

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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
House Legislative Sentiments
Index

ONE HUNDRED AND TWENTIETH LEGISLATURE
 SECOND REGULAR SESSION
 49th Legislative Day
 Wednesday, April 24, 2002

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

Prayer by Reverend Roger S. Smith, St. Andrew's Episcopal Church, Readfield (retired).

National Anthem by "Will Play for Food," Livermore Falls High School.

Pledge of Allegiance.

The Journal of Wednesday, April 10, 2002 was read and approved.

Total Number of Bills and Papers	45
Unanimous Reports	27
Ought to Pass	0
Ought to Pass as Amended	8
Ought Not to Pass	17
Referred to Another Committee	2
Divided Reports	16
Committee Bills & Papers	2
Pursuant to Joint Order	1
Joint Study Orders	1
Respectfully submitted, S/Jill M. Goldthwait Senate Chair S/Randall L. Berry House Chair	

READ and ORDERED PLACED ON FILE.

COMMUNICATIONS

The Following Communication: (H.C. 459)

**STATE OF MAINE
 ONE HUNDRED AND TWENTIETH LEGISLATURE
 COMMITTEE ON AGRICULTURE, CONSERVATION AND
 FORESTRY**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
 The Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Agriculture, Conservation and Forestry during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	20
Unanimous Reports	17
Ought to Pass	1
Ought to Pass as Amended	12
Ought Not to Pass	4
Divided Reports	3
Respectfully submitted, S/Richard Kneeland Senate Chair S/Linda Rogers McKee House Chair	

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 461)

**STATE OF MAINE
 ONE HUNDRED AND TWENTIETH LEGISLATURE
 COMMITTEE ON BANKING AND INSURANCE**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
 The Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Banking and Insurance during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	14
Unanimous Reports	11
Ought to Pass	2
Ought to Pass as Amended	8
Ought Not to Pass	1
Divided Reports	3
Second named committee on one jointly referred bill. Respectfully submitted, S/Lloyd P. LaFountain III Senate Chair S/Christopher P. O'Neil House Chair	

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 460)

**STATE OF MAINE
 ONE HUNDRED AND TWENTIETH LEGISLATURE
 COMMITTEE ON APPROPRIATIONS AND FINANCIAL
 AFFAIRS**

April 12, 2002

The Honorable Richard A. Bennett, President of the Senate
 The Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Appropriations and Financial Affairs during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

The Following Communication: (H.C. 462)

**STATE OF MAINE
 ONE HUNDRED AND TWENTIETH LEGISLATURE
 COMMITTEE ON BUSINESS AND ECONOMIC
 DEVELOPMENT**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
 The Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Business and Economic Development during the Second Regular Session of the 120th

Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	35
Unanimous Reports	23
Ought to Pass	4
Ought to Pass as Amended	9
Ought Not to Pass	9
Referred to Another Committee	1
Divided Reports	9
Committee Bills & Papers	3
Pursuant to Joint Order	2
Joint Study Orders	1

Second named committee on one jointly referred bill.

Respectfully submitted,

S/Kevin L. Shorey

Senate Chair

S/John G. Richardson

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 463)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate

The Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Criminal Justice during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	40
Unanimous Reports	33
Ought to Pass	8
Ought to Pass as Amended	13
Ought Not to Pass	10
Referred to Another Committee	2
Divided Reports	4
Committee Bills & Papers	3
Pursuant to Statute	1
Pursuant to Resolve	1
Pursuant to Joint Order	1

Second named committee on one jointly referred bill.

Respectfully submitted,

S/Michael J. McAlevey

Senate Chair

S/Edward J. Povich

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 464)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate

The Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Education and Cultural Affairs during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	32
Unanimous Reports	24
Ought to Pass	3
Ought to Pass as Amended	10
Ought Not to Pass	9
Referred to Another Committee	2
Divided Reports	7
Committee Bills & Papers	1
Pursuant to Joint Order	1

Respectfully submitted,

S/Betty Lou Mitchell

Senate Chair

S/Shirley K. Richard

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 465)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate

The Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Health and Human Services during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	50
Unanimous Reports	39
Ought to Pass	5
Ought to Pass as Amended	21
Ought Not to Pass	12
Referred to Another Committee	1
Divided Reports	8
Committee Bills & Papers	3
Pursuant to Joint Order	1
Pursuant to P & S Law	1
Joint Study Orders	1

Respectfully submitted,

S/Susan W. Longley

Senate Chair

S/Thomas J. Kane

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 466)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Inland Fisheries and Wildlife during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	19
Unanimous Reports	11
Ought to Pass	1
Ought to Pass as Amended	3
Ought Not to Pass	7
Divided Reports	7
Committee Bills & Papers	1
Pursuant to Joint Order (divided)	1

Respectfully submitted,

S/David L. Carpenter

Senate Chair

S/Matthew Dunlap

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 467)

STATE OF MAINE

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

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Judiciary during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	27
Unanimous Reports	18
Ought to Pass	2
Ought to Pass as Amended	10
Ought Not to Pass	6
Divided Reports	9

Second named committee on two jointly referred bills.

Respectfully submitted,

S/Anne M. Rand

Senate Chair

S/Charles C. LaVerdiere

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 468)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON LABOR**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Labor during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	42
Unanimous Reports	29
Ought to Pass	3
Ought to Pass as Amended	14
Ought Not to Pass	10
Referred to Another Committee	2
Divided Reports	10
Committee Bills & Papers	3
Pursuant to Joint Order	2
Joint Study Orders (divided)	1

Respectfully submitted,

S/Betheda G. Edmonds

Senate Chair

S/George H. Bunker, Jr.

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 469)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Legal and Veterans Affairs during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	23
Unanimous Reports	16
Ought to Pass	4
Ought to Pass as Amended	8
Ought Not to Pass	3
Referred to Another Committee	1
Divided Reports	5

Committee Bills & Papers

 Pursuant to Joint Order

Second named committee on one jointly referred bill.

Respectfully submitted,

S/Neria R. Douglass

Senate Chair

S/John L. Tuttle, Jr.

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 470)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Marine Resources during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	11
Unanimous Reports	7
Ought to Pass	0
Ought to Pass as Amended	3
Ought Not to Pass	3
Referred to Another Committee	1
Divided Reports	1
Committee Bills & Papers	3
Pursuant to Joint Order	3

Respectfully submitted,
S/Kenneth F. Lemont
Senate Chair
S/David G. Lemoine
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 472)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on State and Local Government during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	37
Unanimous Reports	25
Ought to Pass	3
Ought to Pass as Amended	18
Ought Not to Pass	2
Referred to Another Committee	2
Divided Reports	10
Committee Bills & Papers	2
Pursuant to Joint Order	2

Respectfully submitted,
S/Peggy A. Pendleton
Senate Chair
S/Martha A. Bagley
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 471)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

April 4, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Natural Resources during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	40
Unanimous Reports	26
Ought to Pass	2
Ought to Pass as Amended	17
Ought Not to Pass	7
Divided Reports	12
Committee Bills & Papers	2
Pursuant to Joint Order (1 divided)	2

Respectfully submitted,
S/John L. Martin
Senate Chair
S/Scott W. Cowger
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 473)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON TAXATION**

April 12, 2002

The Honorable Richard A. Bennett, President of the Senate
The Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

We are pleased to report that all business which was placed before the Joint Standing Committee on Taxation during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	25
Unanimous Reports	22
Ought to Pass	2
Ought to Pass as Amended	16
Ought Not to Pass	4
Divided Reports	3

Second named committee on one jointly referred bill.
Respectfully submitted,
S/Kenneth T. Gagnon
Senate Chair
S/Bonnie Green
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 474)
STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON TRANSPORTATION

April 4, 2002
 The Honorable Richard A. Bennett, President of the Senate
 The Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 Augusta, Maine 04333
 Dear President Bennett and Speaker Saxl:
 We are pleased to report that all business which was placed before the Joint Standing Committee on Transportation during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	28
Unanimous Reports	21
Ought to Pass	1
Ought to Pass as Amended	14
Ought Not to Pass	6
Divided Reports	5
Committee Bills & Papers	2
Pursuant to Public Law (divided)	1
Joint Study Orders	1

Respectfully submitted,
 S/Christine R. Savage
 Senate Chair
 S/Charles D. Fisher
 House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 475)
STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY

April 4, 2002
 The Honorable Richard A. Bennett, President of the Senate
 The Honorable Michael V. Saxl, Speaker of the House
 120th Maine Legislature
 Augusta, Maine 04333
 Dear President Bennett and Speaker Saxl:
 We are pleased to report that all business which was placed before the Joint Standing Committee on Utilities and Energy during the Second Regular Session of the 120th Legislature has been completed. The breakdown of bills before our committee follows:

Total Number of Bills and Papers	27
Unanimous Reports	23
Ought to Pass	1
Ought to Pass as Amended	15
Ought Not to Pass	7
Divided Reports	3
Committee Bills & Papers	1
Pursuant to Joint Order	1

Respectfully submitted,
 S/Norman K. Ferguson, Jr.
 Senate Chair
 S/William R. Savage
 House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 476)
STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333

April 11, 2002
 To the Honorable Members of the 120th Legislature:
 I am enclosing H.P. 1672, L.D. 2174, "Resolve, Authorizing Michelle Booker to Sue the State," which is being returned without my signature or approval.
 On October 13, 2001, Donna Leen was tragically murdered in Bangor. This resolve seeks to waive the State's sovereign immunity and authorize the personal representative of the estate of Donna Leen to bring an action for damages under the Maine Wrongful Death Act against the Maine Department of Corrections based upon a claim that the Department wrongfully released from its custody the alleged murderer, Carl Heath. The resolve requires the action be brought in Penobscot Superior Court, directs the Attorney General to appear and defend the suit, and orders the State Treasurer to pay any judgment, including punitive damages.
 I am very sympathetic to the victim's family, but I cannot support the resolve as drafted because I believe it is fundamentally flawed in several respects.
 First, the resolve singles out the Department of Corrections for suit when the circumstances strongly suggest that the Department of Corrections properly discharged its legal obligations in releasing Mr. Heath. The Department did not release Mr. Heath into the general public. Rather, the Department released him into the custody of a county law enforcement authority with the understanding that he was going to remain in custody until additional charges were adjudicated and any resulting sentence served. Even before releasing him into the custody of this county authority, Department staff took the appropriate steps to determine whether Mr. Heath had any outstanding warrants or court orders against him that would prevent his release into the general public. In fact, it was through this process that the Department confirmed that there was one outstanding warrant or order, and then made arrangements to release him to the authority that had issued the warrant.
 Second, authorization and filing of a civil lawsuit are premature until such time as criminal proceedings are completed in order to assure that the defendant receives a fair trial. Although the filing of a civil suit is authorized anytime up to one year after criminal charges are resolved, the suit could be brought immediately upon the effective date of the resolve.
 Third, the resolve creates unlimited exposure to the State by not only failing to put a cap on damages, but also by expressly acknowledging that punitive damages may be an appropriate form of recovery. Of course, the State's actual exposure is unknown, but these two features of the bill—the absence of a cap on damages coupled with an express expectation that punitive damages may be recovered—make the potential exposure indefinite and substantial.
 I understand that there can be exceptional cases where it is appropriate to consider waiving the State's immunity to compensate injured victims or their families. In a case such as this one, where there are multiple governmental entities involved, it may be more appropriate for the Legislature itself to fashion a remedy, or at least to place some limits on the exposure, rather than authorize an open-ended lawsuit against a single entity, particularly where it appears that entity acted properly in discharging its responsibilities.

In these circumstances, I cannot support waiver of the state's sovereign immunity.

Sincerely,
S/Angus S. King, Jr.
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Resolve, Authorizing Michelle Booker to Sue the State

(H.P. 1672) (L.D. 2174)
(C. "A" H-1044)

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I hope that you will vote to override the Governor's veto. As most of you are aware, this Resolve authorizes Michelle Booker in her capacity as a personal representative to sue the state. If Michelle Booker prevails in the suit, recovery is limited to the amounts authorized under the law. The limits of actual damages, if they do prevail is limited to \$400,000 in damages and \$75,000 punitive damages. This is a unanimous report from the Committee on Legal and Veterans Affairs. As many of you know, we have a number of cases against the state every year. We do place these to a high standard. This is a unanimous report from the committee. We have felt that the state failed to keep Mr. Heath in custody when charges were pending against him. The case warrants passage or resolve. It just allows the individual to proceed in a court of law. The Department of Corrections, in my opinion, was negligent in releasing Mr. Heath in this situation and should have prevented this from happening again.

As far as the citizens should be protected, it did not happen in this case. I think there has to be some degree of accountability. As many of you know, the Maine Tort Claims Act gives governmental entities immunity from tort unless suits arise out of negligence. Despite the Constitution on public policy issues raised by the waiver of governmental immunity the Legislature has in the past enacted legislation to authorize acts against the state.

In closing, I think the evidence presented at the hearing only confirm that the Department of Corrections had received express notice on multiple occasions of Mr. Heath's outstanding matters in Cumberland County prior to his release on October 12, 2000. We received much testimony on this. We received testimony from Sheriff Mark Dionne on this issue. As Sheriff Dionne testified at our hearing his department provides the department with such documentation every time a prisoner is transported regardless if the department did have in his files on March 2001. It was an arraignment alerting the department to the fact that Mr. Heath was to be held pending resolution on those charges. It is for that reason that I would ask that you would override the Governor's Veto. As I said before, the committee places these issues to a very high standard and we did so in this case. It was a unanimous report from the committee. I would ask for your vote today. Thank you Mr. Speaker.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I was the sponsor of this bill. We presented it in committee and it came out with a unanimous report. I believe the issues raised by the Governor is his reason for vetoing the bill had been addressed clearly in this bill. She was a constituent of mine. She was murdered in my district. The person who was alleged to have done it was a bad character with a long rap sheet and was wanted in several counties. He was sent to the state

prison because he was so disruptive in county jail. He should not have been released and within a day of being released, he called for a cab. She was a cab driver, 60 years old and 20 years in the business. He bludgeoned her to death with a hammer. I believe this suit is worth moving forward. It will only happen after the charges come to a resolution. The situation that allowed this to happen needs to be addressed. Thank you.

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

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. I would urge you to override the Chief Executive's veto on this particular piece of legislation. I would address the three points with you. Is this a premature filing? I would suggest to you that if you think back to the OJ Simpson case and the civil suit that was pending against him, I would suggest to you the civil suit that is pending against Mr. Blake. Filing a civil suit is not unique. Civil suits always take the back seat and are filed and processed only after all the criminal charges, including the appeals processes, have been resolved. I would further point out that this bill clearly states alleged. Nowhere has there been a determination if Mr. Heath is guilty or not guilty.

I would ask you to look at the summary with regards to there not being an amount of money that is a cap on this particular bill. MRSA Title 18 deals with the Tort Claim Act and the limits of money that you can receive. In this particular instance we have a letter dated April 11, filed in hand to our District Attorney that Michelle has signed that says that she will not sue for more than \$475,000, because in the tort claims piece in Title 18, there is a piece on which there is no cap for pain and sufferings. She has addressed that issue with a volunteer cap of her own.

Finally, just how did Mr. Heath get released? It was very clear in committee that there was a mix up of some sort and that he was released inappropriately. I wonder from whom the Chief Executive received his information. It is because of this very fact that this bill ought to go forward. We are not judges. We are not juries. We are not a court of law. The information that is involved in this particular suit needs to be heard in a regular, proper and responsible manner. It needs to go forward. I urge you to allow this bill to continue. Thank you Mr. Speaker.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. Not to prolong this a great deal more, but I would remind you of a statement that was made when we discussed this bill previously before the recess. This is the first time in many, many years that we have had a unanimous report of the Legal and Veterans Affairs Committee dealing with a suit against the state. It is very unusual for this type of thing to happen. This morning when we vote it will be the first recorded vote on this particular issue because this body allowed this situation to move forward to the Executive's desk under the hammer and not with a recorded vote. That indicates to me and I would hope that it indicates to the people in this body that there is strong support to allow this particular suit to go forward and let the courts make a decision. Please remember what you have done previously with regard to this piece of legislation and vote to override the Executive's veto. Thank you.

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

Representative **FISHER**: Mr. Speaker, Men and Women of the House. For six years I have served on the illustrious Legal and Veterans Committee and I was one of those votes constantly against suits against the state. I would ask you all to follow the

suggestions of the previous speakers and support this one. I will. Thank you.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I absolutely plan on speaking on a couple of things this morning. I want to make that point perfectly clear and not say that I wasn't going to get up on this. The baseline for my discussion will be mental health services. When I testified in front of the committee on this to ask if the committee would move this on and finally did get the unanimous report out of the committee, one of the things that I said was that we are responsible. We, in the State of Maine, are responsible. One of the ways that we can fulfill that responsibility is to ensure that there are mental health services in the county jails. That is a soapbox that I have been on for a long time. I have been coming back here for my third term and I think that every single one of them has at one point or another either through another bill that is coming up that we will be discussing as far as a veto is concerned in a very few minutes.

