B" S-608 to C. "A" H-1046)

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

On motion of Representative **PEAVEY** of Woolwich, was **SET ASIDE**.

The same Representative moved that the Resolve and all accompanying papers be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I truly do apologize for speaking again on this issue. Again, we are funding something that is a public health issue from the Rainy Day Fund, lending money to dentists and then asking them to pay it back. I truly and honestly believe that we should not be asking public health people, which are our dentists to be paying this back as a loan. If it's important to do, then we should pay for it as a public health issue. We have worked so hard over the last years with our dental access issues and the last thing we want to be doing at this point is with our private dentists, but also with our clinics for all of you with clinics in your districts. This is money they are going to have to spend from their clinic budget to buy these brochures, so I hope you will Indefinitely Postpone this and if this is truly a public health issue. Let's at some other time go on and find a way to fund it, not by giving the dentists a loan. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Please join us in putting this bill out of its misery. We've had four or five votes on it and it's time to say goodnight. Mr. Speaker, I request a roll call on this.

Representative **BRUNO** of Raymond **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Resolve 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 Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. Very briefly, I hope you will support voting against Indefinite Postponement. This was a unanimous report out of the Natural Resources Committee and again, just to remind everyone, it's a major substantive rule. This is going to go into effect anyway and if we don't print the brochures at a substantial cost savings, the dentists will be forced to print them on their own costing them even more money. This does not do away with the requirement that the brochure has to be provided. That's part of current law that was enacted last year, so I hope you vote against the pending motion, so we can do the most cost effective distribution possible.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I've sat here quiet watching this farce play out. Representative Peavey has stated that this is a public health issue, I'm not even sure it's that. It's junk science at the best, which has not validity, it is more likely that from the committee a compassionate response to an unfounded allegation, which was compelling in its presentation. Now why are we burdening our dentists with this baloney? Why are we misleading the public with this bill and why are we wasting our time and resources on this nonsense? Please vote to Indefinitely Postpone this bill.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I, like my colleague on the other side, have also quietly sat and listened and it is a public health issue and he is right, why burden our dentists even further? The fact of the matter is that the rule that is in place is a requirement for public information to children and their families and if we do not do this, if we do not pass this bill, if we do Indefinitely Postpone this bill, we indeed are going to be adding the burden to dentists. We already are having a difficult enough time keeping dentists, recruiting dentists and providing access to dental care, particularly for lower income children and families, so I urge you to reject the Indefinite Postponement. Let's approve the bill and let's move on so that our dentists can do the work that they're there for. Thank you.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

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

The SPEAKER: The Representative may pose her question.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I'd just like to know where we're going to get the money? We just in a previous bill voted to raise money that we don't have and I just don't understand if we don't have the money, how can we do this? Could somebody answer me that, please?

The SPEAKER: The Representative from Poland, Representative Snowe-Mello has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. To answer the question, we are borrowing \$50,000 from the Rainy Day Fund and it will be paid back by 2004 as the brochures are purchased.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I find it difficult to vote on something seven times without at least saying something about it. We saw this before, my committee in the last session, this is the Economic Development Committee. There was no evidence of any kind that there was a problem here. As a matter of fact, what our conclusion was then, was the people who make plastic fillings have tried for years and years to sell them, because they look better than the amalgam fillings. When that strategy didn't work, they decided to try to create a scare among people and we've been sucked into that scare that supposedly there's something wrong with the amalgam fillings. What we're doing is we're taking our dentists, who are doing as was pointed out working clinics, they're already underpaid through Medicaid. They're already seeing the poorest people for free, or through clinics and they're not being properly reimbursed and we're taking a chunk of money away from those dentists, so that money is going to come from the poorest people in Maine who need dental care. I urge you to vote for the pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinitely Postpone the Resolve and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 672**

YEA - Andrews, Annis, Belanger, Berry DP, Blanchette, Bouffard, Bowles, Bruno, Carr, Chase, Clough, Collins, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Marrache, Mayo, McKenney, McNeil, Mendros, Mitchell, Morrison, Murphy T, Muse C, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Ash, Berry RL, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Clark, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Twomey, Watson, Mr. Speaker.

ABSENT - Bagley, Baker, Buck, Bumps, Chizmar, Colwell, Crabtree, Estes, Landry, Michael, Murphy E, Pinkham, Volenik.

Yes, 66; No, 72; Absent, 13; Excused, 0.

66 having voted in the affirmative and 72 voted in the negative, with 13 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Resolve and all accompanying papers **FAILED**.