I think we need to face that responsibility and let this bill move on. We need to vote to override the veto of the Chief Executive. I know of no other individual, with one exception, who has left the Penobscot County Jail inappropriately. That was a man who tied some bed sheets together. He came out of Waldo County and everybody thought that Gus Heald would never get out of Penobscot, but he did, both he and his girlfriend. So did Mr. Heath, inappropriately, lack of communication. Something happened and there was a breakdown that let this man get out. We are responsible for that. Had there been some services in the jail that would have helped this individual or at least would have brought us to the point that we knew how sick the man was, then perhaps we would have saved a life. We didn't act early enough or soon enough and those services were not available.

Michelle Booker lives in Winterport. She has asked if we can, please, move this legislation along and give her the opportunity to sue. Just as was said a few minutes ago by another Representative, this then will go to the courts and let them decide. We will let all the facts be out. Be prepared, because it is our responsibility.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I am sorry I was late. The Criminal Justice Committee was meeting today. There will be legislation coming before us in an unrelated matter. Nothing seems to be ever settled in this body. We keep on working. I guess the people in Maine are getting their nickels worth. We had an important conversation with the Department of Corrections. They asked to meet with us this morning. We certainly were happy to hear their remarks. We have a lot of respect for the commissioner. We have worked with him and his staff for six years. We talked about this legislation. I am glad that finally this body has an opportunity to talk about it because we learned in the other body there was quite a long discussion, but in this body when it came through there was no discussion. Certainly the incident was a tragic incident. It happened in my part of the world. Certainly this body wants to do the right thing. I think there is an opportunity to bring suit, but the essence of jurist prudence is to at least litigate against the right person, the right entity. This resolve points to the Department of Corrections for this litigation. Long ago during the case as it was being played out in the newspapers and later on today was confirmed that I think we have the wrong target. The Department of Corrections acted within the law. If they hadn't done what law prescribed, then they would have violated

the law. They did not, in my mind, do anything that should bring them to be part of a suit against this department. I would be the first to urge litigation against an entity where there is probable cause. Not being an attorney, I don't have the correct terminology, but there doesn't seem to be probable cause to bring an action against the Department of Corrections. I cannot support this Resolve. It doesn't mean that I feel any less toward Michelle Booker. I think there should be some redress for Michelle Booker, but in this case we are putting our signature on litigation that litigates against the wrong person. That is not the essence of jurist prudence in the State of Maine. I urge you to sustain the Governor's veto. Thank you.

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. We are going after the right person. As I mentioned to you, the evidence presented at the hearing only confirms that the Department of Corrections received express notice on multiple occasions that Mr. Heath had outstanding matters in Cumberland County prior to the authorization of his release on October 12, 2001. We received extensive testimony that communication was there. We are going after the right entity. In addition to these written warnings, the department was notified of Mr. Heath's outstanding matters during an October 11, 2001 telephone conversation. The culpability is there. I would ask that we would override the Governor's veto.

The SPEAKER: A roll call has been ordered. The pending question before the House is Shall this Resolve become a law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 675V

YEA - Annis, Ash, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bunker, Canavan, Carr, Clark, Collins, Colwell, Cote, Cowger, Cressey, Dudley, Dugay, Duncan, Duplessie, Estes, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Haskell, Hatch, Hawes, Heidrich, Hutton, Labrecque, Landry, Laverriere-Boucher, Ledwin, Lessard, Lovett, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, Mendros, Michael, Michaud, Muse C, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Schneider, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Weston, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Berry RL, Bowles, Bruno, Buck, Bull, Bumps, Chase, Chick, Clough, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dunlap, Duprey, Etnier, Foster, Glynn, Gooley, Honey, Jodrey, Jones, Kasprzak, Koffman, LaVerdiere, Lemoine, MacDougall, Mailhot, Marrache, McNeil, Mitchell, Morrison, Murphy E, Muse K, Nass, Peavey, Pinkham, Povich, Rosen, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Wheeler EM, Winsor.

ABSENT - Bagley, Baker, Bryant, Chizmar, Jacobs, Kane, Lundeen, Madore, McGowan, Murphy T, O'Brien JA, Shields, Simpson, Volenik, Young.

Yes, 81; No, 55; Absent, 15; Excused, 0.

81 having voted in the affirmative and 55 voted in the negative, with 15 being absent, and accordingly the Veto was Sustained.

The Following Communication: (H.C. 477)
STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333

April 11, 2002

To the Honorable Members of the 120th Legislature:
 Enclosed please find H.P. 1205, L.D. 1627, "An Act to Ensure Equality in Mental Health Coverage," which I am returning without my signature or approval.

In 1995, I signed a progressive mental health parity law that required health insurance coverage for 7 specific biologically based mental illnesses in policies held by employer groups of 20 or more. This new bill goes considerably beyond the 1995 act to expand mandated coverage to 11 categories of mental illness as defined in the Diagnostic & Statistical Manual of Mental Disorders (increasing the number of potentially covered disorders to over 40); to include licensed clinical professional counselors in the definition of providers eligible to treat mental illness and receive reimbursement for those services; and to require coverage for residential treatment services and home support services. The addition of anxiety disorders, personality disorders, attention-deficit/disruptive behavior disorders and the substance abuse aspects of those illnesses already covered under the 1995 law inevitably will increase health insurance costs.

While the bill before me is well intentioned, it is offered in a period of dramatically escalating health care and insurance costs. As we look for ways to reduce the costs of health care, we must not exacerbate the problem by adding new mandates. When you are in a hole, the first rule is not to dig any deeper. This bill would serve to make the hole deeper, because the addition of another mandated benefit virtually guarantees that the cost of health insurance for employer groups of 20 or more will increase. I realize that cost estimates in connection with this bill are in the range of .5% of current premiums; but in the current climate, any increase mandated by the state is unacceptable, particularly in an area where significant growth can be expected.

We already know that more and more employers are being presented with increases in health insurance renewal premiums that range from 25% to 50% and more. According to one national estimate, the health insurance cost for each employee will increase an average of \$746 this year. During the first session of the 120th Legislature, we heard testimony about specific businesses and their premium increases. For example, a retail tire business with 31 employees saw its health insurance rates increase over 42% from 1998-2000, and a physician practice with 32 employees saw its rates increase over 20% from 1999 to 2001. These and other Maine businesses are forced to confront difficult choices: do they continue existing policies at a significant increase in cost and shift more of the cost of the health insurance to employees; do they retain coverage but offer higher deductible policies; do they forego increasing employee salaries to maintain coverage; or do they drop coverage altogether? All of these options translate into less money in the pockets of Maine citizens.

Proposals to try to make health insurance more affordable, such as those brought forward by Speaker Saxl and President Bennett, have dominated this Legislative session. It is worthy of note that L.D. 1627 will have exactly the opposite effect and will serve to make health insurance more expensive. The bill itself recognizes this fact, by including an appropriation to the general fund to cover the increased costs to the state employee health plan. Many other Maine employers that provide health insurance will have to do the same thing if L.D. 1627 takes effect.

The bill also anticipates savings to the general fund, reflected in a deappropriation of funding for the Departments of Behavioral and Developmental Services and Human Services. These deappropriations are predicated upon expected savings to state programs to be gained by shifting these costs to employers and employees in the private insurance market. I am reluctant, however, to accept these "anticipated savings" because it is not clear to what extent employers or employees are likely to drop coverage due to increasing health insurance premiums.

We are facing a health insurance crisis in this state, and accordingly, it is a particularly bad time to add costs, regardless of how big or small. As we face expected double-digit increases in health insurance costs for at least several more years, we cannot ask people who can barely afford what they have now to pay more. While expanding mental health care is a worthy goal, we cannot allow the best (comprehensive coverage including full mental health benefits) to become the enemy of the good (any coverage at all).

Because of the objections outlined above, I am in firm opposition to L.D. 1627 and I respectfully urge you to sustain my veto.

Sincerely,
 S/Angus S. King, Jr.
 Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill "An Act to Ensure Equality in Mental Health Coverage"

(H.P. 1205) (L.D. 1627)
 (H. "A" H-1077 to C. "B" H-1052)

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. This bill, LD 1627, is the mental health parity bill. To remind you all, it requires comprehensive coverage for mental illness and substance abuse treatment for insurance plans covering 21 or more employees. There are really two levels to this bill. There is the symbolic aspect and the functional reality aspects. Symbolically for those of us who are concerned about business and the health of Maine's economy is the question of potentially raising health insurance rates. On the other side of the symbolic equation is whether or not we want to send a message that the era of stigma for those suffering from mental illness is coming to an end.

On the functional side, what will this bill do the Maine economy and to Maine business? What will it do on the other side for people suffering from mental illness? According to the Maine Bureau of Insurance the potential premium increase under this bill is 0.4 percent. The Maine Bureau of Insurance, which is headed by an appointee of the current Chief Executive, 0.4 percent premium increase. That has to be balanced on the effects of other business costs, the costs of medical care overall, which will decrease under this bill, the costs of absenteeism, which will decrease under this bill and the cost of long-term disability insurance, which will decrease under this bill.

We have here a 0.4 percent number which gets even smaller and perhaps as is the experience with some major corporations in this country, perhaps even result in an overall savings to business. That is to be balanced with what are the practical affects for people suffering from mental illness and people in need of substance abuse treatment in the State of Maine. The truth is this bill will allow treatment earlier. It will help reduce the stigma that prevents people from getting treatment in the first place. It will increase favorable outcomes from people suffering from mental illness. In short, this bill is a win, win situation. It is a win for the Maine's economy and it is a win for those people in

Maine suffering from mental illness and in need of substance abuse treatment. Thank you very much.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I think it was five years ago that I was approached by a lady in Bangor who through her tears shared with me that both she and her son have a mental health problem. She had taken her son to Acadia Hospital and he had finally begun treatment and suddenly she was told he was being discharged because there was no money. Any insurance that she did have had such a low ceiling that it had burned up all the coverage inside of just a few days. She wanted to know what in the world she could do to help both her and her son. I brought forth the parity bill and since that time I have supported it every year. I have supported it because this lady came forward to me. I have also supported it since that time, because two people who are extremely close to me have been diagnosed as bipolar. One of them is my stepdaughter. She doesn't mind that I tell you this. There is no breach of confidentiality. She was admitted to Acadia and we got the dreaded phone call that the cost was now beyond the insurance coverage. I was fortunate because her biological father and I were able to help until she reached the point where she could be released and put on the proper medication and went to Eastern Maine Technical College. Today she is in her second year studying to be a welder. That is a payback. That is the kind of thing that can happen if we have mental health parity. The good Representative Dudley is absolutely right.

A minor increase in premium costs are huge paybacks for the people of the State of Maine. How much longer are we going to penalize people because they have mental health disorders? We all know what happens to people who are not treated appropriately. We have seen it happen. We read about it in newspapers. We need to override this veto.

I want to say something now that may seem a little bit strange and it may not be seemingly connected, but it is. This is a property tax bill. I live in Waldo County and if you want after this is over, I will share with you the story of a young man who came to the system needing help. Where did he end up? In Waldo County Jail. What did he get for services? None. Where did he finally land? In the back seat of his car where he slept and kept saying to the people that were incarcerating him, I am going to kill myself. Bunches of us got together, including my good friend from Montville, Representative Weston, and we finally found a place in one of the institutes in Maine. There are no services in the county jail. There were no private services available for this young man. Mental health parity, think about it ladies and gentlemen. It is minimal costs in premiums to the people of the State of Maine. It is a huge payback. It makes people like my stepdaughter productive members of society. There is a history. Where would these people be if they didn't get the proper medication?

I had a very dear friend a number of years ago who was bipolar. He was town manager in one of the small communities outside of Bangor. His disease kept telling him that he was okay. When he was okay he would go drink and his drinking disease told him not to take the lithium and whatever and he died on the streets. Keith was a friend. There were no resources. Keith had run out of money and out of insurance. It is a small premium, less than one-half of 1 percent. Are we willing to put a few dollars aside and pay our extra premium costs and return millions to the State of Maine? I think that is why I am going to vote to override. I think that there are thousands of people out there who would get a great deal of help if we have parity. Not the kind of parity that we passed a few years ago that says that there must

be parity so insurance companies followed by saying that we will cover mental health and therefore we have parity. Go talk to people who have purchased those kinds of coverages. The ceilings are very low. It is \$25,000 in some cases. How long does it take to rack up a health care bill for \$25,000? It doesn't take very long. What do you do with someone who is in the throws of a mental health trauma? Let's send them back home where they don't get any help and the right medication. Mental health parity is something that this state has needed for years. Now is our opportunity. This bill was passed in this body and in the other body and the Chief Executive fearful of increased costs has decided to veto it. The proof is there. It is not going to contribute to increased costs. Please join me in overriding this veto. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. It seems to me that this bill, if it is passed, is meant to solve a problem. It comes with a seemingly small price tag. What concerns me with issues like mental health, it seems to me that at this point it is going to be minimal cost and premium increases. What is to keep the creep out? What is to keep the growth of identifiable mental health problems from growing like we have seen in the special ed conditions that we have created in schooling. In my district eight years ago, 10 percent of our students were classified as special needs children. That has now doubled. Twenty percent of the students in my district are now classified as special needs, abnormal, out of sync. My fear is that this well-meaning bill here if it passes, I can see the same kind of things happening. The percentage of students have doubled in my district in eight years, special needs, along with almost the same percentage of proliferation of numbers of syndromes. Wherever there is mandatory money chasing a problem, it is just astounding how many new acronyms and syndromes and problems can crop up. I am not minimizing the problem that this is trying to address, but I hope during the debate somebody can address these questions of what is going to keep this from creeping.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. As I indicated to this body a couple of weeks ago when we had the debate on this bill, LD 1627, this is the first time I have stood and not supported a mandate in the eight years that I have been a member of this body. I do so today, but not with a great deal of joy. There are many reasons. Some of which you have heard with the previous speaker who raises some excellent points. I would remind this body that Maine businesses are currently faced with severe problems in continuing to pay for the health insurance of their employees.

It is estimated according to information that the Banking and Insurance Committee received this year that the health insurance costs for each employee will increase on an average of \$746. When we move forward with this particular bill, LD 1627, yes, 4 tenths of 1 percent does not sound like a great deal, but it will increase the cost of health insurance for the employers and employees in this state. We know from past experience that every time we do this, some people who are currently being covered will lose their coverage. Today, in the State of Maine, we have over 150,000 people who are not covered.

We do have a health insurance crisis in this state, but it is a crisis of cost. By overriding the Executive's veto of this particular piece of legislation, ladies and gentlemen, we are going to contribute to that crisis. I, as one member of this body, do not want to leave here and go home and attempt to explain it to my

constituents that I cast a vote to increase the cost of health insurance when we have a major problem that I think we all realize.

I am a little confused by some of the comments made previously that in 1995 we did pass legislation dealing with the seven biologically based mental illnesses. That particular piece of legislation, which I was happy to support, and am very glad to see on the books, requires coverage under the same terms and conditions as physical illness, which in many cases that I have been aware of since it was passed in 1995, it has paid much more for those who are covered by group policies, it is paid on the same basis as physical illness.

Ladies and gentlemen, I would strongly urge that you vote to sustain the veto of the Executive on the LD 1627. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. Today I am going to be appealing to both your heads and your hearts. I think as human beings our best decisions are made when we engage them both. The struggle to gain equality and insurance coverage for Maine people suffering from mental illness spans at least two decades. Today here we are again, almost there with just a bit further to go and a minor setback. That setback is the Chief Executive's veto. If the veto stands, many Maine people, including children with anxiety disorders, substance abuse problems, depression, anorexia nervosa and bulimia will continue to be denied health insurance coverage. Between 1999 and 2001, a total of 195,951 Mainers, mostly middle class working people, were denied mental health claims. It is an old story for people with mental illness, but that doesn't make it any easier. I will talk about that in just a moment.

Opponents of LD 1627, including the insurance lobby and now the Chief Executive, say that the bill would drive up costs. It is a suspicious, but never the less an argument designed to scare consumers and small businesses already hit by double digit premium increases in recent years. The truth is hard evidence to support their claim and is virtually nonexistent. What about evidence to support the claims of proponents of the bill that the cost of comprehensive coverage for mental illness is either miniscule of nil? In fact, compelling evidence across the nation shows exactly that. The coverage for mental illnesses may save money. First, a report by the Substance Abuse and Mental Health Services Administration showed that 86 percent of employers who made changes to health plans to comply with the 1996 parity law found the cost of compliance was minimal or nonexistent. Secondly, the National Advisory Mental Health Council found that full parity costs less than 1 percent of annual health care costs. When implemented in conjunction with managed parity, it can reduce cost by 30 to 50 percent. Third, the National Advisory Mental Health Council's interim report on parity costs conducted in 1997 indicated that the introduction of parity in combination with managed care results in at worst very modest increases. In fact, lowered costs and lowered premiums were reported within the first year of parity.

The State of Maryland reported a .2 percent decrease after the implementation of full parity at the state level. Vermont, which has better coverage than Maine reported no significant increases. Here in Maine a 1998 study by UNUM found that employer plans with good access to mental health services had significantly lower disability claims. Finally, in the year 2000 the Maine Bureau of Insurance conducted research on the impact of equal insurance coverage for main illnesses. Their conclusion was that because of advances in mental health treatment, mental health disorders do not present risks to insurers that are greater than those associated with other major medical disorders and

limits specifics to mental health benefits are difficult to justify from a risk perspective. That is from the Insurance commissioner.

Finally, LD 1627 has a positive fiscal note for this year. It is \$1 million for this year and \$10 million in saving to the Maine Medicaid Program in the next biennium. Men and women of the House, the evidence shows that parity is not only affordable, it may save money. The other day I received in the mail a report from the Maine Hospital Association and the subject of the report was ways to control health care costs. I didn't see anything in it about holding the line on mandates, but I did read that quote of preventing disease before it starts and managing it well if it occurs is the key to long-term savings. I went on to read "the uninsured are four times as likely as those with health insurance to require both avoidable hospitalizations and emergency hospital care." Health insurance premiums are increasing, but not because of mandates. Premiums are tied to health care costs, which are driven by such factors as an aging population, new technology, unhealthy lifestyles and shifting costs. It is all in the report of the Maine Hospital Association. Read it.

It is no surprise to me that insurers would make cost a priority. That is their job. However, I am truly surprised and disappointed that the Chief Executive of the state simply followed their line and failed to weigh other costs when he vetoed this bill. I am surprised that he failed to weigh the enormous cost to us all if we do not provide adequate care for people suffering from a mental illness. These costs will never show up on an actuarial table, but measured on the scale of human suffering, they are off the charts. They include unemployment, poverty, homelessness, criminalization, social isolation, broken families and as a person who has worked with families of the mentally ill, I know about this and in some cases premature death. The second leading cause of death for Maine children is suicide, yet we say the cost of health insurance for many children's mental illnesses is too much. What is wrong with this picture?

I know from personal experience working with a family with persons with mental illness the devastation that this disease can bring to families and to its victims. They have shared their stories with me. I have listened and today I would like to share one of those stories with you. It is a story of a loving couple whose beautiful teenage daughter was struck down by a mental illness. She spent many months in a hospital out of state. It was one of the best facilities available. The father was in insurance so fortunately they have excellent coverage. By the way, this was 20 years ago when treatment for the illness was not nearly as advanced as it is today. Each weekend the couple visited their daughter and each time on the trip home together they wept. When the insurance ran out, they had to dip into their savings and were then forced to place their daughter in AMHI. On top of the enormous heartbreak was the ever present specter of insolvency.

Men and women of the House, I know something about the heartbreak that happens when mental illness strikes a child. I can tell you there is no crueller illness because the child you cherish is taken away from you in a way that is just this side of death. All of your hopes and all of your energies become focused on just one thing and that is getting that child back and seeing her whole again. Many of the illnesses this bill would cover are typically children's mental illnesses. Ask yourself how fair it is that in order for a parent to get treatment for a child, that parent has to take out second mortgages, borrow, file for bankruptcy, quit their job or relinquish custody of their children to the state to qualify for public benefits. These are not made up scenarios. They happen. Ask yourself how fair that is when just down the street a neighbor with another catastrophic illness is getting good insurance coverage. The answer lies in the

question. In 1999 the Surgeon General noted that while an insured family facing an illness like cancer, diabetes or heart disease will pay approximately \$1,500 out of pocket. A family facing mental illness will pay approximately \$125,000 out of pocket. I have mentioned this before. Those are staggering statistics and they reflect the unfairness with which those with mental illness are being treated. Down through the years the theme of cost has dominated in every debate on insurance coverage for mental illness. There is another more subtle theme and that theme as I have mentioned here before is discrimination. If you think it doesn't exist in our society today, read the newspaper or watch the TV or watch the epithets that even supposedly well educated and informed people sometimes use to describe those with mental illnesses.

Discrimination against folks with mental illness is so wide spread it affects our justice system, our housing policies, our employment practices and it affects our insurance laws. How can we possibly call it anything but discrimination when we provide comprehensive coverage for cancer, heart disease and diabetes and other costly illnesses and then contend that we just can't afford to provide good health coverage for many mental illnesses? Are the victims of brain disorders somehow less deserving? Haven't we advanced beyond the dark ages when folks believed mental illness had trauma or bad parenting? The fact is that today there is very little debate within the scientific community that brain disorders are in fact medical in nature, every bit as medical as heart disease, cancer or diabetes. The newest medical technology can actually take pictures that show differences between brains with disorders and normal brains. For many years the National Alliance for the Mentally Ill have sought to eradicate the stigma that persists in our society and my fear is that this veto will set this cause back immeasurably. It sends a message to the Maine people that we don't think that mental illnesses merit the same kind of consideration we give to other serious illnesses.

As a life long resident of Maine I can say with some certainty that not one Maine person I know would hesitate to pay the paltry amount the insurance lobby insists that this bill would cause knowing it would help our children gain better access to health care. Today, men and women of the House, I would ask that you search both your minds and your hearts before you cast your vote. I would ask that you weigh all of the costs of monetary and the costs in terms of human suffering. I would further ask that you consider the cost to human dignity when we deny adequate health insurance to one population. I would respectfully ask that you vote to reconsider this veto.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. I speak because I want to represent people that I work with or have worked with at Shalom House and at other jobs for 20 or 30 years. They are people with serious mental illness. I speak because I suffer also from depression. I am part of this illness. Why are we who have mental illness or mental illness related disease discriminated against? If the young lady that was just spoken of had had a serious chronic cancer or kidney illness, treatment would not have stopped after so many days. Why? It was because she had a serious mental illness that treatment was stopped. Somehow people think that people with mental illness are going to run wild. Do you know why the cost is so low in the estimate of our insurance commissioner? These are managed plans. Do we understand that this is managed care? How many of you haven't had to deal with managed care? If you haven't, thank God. You are healthy and you are doing fine. If you dealt with managed care,

especially trying to get to see a psychiatrist or to get some medication, you have to jump through hoops and hoops. That is why the costs here are low. That is why the fear of every child who has some attention deficit won't be covered here. It is managed care. It won't cost.

All of the editorials say that we should override, by the way, for what editorial writers are worth. The Washington Business Group on Health, a non-profit research organization made up of Fortune 500 and public sector employers, found that such mental health parity benefits can reduce overall health care costs. If you are depressed, you don't work well. If you are mentally ill, you are not going to perform. You are going to be home. Mental illness care will save money in the workplace. I speak because these people have been discriminated against forever. I will do anything to help overcome that stigma. If we don't override, that action will just give another blow to people with mental illness. You are not the same as everybody else. You do not have an illness that is respectable.

I also speak because I plan to come back here next year and we are going to have a whale of a problem with the amount of money we are going to have to spend and this bill, if we don't override, we have to take a million out of the Rainy Day Fund that was there now. There is \$10 million that would be available to begin to deal with multiple million problems that we will have next time. It is a no brainer, but it is a brainer and that is the problem. I urge you to join with us in voting green to override. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. On a positive note, I would like to say that before coming into the session this morning, my daughter brought me warm doughnuts and a cup of coffee before I rose from my bed and then I took her to the University of Maine. I am very proud of my daughter. She is manic depressive or bipolar. I have gone to jail to bail her out. I have gone to jail with her when I couldn't bail her out. I have gone to jail to bring her home after Christmas where she had spent Thanksgiving and Christmas. I know about mental illness. I am, in a way, grateful for that experience so that I understand the families of the mentally ill and I have some understanding of those who are mentally ill. My daughter is fortunate enough to have been able to get treatment, but even with treatment it is extremely difficult. I don't know how families with a mentally ill member get by financially and sociologically without some sort of financial assistance. My daughter had been on social security or had worked long enough to get social security benefits when she was diagnosed. That took care of that problem. I do hope you all vote to override the Governor's veto. Mental illness is another disease. I think we lose the sense of the purpose of insurance. The purpose of insurance is simply to spread the risk. We are all at risk of having a mentally ill or a child or grandchild with mental illness. It doesn't always happen to someone else. Insurance is simply about spreading the risk.

We are going to accept some of the risk for other to relieve that terrible pressure. I went to a conference a while ago and a woman stood up and gave a story about her son who had mental illness. I am so thankful that he finally has gotten into enough trouble with the law so that he has been taken in and is in jail where he can't do anymore harm and where he stands some chance of getting help.

Here we are in the most prosperous country in the world in one of the most advanced states in the United States, socially and intellectually, where the best thing that we can do for a mentally ill teenager is to put him in jail. I received a call one

night from a woman who asked for my assistance as a Representative. Her 13 year old daughter had attacked her with a knife. Her daughter had mental illness and the mother did also. They put the 13 year old daughter in jail. I called around to see if we couldn't find a more appropriate place for a 13 year old girl having a mental episode than a jail. We should be ashamed, my friends, that we put 13 year old girls having mental breakdowns in jail. We should be ashamed of that. Whatever we can do I think we should expand coverage to make sure people are treated appropriately earlier and that the financial pressure doesn't add to the family's stress.

We are more interested in protecting insurance companies than we are interested in protecting children. As I was saying, the purpose of insurance is to spread the expense. The purpose of insurance now seems to be for someone to make money. A few years ago I put a bill in to insist that when anyone receive an insurance bill of any type it would be in addition to thanking you for your business, last year we made a profit of \$3,383,000 or whatever it was. That was described as an anti-business measure and was defeated by this Legislature. It did not want us to know how much the insurance companies were making on our auto insurance, house insurance and health insurance. We are more interested in protecting insurance companies than we are in protecting children. I hope that this is a turning point this morning when we look more after our young people than we do profits of insurance companies. Thank you.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. The Governor's veto on this bill was appropriate and I believe it is something that we should uphold. This is a bad piece of legislation for several reasons. First of all, I would like to say to my colleagues that have spoken before me in the House that I share very much my sympathies to your family members that have been afflicted by disorders as well as your constituents. I would like to further point out to you that the disorders that you have been talking about are currently mandated to be in all health insurance in the State of Maine. Bi-polar disorder, the disease that has been mentioned again and an again as to why this legislation should pass is already a mandated coverage of mental illness. There are currently seven biologically based illnesses. Those are schizophrenia bi-polar disorder, persuasive development disorder or autism, paranoia, panic disorder, obsessive compulsive disorder and major depressive disorders that you have all been discussing this morning. They have been previously passed as a mandated benefit included in health insurance products in the State of Maine. That is already on the books. That is a done deal. That has absolutely nothing to do with the legislation that we are considering. What we are considering instead is expanding the mandated coverage to 11 categories of mental illnesses and adding another 40 diagnosis's that are not biologically based.

What all this is going to do by adding all of these benefits that have not found their way into insurance contracts because employers have felt that they couldn't afford to offer the coverage to their employees? Businesses are confronted and forced with real difficult decisions, whether to continue existing insurance benefits at a significant increase in cost and or require a greater contribution from the employees. When you vote on this bill do you want go home and find out that your constituents all have an 80/20 co-pay on their health insurance because their employers can't afford to supply their health? The other question is continuing coverage, but offering a higher deductible. Do you want your constituent's deductibles to go up? Continuing health insurance or increasing employees salaries, that is something

they are going to have to consider. Do you want to see your constituents not get a raise this year because their employer has to pay higher health insurance costs? How about drop coverage all together? Did you know there is not a requirement in the State of Maine that we offer health insurance products to somebody just because you are employed at that company? That is a benefit. It is a negotiated benefit that we are hoping is continued and we want to encourage. We have 150,000 people in the State of Maine that are currently going without insurance. Let's not raise that number. Let's instead focus on real problems that are going to tackle the cost of high health insurance in the State of Maine and let's go ahead and agree with the Governor on turning down this piece of legislation.

Mr. Speaker, lastly I would like to point out to the members of the House that this bill that you are considering is not the Majority Report of the Banking and Insurance Committee. You turned down the Majority Report, which would have addressed some of the issues that LD 1627 is addressing. Instead, we are debating a Minority Report. Thank you.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. I believe we are debating the Majority Report of this body and of the other body. This was well passed by both bodies. Secondly, those major mental illnesses were required, but they still have restrictions on them that other illnesses do not. It is not fair. It is discriminatory. I hope you will help to override and to override some of that discrimination. Thank you.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I am flattered by the comparison. The recent words of the Representative from St. George, Representative Skoglund, were deeply moving to me and I am sure to many of you. As compelling as his experiences are, it is important to note that statistically speaking they are not unique in this body. If we conform to national statistics, one in five of us has a similar story about a family member or a close friend.

The Representative from Bath spoke of the existing mental health parity law covering seven so-called biologically based conditions. While this was an important step forward, it is important to note how inadequate it is. I received an e-mail, I think many of us may have from a research psychologist in Portland who happens to be my wife. She notes that selection of mental illness, which the law currently claims are biologically based is scientifically ungrounded. Calling them biologically based is scientifically ungrounded. When human behavior is concerned, nothing is pure biology. Science tells us that most mental illness develops when there is a concurrence of two things, a biological predisposition or vulnerability coupled with external stresses. Don't go feeling comforted by the fact that we are covering those that are biologically based. The truth is that science tells us none are strictly biologically based. Certainly none are the responsibility or the fault of the person suffering from them.

There has been a lot of discussion about the cost. Again, I come back to the issue of cost. According to testimony before the United States Senate, the Committee on Health, Education, Labor and Pensions given by Tara Woolwich, who is the manager of Employee Assisted Programs at Delta Airlines. I quote directly from her testimony. "Like many other employers, we began to realize that looking simply at the cost of treatment did not recognize the much greater costs to our company when employees were absent from work or even present with impaired

functioning as the result of mental or addictive disorders. We also realized that failure to diagnose and appropriately treat mental illness, in particular, depression, resulted in high levels of absenteeism, related health care costs and reduced productivity at work." Those aspects of the bill are on top of or subtract from what the Bureau of Insurance estimates to be a 0.4 percent premium increase. The point is that the overall cost to business is less than a 0.4 percent premium increase. It is miniscule. Again, some businesses claim to experience a savings as a result of mental health parity.

To get at the issue raised by Representative Perkins, his concerns were over the notion of creep. Sure we know that it is a 0.4 percent premium increase now, but what about down the road? What is it going to be like then? We know that treatment works. When you get people the treatment, they get better. That is true for physical illness and it is extremely true for mental illness. Treatment works. You are treating people and they get better. They don't get as sick as they are now. The truth is that nationally speaking with the federal employee plan, which has broad mental health benefits and with the 36 or so other states, 20 or so have comprehensive mental health parity, not one of those states has experienced an increase greater than what was predicted, which is about what we are predicting.

The experience nationally is that there isn't an explosion in costs. That is true for many New England states, Connecticut, Rhode Island, Massachusetts, Vermont all have comprehensive mental health parity. Maine used to be a leader on this issue, but now Maine has fallen woefully behind. New Hampshire is considering comprehensive mental health benefits for larger employers.

The Kennebec Journal, the Times Record, the Bangor Daily News, the Portland Press Herald, they all agree. The editorial boards all agree that we should override this veto. This is the best thing to do for the people of Maine suffering from mental illness. It is also important to note, you may have noticed it on the yellow sheet that I passed out, that US Senators Snowe and Collins are cosponsors of parity legislation at the federal level. There is leadership in Maine on this issue coming from both parties. I urge you to join me in overriding this veto.

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

Representative O'NEIL: Mr. Speaker, Ladies and Gentlemen of the House. I also urge members of the House to override the Executive's veto for a number of reasons. I had to remark when I went on the web last night and looked up the calendar for today's business in the House and read the veto message from the Executive. Many of us have sat here and have been dazzled, cajoled and persuaded by the very capable Executive whose considerable word smithing capabilities are evident.

I think back to the compelling State of the State address that was given in this body back in January when that same Executive told us that, he stressed, that we need to prevent major illness to reduce health care costs. In kind of an odd, rich, ironic twist in this message the same Executive tells us that this is about cost. He recognizes it because he is a sensitive and sensible person. We all know that. This is a well thought out and well intentioned bill, but there is a cost. He is not sure about the cost. There is another irony, the same Executive says, and these words might sound familiar to some of you, "this bill goes considerably beyond the 1995 act." All of these options translate into less money in the pockets of Maine citizens. Also, he is reluctant to accept these anticipated savings. When he says that when you are in a hole, the first rule is not to dig any deeper. This bill would serve to make the hole deeper. With that I have difficulty. We talk about people who are in a hole. We talk about the people we

encounter, the one in five, whether it is the small case or the extreme case, the undiagnosed, untreated illness leads to major illness, acute care, trauma that exacerbates health care costs. We all know it. It is a fact. There are states, Kentucky, Vermont, Maryland, Minnesota, Connecticut, Texas, New Hampshire, North Carolina and more who have all discovered this. The irony here is that this isn't a hole for some of these people, it is indeed a meltdown. How humane is it for us to force people into a meltdown, not just a hole, before they get the care they need?