Subsequently, and accordingly the Resolve was **FINALLY PASSED**, 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 Protect Children from Sexual Predators"

(H.P. 1482) (L.D. 1983)

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

That they are **UNABLE TO AGREE**.

Signed:

Representatives:

- MITCHELL of Vassalboro
- SAVAGE of Buxton
- MENDROS of Lewiston

Senators:

- McALEVEY of York
- O'GARA of Cumberland
- DAVIS of Piscataquis

Report was **READ**

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill went through a lot of work, a lot of different forms, you'll see a letter about it that was passed out. First off, I'd like to thank the Speaker, if it wasn't for the Speaker's help this would never made it through Legislative Council. He saw the need and got the votes necessary to have this be heard. I'd like to thank the Assistant Floor Leaders, the bill caucuses, they call themselves, the good Representative from Portland and the good Representative from Durham for being cosponsors of it.

It was worked in committee, came through in a different form, it ended up amended (H-881), which I hopes finds its way into being sponsored next year. I was pretty happy with the legislation, the way it came out, it was supported by the Maine Chiefs of Police. The Criminal Law Advisory Council actually wrote the amended version. From the dean of the law school at USM, Supreme Court Justice, Superior Court Justice, prosecutors, the good District Attorney from Washington and Hancock County, is a strong supporter of it, he helped draft the bill, Michael Povich. The compromise we came up with was agreed to by the Maine Civil Liberties Union Sexual Assault Crisis Center and probably a first for any bill, which I thought was a good sign, but apparently didn't turn out to be, both the Maine Women's Lobby and the Christian Civic League were all on board in support.

It all stemmed from a 14 year old girl in my district was picked up by a guy on line, she agreed to go meet him and they went out behind a store and he started fooling around with her, took her underwear off, fondled her. Sexual contact is defined in law as direct contact with genitals for the purpose of sexual gratification. This 47-year-old guy took this 14 year old girl, decided to fool around with her, take off her underwear, then he exposed himself and had her fondle him. He asked her to go a little further, provide oral sex. She refused, now if she had agreed, it would have been a felony, but she refused so he had her just satisfy him in other ways and then he had the boldness the next day to show up to the girl's house and say oh, to the girl's mother, who was in her 30's, she herself was more than 10 years younger than the guy and say, oh, by the way here's your daughter's underwear, she forgot it in my car. She called the police and there was nothing that the police could do, because if a person, sexual predator as the title says, takes advantage of somebody who's 14 or 15, they can consent and there was nothing the

mother could do. All this would have done was made it a Class D crime for the person involved. It would have done nothing to take away consent for 14 or 15 year olds. It would have been a Class D crime, if you're 10 or more years old when you take advantage of somebody that young. Unfortunately the system didn't work out, we couldn't come up with any compromise. We couldn't even meet to try to compromise. Now that little girl is in a psych ward at St. Mary's and that guy is walking the streets knowing what he did is perfectly legal. Thank you, Mr. Speaker.

Subsequently, the Report was **ACCEPTED**.

Sent for concurrence.

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

**UNFINISHED BUSINESS**

The following matters, 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 Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for the Construction of a Civic Center and Auditorium in Eastern Central Maine (BOND ISSUE)

(H.P. 1690) (L.D. 2189)

(S. "A" S-489)

**PENDING - PASSAGE TO BE ENACTED.**

Representative **BERRY** of Livermore moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I just want to speak for a moment just to identify that possibly the next several motions are related, we passed out all our bills that were a part of a bond package that has been agreed to and this is part of cleaning up the table items and hopefully that's explanation enough. Thank you.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

An Act to Authorize a General Fund Bond Issue in the Amount of \$25,400,000 for Economic Development (BOND ISSUE)

(H.P. 1691) (L.D. 2190)

(S. "A" S-490)

**PENDING - PASSAGE TO BE ENACTED.**

On motion of Representative **BERRY** of Livermore, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Biomedical Research and Development Equipment and Infrastructure (BOND ISSUE)

(H.P. 1696) (L.D. 2194)

(H. "A" H-1004)

**TABLED** - March 26, 2002 (Till Later Today) by Representative **BRUNO** of Raymond.

**PENDING - PASSAGE TO BE ENACTED.**

On motion of Representative **BERRY** of Livermore, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

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

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

An Act to Implement the Recommendations of the Committee to Review the Child Protective System

(H.P. 1644) (L.D. 2149)

Which was **TABLED** by Representative NORBERT of Portland pending the motion **RECEDE AND CONCUR**. (Roll Call Ordered)

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I apologize for not being able to be here earlier in the day when this came up. I was unavoidably away.

I want to tell you briefly that the Recede and Concur motion will allow us to keep the best parts of this bill, because very frankly, and bluntly, there just was no money that I could find after looking in every nook and cranny that I could find and trying every trick that I knew and employing other people that know the Appropriations process better than I trying to enlist their assistance in trying to find sufficient money to do this and frankly, we were just not able to find the money to fund this bill the way we would like to. I would be the first one to say that I would like all of the parts of this bill to go into law. Those of you who are familiar with the process that we went through to get here know that I have poured and a lot of other people have poured a lot of blood, sweat and tears into bringing this bill to where it is today and we would very much like to see it go through in its original configuration, but that's not going to happen and it's going to die on the Appropriations Table. Rather than see it die, what we've done is we've tried to take all of the best parts that didn't have a fiscal note, in fact all of the parts that didn't have a fiscal note, and leave them in the bill and strip out those parts that were going to cause a fiscal note that would in effect kill this bill. Now am I happy about that? Absolutely not, but I firmly believe that the changes that will be made by virtue of this bill in its new form will be advantageous to parents, will be advantageous to children and will be advantageous to the process and in the most strong words that I can muster, I would ask that you please support the Recede and Concur motion, not just for the sake of this bill, but more importantly for the sake of the children and the parents and the families that will be benefited by this bill. Thank you.

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

Representative **KASPRZAK**: Mr. Speaker, Ladies and Gentlemen of the House. The reason that I brought this up earlier, I have already spoken on, I was very distraught that this bill had been torn to pieces and these things taken out, but I absolutely do not want this bill to die. I think it has some really good parts that are still contained here and I hope that we won't give up the whole thing for those small things. There seems to be something that goes on here, it's sort of like a children's Easter egg hunt where we were able somehow to go throughout this building and find these little eggs containing money, little pots of gold, but we couldn't seem to find the golden egg to finance

this extremely important legislation and for that I am very sorry and I hope that the people in this chamber next year who come back will work very hard to make this a top priority and add those pieces back into this legislation. Thank you very much, Mr. Chair.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

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

The SPEAKER PRO TEM: The Representative may pose her question.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. What is the cost of the fiscal note for this bill that seems to be so difficult to finance?

The SPEAKER PRO TEM: The Representative from Biddeford, Representative Laverriere-Boucher 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 believe the fiscal note was \$400,000 in that range. I stand to be corrected if that is incorrect, but I'm pretty sure off the top of my head. I think that's the number we were looking for.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. In answer to the question, the original fiscal note on this bill was \$1.5 million. We at that point, we did a significant amount of scrambling in order to get the fiscal note reduced down to somewhere around \$400,000 and frankly, we were hoping we could get it down as low as \$200,000 and we were hoping that we could get the various members that had money on the table to contribute a significant amount towards this bill. That didn't happen, other priorities took priority and whether I like that or not, that's what happened and here we are. Do I want those other things? Absolutely, but it just seems to me illogical to let the whole thing go down the toilet simply because we're not getting everything we want this time. We will live to fight again. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I'm going to be very reluctantly supporting this Recede and Concur motion. It doesn't look like we can find the money. I've been a pretty vocal critic of the Department of Human Services, I'm not about to let up now. They always seem to find money for something that they want, but if it's something they don't want the fiscal note gets awfully big. I'm not coming back next year, a lot of you are going to be back and I hope you do something to help get our arms around this department, where they are going with child protective. I've taken a lot of criticism for being such a critic of this department. Well someone made me that critic like that and I hope it never happens to any of you. In August of 2000, I got a phone call from a frantic mother whose little girl was abused in the foster home she was in. For the next four months I worked with that mother and her lawyer to try to get that child back home or into a foster home that I was guaranteed was safe and I was told by the department the foster home was safe. In January of 2001 that little girl died because I couldn't do enough for her and her mother. I've been carrying that and I'm still carrying that. I hope it doesn't happen to you and if does, you'll fight just as hard as I did, but I hope you fight next year to get this department under

control without having to live through what I have to live through. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

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

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. This is directed to the Chair of Judiciary, I wonder if he could give us a quick summary of what is actually left in the bill and what the effect of those things that are left in the bill.

The SPEAKER PRO TEM: The Representative from Hodgdon, Representative Sherman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I will reluctantly do this, reluctantly because I'm afraid that I may forget something and leave it out and I don't intend to, but I can give you the highlights of what will remain in the bill.