We had a woman that came to us with a \$90,000 bill, right in this area, because of her husband's traumatic psychotic episode of burning down his house. Ladies and gentlemen, the insurance company shut him off at two weeks at \$14,000 in benefits because they did a little review. This fella burned his house. He was delusional. He was afraid that they would disembowel his son, they would rape his daughter and his wife and they would make him watch. He panicked and desperate to save his family from the horrors that would take place, he created a diversion at three in the morning. It was something that would give him and the family time to get away. He burned the house down in the middle of the night and they all got out alive, luckily. It ruined their life, their family and everything they had built for 23 years of marriage. It is a typical Ozzie and Harriet couple where something went wrong between the temples.

After two weeks of treatment, the report says, that a comprehensive chart review of medical records submitted was conducted by a physician advisor. The information provided in this review does not suggest that this person's psychiatric disorder is posing an immediate danger to himself or others. Just ask the neighbors if they agree with that one. No information was provided during this review that suggest medical compromise requiring the requested level of care based on the information provided, it appears that this person could be safely and affectively treated at a less restricted level of care, specifically an offer to authorize care at the intensive level was made, out patient level. The wife asked us at the public hearing, when the insurance company tells me involuntary commitment does not meet medical necessity, I have to ask, "Who is delusional and out of touch with reality now?"

Mr. Speaker, we talk about cost. We all recognize the need, but we have a duty to govern. We don't stop spending on defense, indeed we increase it when people fly planes into buildings. If we are going to step over dollars to save pennies in this regard, I suggest that we are not making the best public policy judgment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative CANAVAN: Mr. Speaker, Men and Women of the House. The Representative from Portland, Representative Glynn, remarked that this bill does not deal with the seven major illnesses like bi-polar because there is already coverage for those. He is half right. There is some coverage, but I am now going to quote to you from the statement of the president of the National Alliance for the Mentally Ill before the Committee on Health, Education, Labor and Pensions in the United States Senate. She says, "Discrimination in health insurance takes many forms and the most common technique to avoid coverage of mental illness treatments are higher cost sharing requirements for all patient visits and prescriptions, fewer allowed in patient days and out patient visits and greater annual and lifetime dollar limits. Use of these discriminatory limits and conditions has been well documented." I certainly have heard much of this in my dealing with the families of the mentally ill.

The National Alliance for the Mentally Ill Division of ensuring that the next generation of individuals with mental illness in their

families will not have to live out their lives on disability or in public institutions unable to get the very care that would give them back productive lives. Insurance discrimination enforces the invalid message that mental illnesses are untreatable and hopeless. With parity businesses and facts stand to gain from reduced absenteeism, reduced health care costs for their ailments related to mental illnesses and increased employee moral and increased productivity overall. All of the facts support this bill and I would ask that you reconsider the veto. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is shall this bill become law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 676V

YEA - Andrews, Ash, Belanger, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Murphy E, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Savage, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Trahan, Tuttle, Twomey, Watson, Wheeler GJ, Mr. Speaker.

NAY - Annis, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Mayo, McKenney, McNeil, Mendros, Michael, Morrison, Muse K, Nass, Nutting, Peavey, Perkins, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, Tobin D, Tobin J, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Chizmar, Jacobs, Kane, Madore, Murphy T, O'Brien JA, Shields, Simpson, Volenik.

Yes, 86; No, 54; Absent, 11; Excused, 0.

86 having voted in the affirmative and 54 voted in the negative, with 11 being absent, and accordingly the Veto was Sustained.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Zoe Zanidakis, of Monhegan Island, who is the first Mainer to appear on the reality television series "Survivor." She felt she would be a good contestant for the show because of the real life challenges of living and working on Monhegan. Ms. Zanidakis is a commercial fisherman and a charter boat captain. She owns and operates her own 40-foot vessel, the "Equinox." She was an extraordinary contestant and represented Maine well. We extend our congratulations and best wishes to her;

(HLS 1007)

Presented by Speaker SAXL of Portland. Cosponsored by President BENNETT of Oxford, Senator SMALL of Sagadahoc, Senator DAVIS of Piscataquis, President Pro Tem MICHAUD of Penobscot, Senator TREAT of Kennebec, Senator DAGGETT of Kennebec, Representative SCHNEIDER of Durham, Representative BRUNO of Raymond, Representative

NORBERT of Portland, Representative COLWELL of Gardiner, Senator KILKELLY of Lincoln, Representative HALL of Bristol.

On **OBJECTION** of Representative HALL of Bristol, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative HALL: Mr. Speaker, Ladies and Gentlemen of the House. Coming from an island myself, I would say that one of the great pleasures of serving in this House is to represent the people of Monhegan. The people of Monhegan are so proud of Zoe, because of how well she has represented the spirit of their community. It is a community that is self-reliant, independent, but caring, fiercely and passionately committed to the future of their natural resources, their way of life and their island. Zoe is a great fishing captain, a great hockey player and a great ambassador for Monhegan and for all of our islands and for the State of Maine. She is a great survivor.

My last request of members of this House is a commercial message. Zoe has copies of her calendar available and would be pleased to autograph them for members afterwards. Thank you Mr. Speaker.

PASSED and sent for concurrence.

The Following Communication: (H.C. 478)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

April 11, 2002

To the Honorable Members of the 120th Legislature:

Enclosed please find H.P. 944, L.D. 1258, "An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce," which I am returning without my signature or approval.

L.D. 1258 expands unemployment insurance benefits to include individuals who restrict their work search to less than full-time employment. Under existing law, part-time workers who lose their jobs through no fault of their own may receive unemployment benefits if they seek full-time employment.

This benefit expansion will increase the cost of unemployment insurance benefits in Maine by approximately 5% annually. This represents an increased pay out from the Unemployment Trust Fund by a projected \$3.6 million during periods of low unemployment to \$10.4 million during periods of high unemployment. Since unemployment benefits are funded by unemployment insurance taxes collected from Maine employers, any benefit expansion results in an increased burden on employers.

Through most of the past decade, the Unemployment Insurance Trust Fund in Maine was in serious jeopardy of becoming insolvent. It was only after an extensive overhaul of the unemployment insurance tax system that the trust fund stabilized. This overhaul involved several years of analysis and consideration by both the Legislature and the Executive Branch as well as business and labor. The resulting legislation altered key aspects of the manner in which employer contributions are levied. In addition, due to the severity of the solvency problem, employer contributions had to be raised significantly as a temporary measure to regain adequate trust fund reserves. Employer contribution levels jumped from \$128.5 million in 1999 to \$141.0 million in 2000 and exceeded \$142.0 million in 2001. During this period, Maine rose to become the fourth highest state in the nation in terms of employer unemployment tax rates. In

other words, unemployment tax rates were set artificially high to resolve the solvency crisis. When the fund reached a point of solvency, unemployment taxes were reduced by approximately \$39.0 million to be more in keeping with actual unemployment levels.

Although it appears that the measures taken to 'fix' the Unemployment Insurance system have been successful, it is still very early in the new system, and it has not yet been tested during times of high unemployment. The stability of the new system is predicated on maintaining an equal balance between revenues coming into the trust fund and benefits being paid out. This was the fundamental flaw that previously drove the system to insolvency. Therefore, to maintain the health of the fund, any expansion of benefits should be covered by an equivalent increase in unemployment taxes.

L.D. 1258 proposes to use a one-time infusion of federal funds into the trust fund to cover ongoing benefit expansion. While this would avoid an immediate unemployment tax increase, such an increase would be necessary at some future date. The use of the federal funds merely delays, but does not prevent this increase. For these reasons, I am not able to support this legislation and view this expansion as another burden on Maine employers.

Because of the objections outlined above, I respectfully urge you to sustain my veto.

Sincerely,

S/Angus S. King, Jr.

Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill "An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce"

(H.P. 944) (L.D. 1258)
(H. "B" H-1027 to C. "C" H-839)

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. We debated this fully a few days ago or a few weeks ago. The merits of the bill speak for themselves. The part-time workers within the state that we are creating a part-time workforce through this new industry, economy, that we have generated in the State of Maine. Those folks through the money that came from the federal stimulus package have provided over \$32 million. A portion of that money is clearly part of the stimulus is to extend benefits in some way and on the federal level there has been some consensus that part-time workers is the proper place to extend benefits. The whole idea here is when those folks lose their income, that part-time housewife or that elderly partner that has to work in addition to the other parent enables part of their income. If they meet all the full-time requirements that any other full-time employee does, in other words, they have to earn a considerable amount of money over a certain period of time to be eligible, they can draw unemployment.

Currently these same class of people can draw unemployment, ladies and gentlemen, don't get confused that we are bringing in a whole new group of people. The problem is that under the technicality of the current laws these same group of people, 70 percent of these are working women, have to say they are out looking for full-time employment rather than their needs at home, their needs with loved ones. Their needs with sick and elderly don't allow them to take a 9 to 5 job. I think it is very, very important to see the value of this commodity of the workforce. To be clear, the employer is paying in for each and every one of these employees into the trust fund. The trust fund is fully funded at \$400 million plus. The ratings that we are talking about, the implications of this bill, are nil for the next many years. As a

matter a fact, as we told you in the debate we rolled back rates about 30 percent last fall and the projections with or without this bill is that they are going to further reduce down to the lowest level possible for the next several years. Even passage of this bill and using the great money that came from the federal government under the stimulus to move this thing forward, make it right, get the money in the hands of the people that most need it so they can spend it in the economy that we need to keep our turnaround of this post 9-11 situation. I would ask for your support in overruling the Governor's veto and encourage you to ask your seatmates to help us along with this. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I would urge you to do exactly the opposite and sustain the veto of the Chief Executive. There are some points I think that should be mentioned. I don't intend to go into the full debate that we have already had on this issue, but in the Chief Executive's veto message he mentions that we have become the fourth highest taxed state in the country for unemployment insurance taxes. We are all aware of the fragile situation with the Unemployment Comp Trust Fund up until about 1999 where it was teetering on the brink of insolvency about every year during that period. Fortunately, we have had a period of low unemployment. We have also put a substantial increase in unemployment taxes on the shoulders of the businesses here in the State of Maine, which have brought that fund up to the \$400 million that the previous speaker mentioned.

During the negotiations that went on to rewrite the unemployment comp law back in 1999 there were some tradeoffs made and some agreements made between both business and management on what needed to be done. This bill breaks faith with those agreements in a couple of different ways. First of all, it diverts some of the money that has gone into that fund to create the solvency that I just finished talking about. It diverts it to expanded benefits. The second thing that it does to break faith is that it expands benefits without the required fiscal impact study that was written into the law at the time it was passed back in 1999. We made an agreement, both business and labor, that if an expansion of benefits was to be considered, that it had to have a thorough and complete fiscal impact study. That study has not been done. I would agree with the Chief Executive. I don't think that this is the kind of law that we need to pass right now. It is going to put us back into that situation. At the very least it is going to take money out of that fund that was not intended for an expansion of benefits so therefore I would urge you to sustain the veto.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I agree with the Representative from Carmel. I won't repeat his points, but I would just like to add that I went through college and I had four jobs. One of my sons has two jobs. He likes it that way. How would you actually measure who is unemployed and who is not? I think you would have an administrative nightmare. Many Maine people, by choice, have three or four jobs. Also, the Unemployment Compensation Fund, because of assessment on business is healthy. I think it has \$400 million in it. We need to leave this alone. We are having shutdowns of factories it seems like every month. We need that for what it was intended for, people who are unemployed though no fault of their own to help them over a bad period of their life. We do not need to open this up to people who have part-time employment. I think you would have an administrative nightmare. I urge you to sustain the Governor's veto. Thank you.

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

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

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

Representative **LESSARD**: Mr. Speaker, Men and Women of the House. For anyone who can answer, why are our employers paying into the unemployment fund for part-time workers?

The **SPEAKER**: The Representative from Topsham, Representative Lessard has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. The Unemployment Compensation Fund has gone through major changes over many years. I am sure the intent of anybody paying in, the employer's intent of paying in for any employee, was for the purpose of providing the insurance benefit. When you lose a job, as Representative Davis indicated, through no fault of your own, that there is a partial safety net provided from that lack of employment until you get your next job. The reason why employers are paying in for all constituencies of employers are to fulfill that obligation.

I am not one to continue the debate out here, but in response to the Representative's question about the nightmare, this is going on day in and day out. You can see from the Governor's letter that these people who are unemployed through no cause of their own can draw unemployment benefits if they meet all of the full-time requirements. Nothing in this bill is changing that. The good Representative's example of three people working and one part-time job, he is laid off for no reason of his or her own, in that case you can't go out and file for unemployment because you have income coming in. Remember that partial unemployment is only going to be reimbursed in a partial rate based on your part-time employment. You have all been around somebody that has drawn unemployment and he or she is out of work and you earned \$200 that week, you have to claim it on your card and that is subtracted from the \$197 maximum or whatever it is today that you can get. The answer to that question is if you earn money during the week, you are not going to get a benefit. I don't think any of those complications or nightmares exist out there. This is purely an insurance question. If you work and you are laid off through no fault of your own, should you be able to gain a benefit from that insurance that your employer has been paying for to collect a partially reduced benefit while you are looking for that next part-time job that meets the family's needs and income requirements to get back to where you were before you lost your job? That is as simple as I can explain this. Quite frankly, the cost here is very, very minimal and the monies that came from the federal government have been earmarked to be used in this area. I think this is a very prudent and proper way to go forward with the money that came from the federal government.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. The whole issue of funding the Unemployment Insurance Compensation Fund had to do with solvency. The good Representative from Carmel, Representative Treadwell, did a good job of explaining the crisis that fund was in the late '90s. Part of that fix is the money that is paid in are based on the conditions on which money can be paid out. What this bill does is it changes that and takes it out of balance. It will create an unfunded expense that will have to be paid by Maine employers.

In terms of the funding mechanism from the federal government, that is one-time money that will eventually run out. Therefore it will result in the employers of Maine having to pay for that expanded benefit. The one thing about the funds here, that is earmarked for a broad area in terms of labor. I suggest to you that that policy area of unemployment is to obviously move unemployed people to places of employment or people who are under employed into better areas of employment. That whole strategy that we have in Maine is we have a great infrastructure that has been worked on for the past few years in such things as the Workforce Investment Act. That is a federal program that helps bridge the various players in the employment and employer arena so that you are matching up training and education opportunities with needs of employers.

Also, one of the hallmarks of the labor area in the State of Maine is the career centers. There are 23 of them throughout the state. These are geared to help a full range of service from seeking jobs, training and education. The point is this is all having to do with ongoing training, ongoing education, because we are in an economy that won't be the same five years from now. It isn't like it was 30 or 40 years ago where you could get one job at the mill or at some other place and kind of be there for a lifetime. Things have changed and you have to have an infrastructure that supports that those changes. I think we have done a good job in the State of Maine to deal with that. This \$31 million, that amount of money needs to have a full discussion upon how to use that money and help bolster the ways in which we restore the unemployed to employment and to help under employed people get better employment. I would urge you to sustain the Governor's veto.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I just would like to attempt to answer the good Representative's Lessard's question about why do employers pay unemployment comp fees for part-time employees. We must remember that those employees are eligible for unemployment comp if they lose their job through no fault of their own. They are eligible for unemployment compensation as long as they are available and willing to accept the full-time employment position. They are eligible for it.

We talk about employers and we forget the fact that the State of Maine and every municipality and school district and nonprofit organization, everybody in the State of Maine is affected by what this law will do. It is going to increase property taxes for all of our municipalities if it passes. That is one thing that we have talked about at length about trying to reduce property taxes, but if you want to reduce property taxes, here is your chance because this definitely is going to affect it.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. First of all, I want to urge you in this body to override the Governor's veto of the part-time unemployment bill. We should join many other states, I believe there are 17 or 18 states, that offer benefits to part-time workers. We should step into the 21st century and recognize that 70 percent of those that work part time are women and many families struggle each and every day with two or three jobs and the issues of daycare and issues of raising their children, which this Legislature has done many things to support. They try to manage that and also earn a living. For part timers when you lose your job you have no opportunity for unemployment unless you are seeking full-time work. Again, we have to recognize that this is not 1938. This is the year 2002 and part-time work has become commonplace.

These individuals are being disenfranchised because the Legislature refuses to step into the 21st Century.