In my opinion, one of the most important things that we did was to deal with the issue of who can be in the court room when a child protective matter is pending and one of the things that we did was we changed it to allow family members and those who have a close association with the child, whether it be grandparents, uncles, aunts, whatever that is, they have a close association with that child, under this bill they will be allowed in the court room. In addition to that there is an additional group of people who can petition the court to be participants in the process, even if they are not the child's parent. This bill provides that. This bill deals with the scheduling of preliminary hearings which allow for preliminary hearings to be held on a different basis than today. Today the preliminary hearing process is such that parents that are trying to fight the system find that they are handed the case and then a day or so later there's a hearing. This provides some time frames so that there's a more appropriate time period within which they can prepare for the case. This bill requires that for planned interviews, the interviews be recorded. It requires a whole variety of issues that will allow these processes to go forward. If you look at the original bill in front of us and then you look at this amendment, it's everything in that bill except for the five things that are listed in the amendment and they're summarized at the bottom of that amendment. I won't take up any more of people's time in going over it, but I can tell you that there are some very good things that are still left in this bill.

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

**ROLL CALL NO. 673**

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Clark, Clough, Collins, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, 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, Michaud, Mitchell, Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Tobin D, Trahan, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Bagley, Baker, Buck, Chizmar, Colwell, Crabtree, Estes, Landry, Lovett, Michael, Murphy E, Perry, Pinkham, Simpson, Volenik.

Yes, 136; No, 0; Absent, 15; Excused, 0.

136 having voted in the affirmative and 0 voted in the negative, with 15 being absent, and accordingly the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

**ENACTORS**

**Acts**

An Act to Address the Cash Flow and Funding Needs of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003

(S.P. 834) (L.D. 2215)

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

On motion of Representative WATERHOUSE of Bridgton, 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. 674**

YEA - Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chick, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michaud, Morrison, Muse C, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, Paradis, Patrick, Peavey, Perkins, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tobin D, Trahan, Twomey, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Andrews, Bouffard, Bowles, Chase, Clark, Clough, Collins, Cressey, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Jodrey, Kasprzak, Labrecque, MacDougall, McKenney, Mendros, Murphy T, Muse K, Snowe-Mello, Stedman, Thomas, Tobin J, Tracy, Treadwell, Tuttle, Usher, Waterhouse.

ABSENT - Bagley, Baker, Belanger, Buck, Chizmar, Crabtree, Estes, Landry, Lovett, Michael, Mitchell, Murphy E, O'Neil, Perry, Pinkham, Simpson, Volenik.

Yes, 103; No, 31; Absent, 17; Excused, 0.

103 having voted in the affirmative and 31 voted in the negative, with 17 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

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**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 Supplement Maine's Academic Attainment and to Retain Talent" (H.P. 1655) (L.D. 2162)

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

That the Senate **RECEDE** from Passage to be Engrossed as Amended by Committee Amendment "A" (H-1055) as Amended by Senate Amendment "A" (S-558) thereto in **NON-CONCURRENCE**.

That the Senate **RECEDE** from Adoption of Committee Amendment "A" (H-1055) as Amended by Senate Amendment "A" (S-558) thereto.

That the Senate **RECEDE** from Adoption of Senate Amendment "A" (S-558) to Committee Amendment "A" (H-1055) and Indefinitely Postpone Senate Amendment "A" (S-558).

That Conference Committee Amendment "A" (S-616) to Committee Amendment "A" (H-1055) be **READ** and **ADOPTED**. Committee Amendment "A" (H-1055) as Amended by Conference Committee Amendment "A" (S-616) thereto be **READ** and **ADOPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1055) AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (S-616)** thereto.

That the House **RECEDE** and **CONCUR** with the Senate.

Signed:

Senators:

BENNETT of Oxford  
GAGNON of Kennebec  
MITCHELL of Penobscot

Representatives:

GREEN of Monmouth  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Kennebunk

Came from the Senate with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1055) AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (S-616)** thereto in **NON-CONCURRENCE**.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative **GREEN**: Mr. Speaker, Men and Women of the House. I simply would like to say that I would like to thank the committee for a speedy and a extremely congenial resolution.

Six people came in and agreed within about three minutes, shook hands and then we all smiled and left. I appreciate that. I think it was a good resolution and I move its speedy adoption.

House **RECEDED** and **CONCURRED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1055) AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (S-616)** thereto.

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

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

**ORDERS**

On motion of Representative COLWELL of Gardiner, the following Joint Order: (H.P. 1737)

**ORDERED**, the Senate concurring, that when the House and Senate adjourn, they do so until Wednesday, April 24, 2002, at 10 o'clock in the morning.