For the record, Mr. Speaker, I want to comment that last week I had heard rumors around this State House that one of the concerns of the Chief Executive had concerns with this individual's support for workers and injured workers and others and wished that my rhetoric would be toned down and maybe something could be found, a quick pro quo on part time. I stand on principle here and I believe this issue is meritorious on its own merit. I hope that the members of this chamber will vote to override the Governor's veto so that we can step into the 21st Century and stand up for part-time workers. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is shall this bill become law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 677V

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

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Cowger, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Landry, Ledwin, Lovett, MacDougall, Madore, Marrache, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy E, Muse K, Nass, Nutting, Perkins, Pinkham, Povich, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, Sullivan, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Jacobs, Kane, Murphy T, O'Brien JA, Shields, Simpson, Volenik.

Yes, 77; No, 65; Absent, 9; Excused, 0.

77 having voted in the affirmative and 65 voted in the negative, with 9 being absent, and accordingly the Veto was Sustained.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Correct Recently Enacted Legislation" (EMERGENCY)

(H.P. 1741) (L.D. 2216)

Sponsored by Representative LaVERDIERE of Wilton. (GOVERNOR'S BILL)

Cosponsored by Senator RAND of Cumberland.

Committee on **JUDICIARY** suggested and ordered printed.

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

The Bill was assigned for **SECOND READING** later in today's session.

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

ORDERS

On motion of Representative THOMAS of Orono, the following Joint Resolution: (H.P. 1738) (Under suspension of the rules, cosponsored by Representatives: ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, BAGLEY of Machias, BAKER of Bangor, BELANGER of Caribou, BERRY of Belmont, BERRY of Livermore, BLANCHETTE of Bangor, BLISS of South Portland, BOUFFARD of Lewiston, BOWLES of Sanford, BRANNIGAN of Portland, BROOKS of Winterport, BRUNO of Raymond, BRYANT of Dixfield, BUCK of Yarmouth, BULL of Freeport, BUMPS of China, BUNKER of Kossuth Township, CANAVAN of Waterville, CARR of Lincoln, CHASE of Levant, CHICK of Lebanon, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, COLWELL of Gardiner, COTE of Lewiston, COWGER of Hallowell, CRABTREE of Hope, CRESSEY of Baldwin, CUMMINGS of Portland, DAIGLE of Arundel, DAVIS of Falmouth, DESMOND of Mapleton, DORR of Camden, DUDLEY of Portland, DUGAY of Cherryfield, DUNCAN of Presque Isle, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Hampden, ESTES of Kittery, ETNIER of Harpswell, FISHER of Brewer, FOSTER of Gray, FULLER of Manchester, GAGNE of Buckfield, GERZOFKY of Brunswick, GLYNN of South Portland, GOODWIN of Pembroke, GOOLEY of Farmington, GREEN of Monmouth, HALL of Bristol, HASKELL of Milford, HATCH of Skowhegan, HAWES of Standish, HEIDRICH of Oxford, HONEY of Boothbay, HUTTON of Bowdoinham, JACOBS of Turner, JODREY of Bethel, JONES of Greenville, KANE of Saco, KASPRZAK of Newport, KOFFMAN of Bar Harbor, LABRECQUE of Gorham, LANDRY of Patten, LaVERDIERE of Wilton, LAVERRIERE-BOUCHER of Biddeford, LEDWIN of Holden, LEMOINE of Old Orchard Beach, LESSARD of Topsham, LORING of the Penobscot Nation, LOVETT of Scarborough, LUNDEEN of Mars Hill, MacDOUGALL of North Berwick, MADORE of Augusta, MAILHOT of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, MATTHEWS of Winslow, MAYO of Bath, McDONOUGH of Portland, MCGLOCKLIN of Embden, MCGOWAN of Pittsfield, MCKEE of Wayne, MCKENNEY of Cumberland, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MENDROS of Lewiston, MICHAEL of Auburn, MICHAUD of Fort Kent, MITCHELL of Vassalboro, MORRISON of Baileyville, MURPHY of Berwick, MURPHY of Kennebunk, MUSE of South Portland, MUSE of Fryeburg, NASS of Acton, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY of Woolwich, PERKINS of Penobscot, PERRY of Bangor, PINEAU of Jay, PINKHAM of Lamoine, POVICH of Ellsworth, QUINT of Portland, RICHARD of Madison, RICHARDSON of Brunswick, RINES of Wiscasset, ROSEN of Bucksport, SAVAGE of Buxton, Speaker SAXL of Portland, SCHNEIDER of Durham, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SKOGLUND of St. George, SMITH of Van Buren, SNOWE-MELLO of Poland, SOCTOMAH of the Passamaquoddy Tribe, STANLEY of Medway, STEDMAN of Hartland, SULLIVAN of Biddeford, TARAZEWICH of Waterboro, TESSIER of Fairfield, TOBIN of Windham, TOBIN of Dexter, TRACY of Rome, TRAHAN of Waldoboro, TREADWELL of Carmel, TUTTLE of Sanford, TWOMEY of Biddeford, USHER of Westbrook, VOLENIK of Brooklin, WATERHOUSE of Bridgton,

WATSON of Farmingdale, WESTON of Montville, WHEELER of Bridgewater, WHEELER of Eliot, WINSOR of Norway, YOUNG of Limestone, Senators: President BENNETT of Oxford, BRENNAN of Cumberland, BROMLEY of Cumberland, CARPENTER of York, CATHCART of Penobscot, DAGGETT of Kennebec, DAVIS of Piscataquis, DOUGLASS of Androscoggin, EDMONDS of Cumberland, FERGUSON of Oxford, GAGNON of Kennebec, GOLDTHWAIT of Hancock, KILKELLY of Lincoln, KNEELAND of Aroostook, LaFOUNTAIN of York, LEMONT of York, LONGLEY of Waldo, MARTIN of Aroostook, McALEVEY of York, President Pro Tem MICHAUD of Penobscot, MILLS of Somerset, MITCHELL of Penobscot, NUTTING of Androscoggin, O'GARA of Cumberland, PENDLETON of Cumberland, RAND of Cumberland, ROTUNDO of Androscoggin, SAVAGE of Knox, SAWYER of Penobscot, SHOREY of Washington, SMALL of Sagadahoc, TREAT of Kennebec, TURNER of Cumberland, WOODCOCK of Franklin, YOUNGBLOOD of Penobscot)

JOINT RESOLUTION RECOGNIZING THE UNIVERSITY OF MAINE BLACK BEARS HOCKEY TEAM

WHEREAS, the University of Maine Black Bears men's hockey team carries on a great tradition of collegiate hockey at the University of Maine that spans decades and includes past championships in 1993 and 1999; and

WHEREAS, the Black Bears won the NCAA championship in 1993 and 1999 under the coaching skill of its 17-year coach, the late Shawn Walsh, who remained a strong and vital influence over the current year's team as his memory was an inspiration to all members of the 2002 team; and

WHEREAS, under the coaching talents of Interim Coach and now Head Coach Tim Whitehead, the Black Bears played hockey this season with passion, skill and dedication and advanced to play in the NCAA finals in St. Paul, Minnesota; and

WHEREAS, the team played their final game of 2002 with green shamrock-shaped patches bearing Shawn Walsh's initials on the left shoulders of their jerseys, hung a blue jersey behind the bench with Shawn's name on it and, as they played with great skill and integrity, made it into overtime playing for the national championship; and

WHEREAS, the team made their State proud and continued the legacy begun by Shawn Walsh; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to express our sincere appreciation to the University of Maine Black Bears men's hockey team; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to University of Maine Black Bears Hockey Team Coach Tim Whitehead, to University of Maine President Peter Hoff and to the staff and players of the 2001-2002 University of Maine Black Bears men's hockey team with our best wishes and appreciation.

READ and ADOPTED.

Sent for concurrence.

On motion of Speaker SAXL of Portland, the following Joint Resolution: (H.P. 1739) (Cosponsored by President BENNETT of Oxford and Representatives: DORR of Camden, CANAVAN of Waterville, MARRACHÉ of Waterville, RICHARD of Madison, TESSIER of Fairfield, Senators: GAGNON of Kennebec, SAVAGE of Knox)

JOINT RESOLUTION RECOGNIZING RICHARD RUSSO FOR BEING AWARDED THE 2002 PULITZER PRIZE FOR FICTION

WHEREAS, Richard Russo is a former English professor at Colby College and a resident of Waterville, Maine who has been awarded the prestigious 2002 Pulitzer Prize for fiction for his novel *Empire Falls*, a novel that takes place in Maine; and

WHEREAS, Mr. Russo is an internationally known and admired author of many books, including *Nobody's Fool*, *Mohawk*, *The Risk Pool* and *Straight Man*, and he has been honored with critical acclaim for his sympathetic and masterful evocation of a vanishing America; and

WHEREAS, Mr. Russo gained national attention when his novel *Nobody's Fool* was made into a movie with Oscar-winning actor Paul Newman, which made its world premier at the Maine International Film Festival in Waterville in 1997; and

WHEREAS, *Empire Falls* has received much praise since its publication and was featured on the front page of the *New York Times Book Review* and was named by *Time* as the Best Work of Fiction for 2001; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent take this opportunity to express our congratulations to Mr. Richard Russo on his receiving the high honor of the 2002 Pulitzer Prize for fiction; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Mr. Richard Russo with our best wishes and appreciation.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative GOODWIN of Pembroke, the following Joint Order: (H.P. 1740)

ORDERED, the Senate concurring, that Bill, "An Act to Control Internet 'Spam,'" H.P. 1538, L.D. 2041, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

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

Representative GOODWIN: Mr. Speaker, Men and Women of the House. Two weeks ago when LD 2041 failed when the two bodies could not agree, I was committed to resubmitting this legislation and come back in 2003 and take care of the spam. What has happened in the last two weeks when I left here, we have six internet ISPs with 200,000 customers in the State of Maine who reached me through e-mails and telephones and said that they wanted spam to be passed this year instead of waiting and what could they do to help. I told them that they had to start a ground swell through their internet servers of 200,000 customers to get something moving. If they would get back to me and say that they would try, then I would reintroduce this bill. That is where we are at today. Hopefully we can bring this forward and move it toward the other body and do it this year instead of waiting. I thank the Speaker.

Representative SCHNEIDER of Durham REQUESTED a roll call on **PASSAGE**.

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. All those in favor will vote yes, those opposed will vote no.

Pursuant to Joint Rule 404, this Joint Order requires the affirmative vote of two-thirds of those present for passage.

ROLL CALL NO. 678

YEA - Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Gooley, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Mailhot, Marley, Matthews, McDonough, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Morrison, Murphy E, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Sherman, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Belanger, Bowles, Bruno, Buck, Bumps, Cressey, Duncan, Duprey, Foster, Glynn, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Madore, Mayo, Nass, Nutting, Pinkham, Rosen, Schneider, Waterhouse.

ABSENT - Bagley, Baker, Canavan, Jacobs, Kane, Marrache, McGlocklin, Mendros, Michael, Murphy T, Muse C, Muse K, O'Brien JA, O'Neil, Peavey, Shields, Simpson, Skoglund, Volenik, Winsor.

Yes, 107; No, 24; Absent, 20; Excused, 0.

107 having voted in the affirmative and 24 voted in the negative, with 20 being absent, 107 being more than two-thirds of the membership present, the Joint Order was **PASSED** and sent for concurrence.

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

On motion of Representative FULLER of Manchester, the following House Order: (H.O. 47)

ORDERED, that Representative Nancy L. Chizmar of Lisbon be excused Monday, April 8th, Tuesday, April 9th and Wednesday, April 10th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Lisa T. Marraché of Waterville be excused Tuesday, March 5th, Wednesday, March 6th, Thursday, March 7th, Monday, March 11th, Tuesday, March 12th, Wednesday, March 13th, Thursday, March 14th, Friday, March 15th, Monday, March 18th, Tuesday, March 19th, Wednesday, March 20th, Thursday, March 21st and Friday, March 22nd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative James H. Tobin, Jr. of Dexter be excused Wednesday, April 3rd for health reasons.

READ and PASSED.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-817)** - Minority (1) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS**

AFFAIRS on Bill "An Act to Hold an Advisory Referendum on Term Limits"

(H.P. 1003) (L.D. 1340)

TABLED - February 26, 2002 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion of Representative COLWELL of Gardiner, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

COMMUNICATIONS

The Following Communication: (S.C. 741)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

April 17, 2002

To the Honorable Members of the 120th Legislature:
Enclosed please find S. P. 133, L.D. 457, "An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably," which I am returning without my signature or approval.

The original intent of L.D. 457 was to provide an exemption for equipment necessary for television stations to convert their systems to digital signals as mandated by the Federal Communications Commission (FCC). Although the bill I am returning to you does provide this exemption, it goes much further, ultimately providing an expanded exemption for equipment used in generating all radio and television signals. This exemption will also apply to certain cable television broadcast equipment.

L.D. 457 proposes to modify the current sales tax exemption for production machinery. The intent behind that existing exemption is to avoid pyramiding, whereby equipment used to produce a product for sale is exempt from sales and use tax since the product will ultimately be subject to tax at some point. Radio and television stations are not involved in producing a product for sale. The product they produce is a signal and would not be subject to an eventual sales and use tax. Their sales are in the form of advertising to pay for the expense of production and broadcasting. The sale of such advertising is likewise not subject to tax in Maine. To equate the production of radio and television signals to that of manufacturing tangible personal property fails to meet the intent dictated by the present statute, and it is not good tax policy.

The bill's inclusion of cable television was unfortunately not contained in the fiscal note before the Legislature, information that would have been important to know, since it alone adds \$850,000 to next biennium's structural gap. The revenue loss caused by the broad exemption in this bill was only partially funded (\$74,955), with the real impact scheduled to occur next biennium (\$2 million) when we already expect that revenues will be insufficient to meet the demands of current state services. For these reasons, I am in firm opposition to the broad reach of L.D. 457, and I respectfully urge you to sustain my veto.

Sincerely,
S/Angus S. King, Jr.
Governor

Came from the Senate, **READ and ORDERED PLACED ON FILE.**

READ and ORDERED PLACED ON FILE in concurrence.

The accompanying Bill "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)

In Senate, April 24, 2002, this Bill, having been returned by the Governor, together with his objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

27 voted in favor and 8 against, and 27 being more than 2/3 of the members present and voting, accordingly it was the vote of the Senate that the Bill become law and the veto was overridden.

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

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. LD 457, this bill is about simple parity. It merely extends the manufactures exemption offered to all manufacturers to the broadcasting industry. The Taxation Committee gave this bill a unanimous Ought to Pass Report last year for full manufacturing exemptions for both radio and TV from the current biennium forward. Every other state in the North East and the mid Atlantic states charges sales tax granted exemptions for broadcast equipment. Maine is the home for several companies that are leaders in digital TV equipment manufacturing. Di Electric has more than doubled its workforce in the past five years from 202 employees in 1997 to 433 today. These companies are profiting hugely from a digital TV conversion. The state is profiting from the resulting increases in corporate and personal income taxes. Maine also stands to gain from the sales tax on the digital receivers and converter boxes, more than \$12 million in revenue over the next 10 years. Maine has benefited over the past 80 years for the public service commitments of the radio and TV stations that serve this state. That commitment is currently more than \$17 million of free air time for important causes such as domestic violence, smoking cessation, anti-drunk driving, teen pregnancy, AIDS prevention, health issues, literacy and so on. I urge you to overturn the Governor's veto. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. For somebody in the body that might answer, what is the fiscal note of this bill?

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. In response to the good Representative from Sanford, the fiscal note is \$1.2 million in the next biennium. That was the fiscal note that was on it when it came before us earlier in the session.

There has also been additional information that has come in from the Bureau of Revenue Services that has substantiated that the bill as amended and as was passed earlier by the Legislature included cable television. That is quite clear after July 1, 2003. They also would be exempted in the amended version of the bill that the Chief Executive vetoed. That would add to the \$1.2 million hole that this bill creates. That would be another

\$800,000 and thereby making the total fiscal note for this bill in the next biennium \$2 million. Thank you.

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

Representative **GREEN**: Mr. Speaker, Ladies and Gentlemen of the House. I recognize that there has been a question about the fiscal note for this bill. Several numbers have been thrown around. It is absolutely vital for you to understand that, in fact, cable is not included in this bill. Therefore, the original fiscal note, which was hanging out there around the millions is, in fact, not correct. The original fiscal projection in the final bill, Maine Revenue Services increased by approximately \$250,000 to a whopping \$700,000 assuming that broadcasters would be spending over \$5 million from one year to the next. That is quite an investment considering that they have already been investing. I don't know what kind of equipment they are going to buy, I just hope that they are going to buy it from the many companies that we have in Maine that produce this kind of equipment. It was an over projection by Maine Revenue Services and when you exclude cable, the original projections seem approximately appropriate. We have budgeted for this. This was in the budget agreement. It is not an inappropriate thing for us to do. If we exempt the manufacture of products from sales tax, then we should be exempting all of those products. It is entirely appropriate for us to approve this exemption.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. I thought I heard the word parity from Representative Davis. I hate to be factious here, but if we had passed the other parity bill, we might have some of the money necessary to fund this in the future. I don't want to be that way.

I voted against this in our committee because of the tail and now we hear there is confusion about exactly what is contained. Why can't we leave this for the next Legislature who will have to foot the bill? There will then be a chance to get this confusion taken care of. I think we should stick with the Governor's veto on this one and see if we can't figure it out next time and see if we have the money to pay for it. All the money, for all practical purposes, is in the next biennium and therefore should be taken care of by the next Legislature. Thank you Mr. Speaker.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. To amplify what my good friend from Portland has said, I have a memo from the Bureau of Revenue Services referring to this debatable fiscal note. There is no debate about the fact that there is a minimum of \$1.2 million in the fiscal note for the next biennium. This bill that the Chief Executive has vetoed, there is no debate that this creates an irresponsible hole in the next budget of \$1.2 million. Where there is perhaps confusion, and I don't feel there is any confusion, because I am looking from the note from Maine Revenue Services and I am looking at from April 10th of this year in reviewing the April 8th amendment that the Legislature determined that cable companies are eligible and increases the fiscal note beyond the \$1.2 million that we have already discussed by \$414,000 in 04 and \$439,000 in 05. As I mentioned before, that is an \$800,000 increase to the \$1.2 million. Where they get that from is quite simple, if you look at the amendment, the language in the amendment says in the case of sales occurring after June 30, 2003 in the generation of radio and television broadcast, in other words: this exemption applies in the case of all sales occurring after June 30, 2003. Yes, cable television is exempted up until then, but beyond June 30, 2003 cable television as delineated in

this amendment does get this exemption. It is quite clear in the language and Maine Revenue Services has made it quite clear in their not.

My overriding concern here is that it is very irresponsible for us to pass what I believe is an ill-conceived tax policy in the first place, but to pass it in the means that we don't even fund it, it is an act of irresponsibility to pass this now and say that the next Legislature will find a way to fund this. They will either make the appropriate cuts, I know that some of you can't cut government enough, and you don't care much where it comes from, and some of us would rather do cuts to income tax, property tax if we are going to do tax cuts. Some of us would also like to fully fund things like the Fund for a Healthy Maine or other pressing needs of the state. To go ahead and pass a \$2 million tax cut onto the next Legislature is an act that is highly irresponsible. I urge you to support the Chief Executive on this veto. Thank you.

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

Representative **MAILHOT**: Mr. Speaker, Ladies and Gentlemen of the House. I feel compelled to rise today again, beating my record. I got up twice this year. I am rising to tell you that this tax break at this time is not a thing that we should do. These people came in earlier this session asking for a bubble break because they have to change from analog to digital. That is fine. I was willing to work with them on that. They got a little greedy and it all ended up all of a sudden that it is not a bubble tax break, it is an ongoing, upgoing tax break that is going to be costing in the next biennium in excess of \$1.2 million that we know of. It is very possible \$2.5 million ongoing. I am in hopes next year to be reelected and be in this Legislature. I am not in hopes of getting \$500 or \$600 or \$700 million shortfall. That is what we are going to be facing. To give a \$2 or \$3 million per biennium tax break to broadcasters and to cable vision people at this time, I believe is not called for. I ask you to please think seriously and do not allow them to do that.

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

Representative **GREEN**: Mr. Speaker, Ladies and Gentlemen of the House. In this case we are dealing with an industry which had been going along and producing what it is producing and it does produce a tangible personal product, which is defined as something that can be seen, weighed, measured, felt, touched or in any other manner perceived by the census. I think that we know we can measure waves. We can see the result of the production of the product. We perceive those waves by our senses every time we push that little button and our wonderful TVs and radios come to life. We have the production of a tangible personal property, which in this state we do not tax. When we have manufacturers, we say we are not going to do anything because we don't want to double dip taxation, except for certain broadcasting equipment.

The broadcasting industry was told, not asked, that it was going to change everything about the way it produced its product. By the way, you will do it by this time and that is the way it is. I think we call that an unfunded mandate. The federal government does it all the time. The industry came to the Legislature, presented its case and we agreed.

LD 457 was amended to remove cable television. The broadcasters produce a product. Cable television simply takes the product after it has been produced and repackages it. It is not in the production end and therefore does not qualify under definition in Maine law.

When we asked a certain industry to stop dumping poisons into our rivers, their response was, you cannot ask us to change the way we produce a product without giving us a little help. We

agreed to that. That tale has grown to over \$40 million. This does not include cable television. There has been an agreement on how to pay for it. My hope is that when Di Electric, Shively, Passive Power and Nortel begin selling and producing income that if we do have a larger number in our sales tax exemptions that it will be amply covered. I also might say that if we had taken the opportunity to pass taxation reform, that we might not be talking about tales or other things at this time. Thank you very much.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Just sitting here in this debate and from a layperson's opinion, I don't know how we can compare rivers to equipment. Today, our priority should have been mental health and we couldn't override something this is really important and now we are talking about a tax break for equipment and turning on our television sets. You know if the television sets had labor programs and if they had environmental programs and if they put spins that I think we could really get educated on, I might support this. For now, we are walking out without having passed mental health parity and I am not going to support this. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to speak to a couple of the points made by some previous speakers. The first point is that this is a unanimous report from the Committee on Taxation. The committee has worked very hard on this bill as well as the other pieces of legislation that have come before it over the session, as have all of your committees. We have reported out very few divided reports and have done our homework on the other issues that have come before us. This is a unanimous report. It addresses an issue of equity. This is an issue of equity. It is about providing the same benefits to the purveyors of public information that happen to produce a broadcast signal as we provide to the purveyors of public information that produce a written newspaper. It is a matter of equity. It is the same issue that has been addressed by every other State Legislature in the North East, except for Maine. Every other State Legislature in the North East, except for Maine, has given this exemption.

You were told that originally this was about the conversion to a digital signal. In fact, that is true. The reason it is about a conversion to a digital signal is because the government has told the broadcasters that they must convert. There is no option. You have to convert to a digital signal. Broadcasters have been eating this sales tax up until this point when they have been mandated to expend large sums of money to continue to provide this public information over this signal. There is no logical reason, I would suggest to you, why the newspapers have enjoyed this manufacturing exemption year after year when the same sort of medium, the broadcasters, don't also enjoy it.

It is true that this costs money. We have done plenty of other things in the course of this session that have cost a lot more than this. I would ask each of you to think very careful about the equity inherent in this piece of legislation. Frankly, it is unacceptable that it has taken us this long to have this debate. Please override the Chief Executive's veto.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. My good friend from China is absolutely right. The issue here in equity goes far beyond broadcasters and newspapers. If you recall a couple of years ago when the Federal Communications Commission asked this mandate to the

broadcasters, public broadcasting came to the Legislature and this Legislature approved and sent to the voters who then confirmed a bond issue to help public broadcasting make this exact same modification to their equipment. As far as the equity considerations are involved, I would have to agree. How you define a product, what a product is and what a product is not, that is a debatable topic. I don't think that has anything to do with what we are talking about today. We are really talking about a fair tax policy and I would urge my colleagues to support the Committee on Taxation and override the veto.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. Forgive me for rising a third time, when you are term limited and time is ticking down, you sort of want to use all the floor speeches you can possibly get for no particular reason. Relative to me friend from Old Town's assertion in public broadcasting, I would hardly support sending this out to voter referendum, whether they wanted to allow the other broadcasters in the state who have full-time advertisers who are tax-exempt in their advertising fees to have this, that would be fine with me sending out to referendum. That is not the case before us. The other huge difference that makes this apples and oranges in comparison to what we did and what the state voted to do relative to public broadcasting is that that was a one-time bond issue, a one-time amount of money designed to address the so-called digital bubble, the mandate that you have heard referred to over and over again. Yes, there is a federal mandate. Yes, it costs money. It is unfair. In terms of the public broadcasters, the people of the State of Maine said yes, we agree and we will take care of that one-time cost of going digital. What is proposed here was indeed a unanimous report out of the Taxation Committee. It was indeed a divided report out of the Appropriations Committee in a different form. What is proposed here today is an ongoing tax exemption for the equipment used to generate cable television and other things. It is an ongoing tax break and I submit to you that that is apples and oranges with what the state chose to do relative to public broadcasting.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I really didn't think I had a dog in this fight, but I want to address a couple of points. First of all, I did serve on the Taxation Committee with the good Chair and this is an issue that the broadcasters have been bringing forward for a number of years because they do seek simple equity as the Representative from China so eloquently stated. It is true that if you are in the print business in this state, your product is information and all along the way, including the sale of your product, everything is tax-exempt. If you are in the paper manufacturing business, the investments you make in manufacturing paper are tax-exempt. If you are in the widget making business, those investments in manufacturing equipment are tax-exempt.

Just a couple of items, we keep hearing this cable broadcasting issue being brought up and, in fact, the good chair from Monmouth is absolutely correct in the language of the law. Cable networks and broadcasters are not considered broadcasters. They will not be included in this bill. In fact, the amendment that was brought to Appropriations was specifically worked on by the administration, the Revenue Services Department, to make that clear. I am also very surprised that in the Governor's veto message that he raises this issue of the fiscal note, because, in fact, we all have dealt with the Department of Revenue Services in all of these fiscal notes and we know how incredible thorough and usually more than

thorough they are. I would suggest that the fiscal note is probably correct because the Department of Revenue Services knew exactly that the cable broadcasters were not part of this legislation.

As far as tax exemptions go, I have been here six years. We cut the sales tax by \$140 million a year. I suppose you could characterize that as irresponsible. I voted for it. I thought it was the right thing to do. We have increased the exemption on pension income in the State of Maine and exempted the first \$6,000. I think that could be characterized as irresponsible, but I think it was the right thing to do. We got rid of the snack tax. That was a sales tax and that was about \$16 million a year. Maybe that was irresponsible. I don't think so. At the time I thought it was the right thing to do. I voted to cut taxes to the tune of \$450 million a year since I have been here. I don't really think that that is a fair characterization. I don't usually disagree with my good colleagues on Appropriations. This was a unanimous report from Taxation. Yes, it was a divided report from Appropriations, but it did pass. Yes, it was part of a negotiated agreement as far funding from the four caucuses on the table. It was something that was worked out. It was agreed upon. I feel that it is important that we offer the broadcast media the same level playing field that we offer all of the print media and all of the rest of the manufacturers in the State of Maine. Thank you Mr. Speaker.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. In order to give my good friend from Harpswell an opportunity to use another quarter, I would like to point out a couple of things about the apples and oranges argument when you compare public broadcasting to commercial broadcasting. Bear in mind that the commercial broadcasters put up their own towers, build their own broadcast equipment. When we established public broadcasting, the state paid for all that. It was \$13 million. That state paid for it and also public broadcasting is already under an exemption from paying sales tax for their equipment. This is not to mention the fact that you are talking about all else being equal, a one-time so-called infusion of revenues through a bond issue, ask yourself the question, what is the term of retirement for a bond issue? It is not one-time. It is over 20 years. All else being equal, I would say let's be fair about this. You are talking about a one-time expenditure of money when a broadcaster is going to be buying this equipment. They are not buying it every year. They are changing over once. It is a one-time exemption.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TUTTLE**: Mr. Speaker, Ladies and Gentlemen of the House. For anybody who could answer, it is my understanding that presently the states of Massachusetts and Connecticut have this exemption, but the states of Vermont, New Hampshire and Rhode Island do not.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. The states offering an exemption such as this in the North East are Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Virginia and Maryland. Thank you.

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 briefly. I just want to say that I will be voting to override the veto today. This budget process has been quite a challenge with all the players involved and the process. We got down to finally agreeing to a budget and agreeing that \$1 million would be set aside for a table and the table would be divided amongst four caucuses. Part of that process is dividing that up and this was part of it. When the bill came to the Appropriations Table, I was cool to it, but I supported it. They convinced me that there was quite a lot that the broadcasters gave back through public service announcements and things like that where they do some support back into some issues that I feel strongly about. I would recommend to my colleagues that do return here dividing up the table like that is not necessarily the best way to go. I don't think we get the best bang for our buck for the taxpayers. I think the democratic process should play though that. Regardless of that, I will support the table as we hatched it out. I would say for the Chief Executive that he has promised future sportsmen that \$4 million in general fund revenues. There is the BETR Program and we know there is great support for that in here, but we don't know what the costs are going to be next year and who is going to add to that. What was the package in Lewiston with the Wal Mart Distribution Center? What are the ongoing costs for that? Did we have a say in that? There are other items that have ongoing costs. I think the Legislature that comes back here will have some tough choices as we did this time. If the economy doesn't improve greatly, you are going to have to make some adjustments. I will write letters that offer my opinions for you. I think the Chief Executive was involved in the budget agreement and as far as I am concerned, the table is part of the process and part of the agreement. I would just ask that you support the efforts to override this veto. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is shall this bill become law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 679V

YEA - Andrews, Annis, Belanger, Berry DP, Berry RL, Blanchette, Bowles, Brooks, Bruno, Bryant, Buck, Bumps, Bunker, Canavan, Carr, Chase, Clark, Clough, Collins, Colwell, Cote, Crabtree, Cressey, Cummings, Daigle, Davis, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Fisher, Foster, Fuller, Glynn, Gooley, Green, Haskell, Hatch, Heidrich, Honey, Hutton, Jodrey, Kasprzak, Labrecque, Laverriere-Boucher, Ledwin, Lovett, Lundeen, MacDougall, Madore, Marley, Marrache, Matthews, Mayo, McKee, McKenney, McLaughlin, McNeil, Mendros, Michaud, Morrison, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien LL, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Quint, Richardson, Rines, Rosen, Schneider, Sherman, Skoglund, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Ash, Bliss, Bouffard, Brannigan, Bull, Chick, Chizmar, Cowger, Desmond, Etnier, Gagne, Gerzofsky, Goodwin, Hall, Hawes, Jones, Koffman, Landry, LaVerdiere, Lemoine, Lessard, Mailhot, McDonough, McGowan, Mitchell, Richard, Savage, Smith, Tuttle, Twomey.

ABSENT - Bagley, Baker, Jacobs, Kane, McGlocklin, Michael, Murphy T, O'Brien JA, O'Neil, Shields, Simpson, Volenik.

Yes, 109; No, 30; Absent, 12; Excused, 0.

109 having voted in the affirmative and 30 voted in the negative, with 12 being absent, and accordingly the Veto was Not Sustained in concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 479)

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0035**

April 18, 2002

The Honorable Michael Saxl

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Saxl:

Pursuant to the Charitable Solicitations Act, 9 MRSA § 5010, enclosed is the 2001 Annual Report on the fundraising activity of charitable organizations in the State of Maine.

Please do not hesitate to contact me if you have questions about this report.

Sincerely,

S/S. Catherine Longley

Commissioner

READ and with accompanying papers **ORDERED PLACED ON FILE.**

BILLS IN THE SECOND READING

House

Bill "An Act to Correct Recently Enacted Legislation" (EMERGENCY)

(H.P. 1741) (L.D. 2216)

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

On motion of Representative LaVERDIERE of Wilton, was **SET ASIDE.**

The same Representative **PRESENTED House Amendment "A" (H-1118)**, which was **READ** by the Clerk.

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

Representative **LAVERDIERE**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment is an addition to the mini errors bill that we have before us. It is one that came in very late. It is a minor adjustment. I would be happy to answer any questions that anybody may have. Thank you.

House Amendment "A" (H-1118) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1118)** and sent for concurrence.