**READ** and **PASSED**.

Sent for concurrence. **ORDERED SENT FORTHWITH**.

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**SENATE PAPERS**

**Non-Concurrent Matter**

An Act to Implement the Recommendations of the Commission to Study Domestic Violence

(H.P. 1658) (L.D. 2163)

**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-883)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-883) AS AMENDED BY SENATE AMENDMENT "C" (S-617)** thereto in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

An Act to Address the Unfunded Liability of the Maine State Retirement System and the Equity of Retirement Benefits for State Employees and Teachers (EMERGENCY)

(S.P. 819) (L.D. 2199)

**PASSED TO BE ENACTED** in the House on April 3, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-521)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-521) AS AMENDED BY SENATE AMENDMENT "A" (S-618)** thereto in **NON-CONCURRENCE**.

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

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

**Non-Concurrent Matter**

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

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

**PASSED TO BE ENACTED** in the House on April 8, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523) AS AMENDED BY HOUSE AMENDMENT "B" (H-1102)** thereto)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523) AS AMENDED BY SENATE AMENDMENT "A" (S-611)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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

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

**ENACTORS  
Acts**

An Act to Implement the Recommendations of the Committee to Review the Child Protective System

(H.P. 1644) (L.D. 2149)

(S. "B" S-614 to C. "A" H-1078)

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

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The Speaker resumed the Chair. The House was called to order by the Speaker.

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

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

**ENACTORS  
Acts**

An Act to Supplement Maine's Academic Attainment and to Retain Talent

(H.P. 1655) (L.D. 2162)

(CC. "A" S-616 to C. "A" H-1055)

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

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

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The Speaker resumed the Chair. The House was called to order by the Speaker.

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

**REPORTS OF COMMITTEE  
Ought to Pass as Amended**

Report of the Committee on **TAXATION** on Resolve, to Adjust the Valuation of St. John Plantation as a Result of a Fire (EMERGENCY)

(S.P. 825) (L.D. 2205)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-615).**

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-615) AND SENATE AMENDMENT "A" (S-620).**

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE. COMMITTEE AMENDMENT "A" (S-615) READ** by the Clerk and **ADOPTED. SENATE AMENDMENT "A" (S-620) READ** by the Clerk and **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-615) and Senate Amendment "A" (S-620)** in concurrence.

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**SENATE PAPERS  
Non-Concurrent Matter**

Resolve, to Allow Julie Harrington to Sue the State

(H.P. 1659) (L.D. 2165)

(S. "B" S-613 to C. "A" H-1045)

**FINALLY PASSED** in the House on April 9, 2002.

Came from the Senate **FAILING** of **FINAL PASSAGE** in **NON-CONCURRENCE.**

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

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**Non-Concurrent Matter**

An Act to Enhance Economic Development Capacity (EMERGENCY)

(S.P. 337) (L.D. 1144)

**PASSED TO BE ENACTED** in the House on April 2, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-517)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-517) AS AMENDED BY SENATE AMENDMENT "A" (S-621)** thereto in **NON-CONCURRENCE.**

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

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

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

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

**ENACTORS**  
**Emergency Measure**

An Act to Support a Continuum of Quality Long-term Care Services

(S.P. 722) (L.D. 1924)  
(S. "A" S-611 to C. "A" S-523)

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. 107 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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

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After Midnight

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**Acts**

An Act to Implement the Recommendations of the Commission to Study Domestic Violence

(H.P. 1658) (L.D. 2163)  
(S. "C" S-617 to C. "A" H-883)

An Act to Address the Unfunded Liability of the Maine State Retirement System and the Equity of Retirement Benefits for State Employees and Teachers

(S.P. 819) (L.D. 2199)  
(S. "A" S-618 to C. "A" S-521)

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

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

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The Speaker resumed the Chair.  
The House was called to order by the Speaker.

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

**ENACTORS**  
**Emergency Mandate**

Resolve, to Adjust the Valuation of St. John Plantation as a Result of a Fire

(S.P. 825) (L.D. 2205)  
(C. "A" S-615; S. "A" S-620)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 13 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Acts**

An Act to Enhance Economic Development Capacity

(S.P. 337) (L.D. 1144)  
(S. "A" S-621 to C. "B" S-517)

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

LEGISLATIVE RECORD - HOUSE, April 10, 2002

On motion of Representative KASPRZAK of Newport, the House adjourned at 12:30 a.m., until 10:00 a.m., Wednesday, April 24, 2002 pursuant to the Joint Order (H.P. 1737).