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

ORDERS

On motion of Representative DUPLESSIE of Westbrook, the following Joint Resolution: (H.P. 1743) (Under suspension of the rules, cosponsored by Senator EDMONDS of Cumberland and Representatives: BERRY of Livermore, BRYANT of Dixfield, BUNKER of Kossuth Township, COLWELL of Gardiner, COTE of Lewiston, GERZOFKY of Brunswick, HATCH of Skowhegan, HUTTON of Bowdoinham, LESSARD of Topsham, MATTHEWS of Winslow, MICHAUD of Fort Kent, NORBERT of Portland, NORTON of Bangor, PATRICK of Rumford, RICHARDSON of Brunswick, Speaker SAXL of Portland, SMITH of Van Buren, TARAZEWICH of Waterboro, TUTTLE of Sanford, TWOMEY of Biddeford, Senators: DAGGETT of Kennebec, MARTIN of Arostook, President Pro Tem MICHAUD of Penobscot, MILLS of Somerset, RAND of Cumberland, TREAT of Kennebec)

JOINT RESOLUTION RECOGNIZING WORKERS MEMORIAL DAY ON APRIL 28, 2002

WHEREAS, every year, over 10,000 American workers are killed by workplace injuries and occupational diseases; and

WHEREAS, in the State, 22 workers died on the job in 2001; and

WHEREAS, nationally, tens of thousands are permanently disabled by such injuries or diseases; and

WHEREAS, millions of workers are injured or become ill annually on the job; and

WHEREAS, this year has special significance as Maine citizens mourn those killed in the September 11th terrorist attacks, which claimed the lives of more than 3,000 people, most of whom were workers doing their jobs when the attacks occurred or rescue workers who worked to save lives; and

WHEREAS, the federal Occupational Safety and Health Act of 1970 has goals to guarantee every American worker the right to a safe and healthy workplace; and

WHEREAS, concerned Maine citizens are determined to prevent such tragedies by observing Workers Memorial Day on April 28th by remembering the victims of workplace injuries and disease, by renewing their efforts to seek stronger safety and health protections, better standards and enforcement and fair and just compensation and by rededicating themselves to improving the safety and health of workers in every Maine workplace; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to proclaim April 28, 2002 as Workers Memorial Day in the State of Maine and encourage all residents to remember those workers injured or permanently disabled and those workers killed on the job and to observe the day in an appropriate manner.

READ and ADOPTED.

Sent for concurrence.

ORDERS

On motion of Representative COWGER of Hallowell, the following Joint Resolution: (H.P. 1744) (Cosponsored by Senator MARTIN of Arostook)

JOINT RESOLUTION MEMORIALIZING CONGRESS TO MAINTAIN THE PROVISIONS OF THE FEDERAL CLEAN AIR ACT

WE, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States and Congress, as follows:

WHEREAS, Section 111 of the federal Clean Air Act requires the adoption of federal standards, known as new source review, reflecting the best available control technology for facilities that cause or contribute significantly to air pollution that may endanger public health and welfare; and

WHEREAS, the United States Environmental Protection Agency adopted such standards of performance for the construction or modification of power plants; and

WHEREAS, litigation against power plant owners for violations of new source review is being actively pursued; and

WHEREAS, the current federal administration is reportedly considering modifications of the new source review program; and

WHEREAS, acid rain, which is damaging sensitive ecosystems, has been attributed to emissions from coal-burning plants in the Midwest and the Mid-Atlantic states and, to a lesser extent, in New England; and

WHEREAS, scientific research has established a well-defined link between power plant air emissions and human health effects, including exacerbation of symptoms for those with asthma, increased risk of heart attacks for those with heart disease and increased risk of lung cancer and premature death; now, therefore, be it

RESOLVED: That We, your Memorialists, urge President George W. Bush and the United States Environmental Protection Agency Administrator Christie Whitman to maintain the existing regulations on new source review; and be it further

RESOLVED: That We, your Memorialists, urge Congress to take appropriate action against any decision made by the United States Environmental Protection Agency to modify the regulations implementing Section 111 of the federal Clean Air Act if the result would be to jeopardize Maine's ability to safeguard public health and protect environmental quality; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Administrator Christie Whitman and each member of the Maine Congressional Delegation.

READ and ADOPTED.

Sent for concurrence.

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

At this point, the Speaker recognized all members who have served as Speaker Pro Tem during the 120th Legislature. the

The **SPEAKER:** In the last two years we have been blessed with 30 different Speaker Pro Tems. It is my great honor at this time to recognize these individuals as great leaders of this Legislature and to thank them for their service on behalf of this body by presenting to them a ceremonial gavel. As I call your name would you please approach the rostrum and come up on the right side as you face the rostrum and I will present you with your gavel. First, Representative Randall L. Berry of Livermore has served as Speaker Pro tem on May 1, 2001 and March 25, 2002. Representative Bonnie Green of Monmouth has served as Speaker Pro Tem on May 14, 2001 and March 13, 2002. Representative Matthew Dunlap of Old Town has served as Speaker Pro Tem on April 25, 2001, May 7, 2001, May 17, 2001, May 23, 2001, June 5, 2001 and February 28, 2002. Representative Charles C. LaVerdiere of Wilton has served as Speaker Pro Tem on May 7, 2001, May 14, 2001, May 15, 2001, May 18, 2001, June 5, 2001, June 8, 2001, March 12, 2002,

March 26, 2002 and April 8, 2002. Representative Patrick Colwell of Gardiner who served as Speaker Pro Tem on March 21, 2001, April 26, 2001, May 10, 2001, May 15, 2001, May 16, 2001, May 21, 2001, May 31, 2001, June 13, 2001, June 20, 2001, February 12, 2002, April 4, 2002 and April 8, 2002. Representative William S. Norbert of Portland who served as Speaker Pro Tem on April 4, 2001, May 10, 2001, May 17, 2001, May 21, 2001, June 11, 2001, June 21, 2001, February 14, 2002, March 6, 2002 and April 4, 2002. Representative Joseph Bruno of Raymond who served as Speaker Pro Tem on May 8, 2001. Representative Howard A. Chick of Lebanon who served as Speaker Pro Tem on June 13, 2001. Representative Nancy L. Chizmar of Lisbon who served as Speaker Pro Tem on May 30, 2001. Representative Joseph E. Clark of Millinocket who served as Speaker Pro Tem on May 16, 2001. Representative Rosita Gagne of Buckfield who served as Speaker Pro Tem on May 7, 2001. Representative Edward J. Povich of Ellsworth who served as Speaker Pro Tem on June 6, 2001. Representative Ronald E. Usher of Westbrook who served as Speaker Pro Tem on May 22, 2001. Representative Paul Volenik of Brooklin who served as Speaker Pro Tem on June 13, 2001. Representative Elizabeth Watson of Farmingdale who served as Speaker Pro Tem on June 7, 2001. Representative Gary J. Wheeler of Eliot who served as Speaker Pro Tem on May 29, 2001. Representative Irvin G. Belanger of Caribou who served as Speaker Pro Tem on April 9, 2002. Representative Gerald N. Bouffard of Lewiston who served as Speaker Pro Tem on March 25, 2002. Representative John T. Buck of Yarmouth who served as Speaker Pro Tem on February 7, 2002. Representative Randall L. Bumps of China who served as Speaker Pro Tem on April 9, 2002. Representative Mabel J. Desmond of Mapleton who served as Speaker Pro Tem on April 9, 2002. Representative Charles D. Fisher of Brewer who served as Speaker Pro Tem on February 13, 2002. Representative Janice E. Labrecque of Gorham who served as Speaker Pro Tem on March 20, 2002. Representative David R. Madore of Augusta who served as Speaker Pro Tem on April 9, 2002. Representative Arthur F. Mayo III of Bath who served as Speaker Pro Tem on March 5, 2002. Representative Charles E. Mitchell of Vassalboro who served as Speaker Pro Tem on March 25, 2002. Representative Judith B. Peavey of Woolwich who served as Speaker Pro Tem on April 3, 2002. Representative Shirley K. Richard of Madison who served as Speaker Pro Tem on April 9, 2002. Representative G. Paul Waterhouse of Bridgton who served as Speaker Pro Tem on March 26, 2002. Would the House please join me in thanking these wonderful members for their service.

At this point, the House performed the Ceremony of Lights.

The **SPEAKER**: At this time the House will proceed with the Ceremony of Lights. As the Clerk calls your name please vote green. I wish it were that easy every other day of the year. The Clerk will read the names.

The **CLERK**: The Representative from Levant, Representative Peter D. Chase, 2 years of legislative service. The Representative from Hope, Representative Richard A. Crabtree, 2 years of legislative service. The Representative from Bristol, Representative Christopher G. L. Hall, 2 years of legislative service. The Representative from Turner, Representative Patricia T. Jacobs, 4 years of service. The Representative from Lewiston, Representative Stavros J. Mendros, 4 years of service. The Representative from Buxton, Representative William R. Savage, 4 years of service. The Representative from Montville, Representative Carol Weston, 4 years of service. The Representative from Caribou,

Representative Irvin G. Belanger, 6 years of service. The Representative from Winterport, Representative Joseph E. Brooks, 6 years of service. The Representative from China, Representative Randall L. Bumps, 6 years of service. The Representative from Gray, Representative Clifton E. Foster, 6 years of service. The Representative from Newport, Representative Susan L. Kasprzak, 6 years of service. The Representative from North Berwick, Representative Jay MacDougall, 6 years of service. The Representative from Portland, Representative Michael W. Quint, 6 years of service. The Representative from Medway, Representative Stephen S. Stanley, 6 years of service. The Representative from Fairfield, Representative Paul L. Tessier, 6 years of service. The Representative from Madison, Representative Shirley K. Richard, 7 years of service. The Representative from Livermore, Representative Randall L. Berry, 8 years of service. The Representative from Lewiston, Representative Gerald N. Bouffard, 8 years of service. The Representative from Yarmouth, Representative John T. Buck, 8 years of service. The Representative from Lebanon, Representative Howard A. Chick, 8 years of service. The Representative from Lisbon, Representative Nancy L. Chizmar, 8 years of service. The Representative from Mapleton, Representative Mabel J. Desmond, 8 years of service. The Representative from Harpswell, Representative David M. Etnier, 8 years of service. The Representative from Brewer, Representative Charles D. Fisher, 8 years of service. The Representative from Farmington, Representative Walter R. Gooley, 8 years of service. The Representative from Monmouth, Representative Bonnie Green, 8 years of service. The Representative from Gorham, Representative Janice E. Labrecque, 8 years of service. The Representative from Scarborough, Representative Glenys P. Lovett, 8 years of service. The Representative from Augusta, Representative David R. Madore, 8 years of service. The Representative from Bath, Representative Arthur F. Mayo III, 8 years of service. The Representative from Acton, Representative Richard A. Nass, 8 years of service. The Representative from Woolwich, Representative Judith B. Peavey, 8 years of service. The Representative from Penobscot, Representative Royce W. Perkins, 8 years of service. The Representative from Lamoine, Representative William D. Pinkham, 8 years of service. The Representative from Ellsworth, Representative Edward J. Povich, 8 years of service. The Representative from Portland, Speaker Michael V. Saxl, 8 years of service. The Representative from Hartland, Representative Vaughn A. Stedman, 8 years of service. The Representative from Brooklin, Representative Paul Volenik, 8 years of service. The Representative from Bridgton, Representative G. Paul Waterhouse, 8 years of service. The Representative from Farmingdale, Representative Elizabeth Watson, 8 years of service. The Representative from Bridgewater, Representative Edgar Wheeler, 8 years of service. The Representative from Norway, Representative Tom J. Winsor, 8 years of service. The Representative from Auburn, Representative John M. Michael, 13 years of service. The Representative from Sanford, Representative John L. Tuttle, Jr., 14 years of service in the House and 4 years in the Senate. The Representative from Berwick, Representative Eleanor M. Murphy, 18 years of service.

The **SPEAKER**: The Chair recognizes the Representative from Gardiner, Representative Colwell who wishes to address the House on the record.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I apologize for having to do this twice, but the

Speaker called me before he was getting ready to do this and said, do you have any concerns about doing the ceremony at this time? It was a tremendously moving ceremony. My concern was that I wouldn't be able to get my speech written in time. When I saw those lights go up, I know I am going to miss each and every one of those people here. It leaves me concerned about the tremendous talent and loss that this chamber is going to see. I rise now on behalf of my caucus to thank my good friend, Speaker Saxl, and our leader on this side of the aisle, a man that we are very proud to call leader.

This is my third term and I have served under the first woman Speaker of the House and the current Attorney General and now I have served under my good friend, Mike Saxl. It seems like the bar keeps rising every time because they are all tremendous leaders. I have to tell you that I really speak for this whole chamber, Mr. Speaker, in saying that it has been a great honor serving here with you. I think you have done it with tremendous dignity, fairness, pleasantly surprising many members of the opposition with your fairness and frankly much to my consternation some times with your fairness, but it was the right thing to do. You always knew what the correct course was.

It is on behalf of a grateful House Democratic Caucus that I want to present you with a gift, but you leave tremendous shoes to fill here in this chamber for whoever takes over. Frankly, I don't think anyone can fill your passion, your leadership and your conviction that Maine people deserve the very, very best Maine House of Representatives that they can have. I thank you for that. I know that our caucus thanks you tremendously for that.

There is one little area where I think you could improve and that is why on behalf of the Democrats in the House of Representatives I want to present you with this gift. I have been fishing with you and you need a little help in your fly fishing so we are going to present you with this eight weight Orvas travel rod so that when you and I and some of the other members of the caucus go fishing for the big ones, you won't be breaking those puny rods of yours.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno who wishes to speak on the record.

Representative BRUNO: Mr. Speaker, Men and Women of the House. I hate giving these speeches. I tend to be emotional. The previous speaker mentioned the fairness that he treated the Republican Caucus with. I thank you. There were often times when you are in the minority that people look down at you and people don't respect you. Honestly, I never felt that this session. I thank you. The whole caucus thanks you for that. You have helped us when we stumbled. You have helped our members when they couldn't figure something out with parliamentary procedure. I thank you for that also.

I think we have developed a friendship and I hope we can continue. On behalf of the Republican Caucus, I want to thank you for a great job in the 120th Legislature. There are so many things to look back on that we can be proud of. We did it without animosity and that was the most important thing. When I came up to Augusta, I always said it was no different than working on your town council, your select board or your school board. You may disagree, but you have to live with those people in town. Do it agreeably. Disagree agreeably. It is a double negative, but it just says respect one another. Respect what you stand for. You can disagree and it is okay. It is what made this country. It is what makes this state. I am not one for long speeches. It is a heartfelt thank you to you and best wishes on the future for you.

The SPEAKER: I was not planning to speak at this point, but it seems appropriate. I want to thank my colleagues in either corner. They are great leaders of this institution and they are great leaders of their individual caucuses, but more important, they are great leaders of this state. They have made this institution better, both by their agreements and their disagreements, but mostly by their courtesy to each other. Without them, this institution would not profit or move forward.

Without a doubt to me these last two years are the greatest treasure that I will ever have in my professional life. It is a remarkable experience to serve with you, all of you, and to serve in this institution. The people of Maine should be very, very proud and honored by the work that each and every one of you do. Who would have thunk it is what I keep thinking to myself as I stand here every day with a little bit of butterflies in my stomach and a little bit giddy at the opportunity to work with you.

I remember getting elected shortly before my friend from Madison, Representative Richard, in a special election on February 28 in the middle of an ice storm thinking that I would fulfill out one term in office. At that time there was a very close division in the parties in the chamber. I would then go back to law school and finish up and go do what I had always intended to do, which is to practice law. I had worked in Washington, DC before returning to Maine to go to law school and I just thought that was what I was bound to do. I think, in fact, that is what I am bound to do, it just took me a little while to get there.

I had a unique opportunity to serve in both those chairs in that corner and let me tell you that neither one of them is an easy job. Serving as whip, I am sure in both caucuses, means sometimes talking to people in a very direct way, helping them to understand the ropes of how you get around, but it is sometimes a very difficult job. The only job harder than that probably is being floor leader. There you are responsible to so many different people that have so many different expectations. I think the grace and dignity with which all of you served is incredible.

My friend, Representative Quint, said some very nice words the other day and I am mindful of them as I speak to you today. The thing that I treasure more than health care policy and to Representative Richard and Representative Weston more than education policy and to Representative Colwell and the folks on both the Judiciary and Criminal Justice Committees even more than protecting victims of domestic violence and sexual assault, the thing I treasure most about this place is this place itself, this institution. I came with a healthy sense of awe, but getting to know a guy that is not with us right now, getting to know my friend, Joe Mayo, I was filled with even a greater sense of awe and a greater sense of obligation. Millie and I were with Joe over our lunch break today and he sends his love and wishes to all of you for a successful summer and a successful completion of this session. I wish that he were with us at this time.

I want to read to this chamber something I quoted on the opening day of session, which I think is important as any document that has been in front of this chamber. It is an excerpt from Clerk Emeritus Mayo's closing letter. He writes to us, "Permit me now to offer a few opinions about the House. Those of you who know me well have heard me talk about the sovereignty of the House of Representatives. I have often overstated the case, but allow me to say it one more time for the record. No person or group of persons nor other institution is superior to the House of Representatives. The Constitution alone is our guide and director. Many people mistakenly believe that the House is somehow under the authority of the Joint Rules or even the Legislative Council. This is not the case. I have been concerned about the trend to place in statute the procedures of

the House, let me say one more time with clarity, the House cannot be bound by a statute. Wiser minds than I have stated this clearly through our courts as long as 100 years ago. The Constitution is the only place to bind the House. Short of changing that enduring document, you should turn to the House rules to affect change in the way the House operates. Much has been said lately concerning the loss of the power of the Legislature to the Executive, I would comment that this is only true if you permit it to be true. There has been no change in your constitutional powers. They are there for you to exercise. Be vigilant in your duty to oversee the Executive. Ask the tough questions and demand appropriate responses. The Legislature, and especially the House, is the branch of government that is most accessible and the most responsive. You therefore have the ability to garner the support of the public if you use your accessibility and responsiveness to your advantage. Vigilance to the task is the key."

I hope that those of you who continue to serve in this august body will remember and heed Joe's words every day when you are with your constituents, when you serve in your committee, when you are on this floor in this chamber. I think that even when some of us take a deep breath and said that I would really like to go home for the night or I wish we could just finish that committee meeting or do we really have to hear another bit of testimony on this matter or well, even though you are not allowed to debate about the actions or the potential actions of the Chief Executive or the other body, what the other body might do so this might not be fruitful as an exercise, you should turn to the thoughtful words of Joe Mayo. "This is your House. This is the people's House." We are so greatly honored to serve here in whatever capacity we come. It is incumbent upon you to continue in that principled way and to make sure that this institution retains its strength, carries the voice and the wisdom of my friend Joe Mayo.

Let me just say before I conclude that when I prepared for this Legislature I never thought it would be exactly like it has been. I did not anticipate the challenges. The first thing we did as a Legislature was appeal to the elections committee of this House. I was never so proud to start a session by the work that committee did in a bi-partisan and open and evenhanded way. I really think it sent a tone for inclusiveness and receptiveness from everybody. We faced a lot of other challenges, whether it be budget shortfalls or even today with workers' compensation issues that literally brought this building to a standstill caused a closure of state government in the past. In this Legislature with these people in this chamber, even though we may have heartfelt and deep disagreements, we have done it in a way which is becoming of each and every one of you. You have done it not just on workers' compensation, but on education, health care, transportation, business and economic future of our state, on environmental policy and I hope that as you look back on this Legislature, you will recognize it as a Legislature of an incredible success in the face of very difficult circumstances. I hope that you will think about the 22,000 for the lowest paid Maine people who now have access to health care because of bipartisan work on expanding Medicaid. I hope you will think about the small businesses in your state, the self-employed and the sole proprietors, that hopefully will have access to a health insurance product that will control the costs of inflation and health care. I hope you will think about your grandchildren in the woods of the State of Maine because of the deliberate and measured approaches, both Republicans and Democrats took toward protecting our environment, taking mercury out of our soil, the ability of this Legislature even though my hometown and a few of your hometowns were not successful in getting more school

funding, the fact that in a year when we are running a shortfall, we increased school funding by some \$29 million with an 11 percent increase over the biennium when everything else was threatened to be cut.

If you look at today's *Christian Science Monitor* it will show how other states dealt with this adversity. I was just with my in-laws to be in Kentucky where their Legislature failed to pass a budget. They just went home. They didn't pass a budget. In other Legislatures they decided to secure tie the entire tobacco settlements and use that for that single year to pay down all that years debt and not worrying about the next year. Other states raised taxes drastically, income taxes, sales taxes and fees across the board. Still other states cut Medicaid and cut programs for those most vulnerable. The way this chamber and the other body handled those very difficult issues was to handle them straight on. We protected those, the most vulnerable. We did it at the same time we passed the stimulus initiatives given to us by the President of the United States and the United States Congress so that we would in the future lower taxes. We honored past commitments, whether it be to income tax indexing or whether it be to children who received Medicaid through the Cub Care Program. We honored our commitments. No one of us is responsible for any of that. I think collectively if you think for a moment and you reflect upon what we had to do, what challenges we had, whether they be institutional or policy wide, this institution did a tremendous job. This was a great year, a great session of accomplishment and I wish each and every one of you in your future endeavors all the very best. I could not have been more proud or more honored to serve with each and every one of you in this body. I say to you, God speed and good luck to each and every one of you. Thank you.

The House recessed until 6:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**SENATE PAPERS
Non-Concurrent Matter**

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)

House **ADHERED TO PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1101)** on April 9, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-623)** in **NON-CONCURRENCE**.

On motion of Representative BUNKER of Kossuth Township, the House voted to **RECEDE**.

Senate Amendment "C" (S-623) was **READ** by the Clerk.

The same Representative presented **House Amendment "A" (H-1120)** to **Senate Amendment "C" (S-623)**, which was **READ** by the Clerk.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. Normally I don't speak first because we want to debate the issues. I don't see a lot of need to debate the issues again here today. We have gone through a lot of this in the last several weeks. I want to publicly thank the other body for the amendment that we just adopted or that is coming forward for adoption. That is the starting point of the solution that we all are looking for here today. The cost neutral solution to the concerns of the Kotch situation. I think that everyone has one of these orange colored sheets on their desk from the good Representative Tessier that clearly indicates all the great things that are in the amendment that we are just moving forward to amend. All those things are part of our amendment that I am offering here in 1120 as well. All of those bulleted things are agreements. I am very, very pleased to see that we have all come to agreement at least in the other body on the important issues that are before us. The only thing that really substantively is different between the approach from the other body and what we are proposing here is all of the data that we are collecting, in order to properly make this thing cost neutral revolves around sampling and doing real number and crunching real data. Both of these bills are going to try to do that, take the data from current date all the way back to the current 1993 system when it started and take all of those people in there and try to figure out really where that control valve that drives cost in the workers' comp benefit system, most importantly the 75/25 who were the most injured people that come out the other end of the funnel is the 25 percent. Both of the approaches is identical in how we control costs. The only difference between us and the other body the amendment corrects is we want that adjustment to be made for everybody in the system fairly and evenly and level all across the injuries that are currently in the system. What my amendment does is ask for that same study to be done on all of those folks, set a proper threshold adjustment to make everything cost neutral, which relates to no increased costs to businesses and also to protect all of the folks that are in the system currently and prospectively that they can through our policy setting guidelines that are identified in both bills to say basically the worst impaired persons that were injured at work are going to be the beneficiaries of the cap system we have of only 25 percent or 2.5 people out of 10 can eventually come out of the system at the other end with possibly some durational benefits. Durational benefits mean that they can go beyond the seven-year limit that is currently the existing law and be able to claim some sort of wage and medical benefit out into the future as long as the disability prevents them from working. It is not a lifetime thing. It is based on their ability to work.

I think both proposals are coming to the right solution. I would ask your support to make sure that everybody is on the same playing field. We, in Labor, had different cliffs in the Maine State Retirement. We had different cliffs and different things in retirement systems and I am sure each and every one of you in every committee of jurisdiction can probably recite some way that we are causing these artificial cliffs that everybody complains about after we go home. This is a total holistic approach. It is a cost neutral approach to allowing all people in the system to be evaluated to find out who is the worst injured folks so that we can make sure that those folks who are coming out of the system are the most impaired and the most needing of the durational benefits. I would ask for your support on this. I would ask for the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-1120) to Senate Amendment "C" (S-623)**.

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. I would just like to add a few comments to what the good Representative from Kossuth Township just said. First of all, I think the objective of what we are trying to do here is cost neutrality. In other words not to burden the workers' comp system with any additional costs if we can possibly avoid that from happening. The bill as it is before us now from the Senate has minimal additional costs. The NCCI has costed it out. It is somewhere between no increase and the 1.1 percent increase in the worst case scenario. We are looking at a bill that does what we want it to do with a minimal increase in cost. The House Amendment that we are talking about now (H-1120), I have some figures that probably aren't even available to you folks on your desk. The prospective cost increase of this amendment would be somewhere between 3.5 and 10.4 percent or \$10.5 to \$31.2 million. The retroactive costs are somewhere between \$37 million and \$166 million. We are talking about significant increases in the cost to the comp system.

We are not only talking about employers here. We are talking about every municipality, every non-profit organization, every school district in the State of Maine. In Section 2 of this amendment, stacking is permitted for unrelated work injuries retroactively, which is not the case in the bill as it arrived from the other body. The implementation of the provisions for retroactive stacking are really unclear. They are not well defined in the bill. When the threshold for personal impairment changes, remember right now it is 1.8 percent, but it will require a change as a result of the stacking. When that happens anyone who has not settled a comp claim if their personal impairment threshold is above 11.8 percent and they haven't settled and the readjustment puts it at 14 or 15 percent and let's say they are at 13 percent, they are going to be disenfranchised. I see that as a bad point of this amendment.

The amendment is ambiguous. It really doesn't have any standards that constitute a prior injury, particularly for out of state injuries. Other state workers' comp systems operate on different laws. The American Medical Manuals they use are sometimes different than the ones we use here in the State of Maine. It would be very difficult to dot the stacking for out of state injuries. I think we can see that because of some of the things that I have already mentioned, we are going to increase litigation costs to the system. The amendment removes the requirement, actually, that a prior injury be a physical injury. All other amendments that we have seen up to this point refer to physical injury. This amendment omits that and supposedly would allow stress or mental conditions as a result of work to be allowed under the workers' comp program.

Again, we are opening up a huge hole that is going to cost a lot of money. It differs from the version from the other body in that it does not require sound actuarial principles with unbiased results. It does not protect the confidentiality of the claimant. In Section 5, for injuries being evaluated after the enactment, the PI rating will not be available until January 1, 2003. It will cause uncertainty for both the employee and the employer about the duration of the benefits. For injured employees subject to discontinuance, the discontinuance of benefits is not permitted until after a finding by a hearing officer that the PI does not exceed 11.8 percent. I won't bother to read anymore. There are

seven to eight other points here, but I don't think that I will bother to read those. In my mind there is enough information to convince me that this is not a cost neutral amendment. It is not doing what we intended to do here.

Mr. Speaker, I would move Indefinite Postponement of House Amendment "A."

Representative TREADWELL of Carmel moved that **House Amendment "A" (H-1120) to Senate Amendment "C" (S-623) be INDEFINITELY POSTPONED.**

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

Representative BUNKER: Mr. Speaker, Men and Women of the House. Again, we can sit here and go through and pick apart the long and hard worked upon solutions to making sure that we operate and continue to operate and force the workers' comp system to operate in a cost neutral self-leveling fashion, which it has not done. Our bill and Senator Kilkelly's bill tries to attempt to do that. The fallacy between the two bills is we want to leave everybody in the past out in the cold and I don't wish to do that. Some of the points that the good Representative has gone through, I don't think need to be argued about. I think that the points he made have no merit to them.

If we read the fiscal note on the bill, you will find out that it basically says that it is cost neutral. It says that there may be some minor additional costs for that very limited group of people that may be caught in that catch 22 until we get that raw data. Tell me, ladies and gentlemen, from a common sense point of view that if we go all the way back to 1993, take everybody in the system in a sampling and actually identify these people in and collect the real data that nobody in this room has been able to talk about today and NCCI and all those other numbers that we have heard from all these other people that are just promoting one industry or the other, why is anyone in this body afraid to collect the real data, the mathematicians in this place ought to be real helpful with this. Why would anyone in this body want not to have one business, one labor actuary collecting real numbers of the system way back to when it began in 1993? Go right through to now and out into the future and set an appropriate figure to make sure that only 25 percent of everybody in the system, no matter how they got in, they got in there because they had a work related injury. You have to be injured to play in this game.

Nobody new is coming in. Nobody is coming in from outside or from out of state. I would expect prospectively coming into this system because they work here in Maine. If we define that these are the class of people and both amendments agree that this class of people, essentially pre-Kotch people, are the ones that we should be looking at in order to set the proper PI level to ensure that this system we had designed in 1993 that everybody on both sides of the aisle said don't touch works the way it was designed in 1993. If any mathematician can tell me why real data and real sampling and real information based on all the people in the system in a statistical, actuary sound basis and have a complaint resolution because that is where the fallacy is in the current workers' comp system. There is nobody sitting there to say who is right and whose number is correct. We have the complaint resolution mechanism that is in both of these bills. I would ask you, why wouldn't we want to take care of everybody in the system, currently, retrospectively and prospectively and ensure that that number is adjusted to handle and ensure that the most injured people receive the benefit that was designed in the 1992 system. Thank you.

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1120) to Senate Amendment "C" (S-623).**

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 Winslow, Representative Matthews.

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

The SPEAKER: The Representative may pose his question.

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. To the good gentleman from Carmel, my question is this, is there already language in the law that covers preexisting injury that has been on the books since 1993 and talks about aggravating, accelerating and combining with a current injury? The other question that I have is, since 1993 have indemnity payments been going up or down and have premiums been going up or down? Thank you Mr. Speaker.

The SPEAKER: The Representative from Winslow, Representative Matthews has posed a question through the Chair to the Representative from Carmel, Representative Treadwell. The Chair recognizes that Representative.

Representative TREADWELL: Mr. Speaker, Men and Women of the House. To answer the questions, I am not sure I have the information to answer all the questions. I can relate that the Churchill decision of 1999 allowed what we call stacking of related injuries that occurred on the job at different periods of time. The ruling was that the second injury aggravated or accelerated the previous injury. That language has been handed down in an opinion. It is now a part of the legal precedent in the comp system.

The information that I got on the pricing came from NCCI, which is recognized and used by the State of Maine and about 38 other states as their source of information on costing out changes in the workers' comp law. It is not mandatory, but it is what the companies use as a guide in adjusting of their premium. It has been very reliable information in the past. I would assume that these figures are also very reliable.

The other point that I wanted to make escapes me right now, but I think we already have a roll call request for the motion to Indefinitely Postpone.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

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

The SPEAKER: The Representative may pose his question.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who may answer, how do you get a cost equal in the comp system when the businesses pay into the system and also the workers? When a person gets insurance for your vehicle, health or life insurance you ask for many quotes, but in the comp system you have only one actuary, which is NCCI. What is wrong with competition, ladies and gentlemen?

The SPEAKER: The Representative from Millinocket, Representative Clark has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. I don't know if I could exactly answer Representative Clark's question, but I do want to comment on this. We have all heard the words cost neutral being thrown around. I think cost neutral means a number of different things to different people. Certainly there seems to be the attitude on the Chief Executive's part that cost neutral means that somehow the insurance companies won't raise their rates. Insurance companies raise their rates anyway. We have data right here in front of us showing in the year 2000 total premiums were \$299 million collected from all the employers in the state. They paid

out \$229 million for benefits. That left \$70 million going God knows where. Certainly it was not going to the injured workers. Is that cost neutral or is it cost neutral the next year when they don't have \$70 million to put away or somehow something like that? What is cost neutral? Is cost neutral something that you are going to be able to figure out based on NCCI figures, which as they disclosed at the Labor Committee, they developed their projections based upon five phone calls to different insurance companies. They had already told the highest court in this state in an affidavit under oath that they didn't have data to make any projections. When it came to giving a statement under oath, they said that we don't have the data to tell you what it is going to cost.

Ever since this Kotch decision hysteria has started, it is going to be a 15 percent increase or \$200 million. We repeal Kotch, which took care of the non-occupational conditions. It is still going to be 3 percent or 10 percent or \$160 million. The numbers are being drawn straight out of the air. Those of you in this body who think that you have business minds, would you make a decision based on numbers drawn out of the air? You are being asked to make such a decision right now with this Kilkelly amendment. Draw numbers out of the air and then go ahead and make a decision that is going to then cut out and freeze out and discriminate against employees. If you want to discriminate against employees, fine, do so, but don't justify it on figures that are arbitrary and drawn out of the air. Keep in mind that the Bunker amendment, although it pushes back benefits employees had since 1992, it still leaves minimum protections and tries not to discriminate. Why should we discriminate against somebody who was injured before today and tell them that their work injuries won't be considered? What is the justice in this? There is none whatsoever. Is this the fair way? No. Is it going to be cost neutral or cost effective? Yes, it will end up that workers get less. Does it mean employers will pay less? No necessarily, because you have no control over the profits of the insurance company. Is it fair to discriminate against our many workers on construction who travel and work in Maine and travel and work outside the state and certainly they are injured in Maine and they are injured out of state? Do we want to go with a system that is going to discriminate against them? I suggest to you that that is not fair and it is not right. It is not necessary, because the so-called costs are all out of the air and don't exist. I ask you to go with the Bunker amendment. That amendment says we are going to freeze things where they are and we are going to do a study so there will be some real data. Doesn't that make business sense to get the real data? We are not dealing with an emergency here. The cost that would be resulting are something that will trickle in over the years. It is not all going to come in in the month of July or September or December. They trickle in as the years go by. What is the hurry? There is only one hurry right now and that is to maximize the benefit from the hysteria that was created. I ask you to not let hysteria make your decisions. Look at the data and vote in favor of the Bunker amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Camden, Representative Dorr.

Representative **DORR**: Mr. Speaker, Men and Women of the House. I realized in looking at the options that are before us now that all we are being asked to determine with our vote is which model we are choosing for the study. Is it a model that is restrictive from a date forward starting January 1, 2002 or is it a model that takes in those workers who have been covered under the current law starting in 1993? I would urge you to vote against the pending motion and just recognize that this is a fact finding mission that we are on and to fairly consider the cost that would

be looked at in the study rather than trying to sort out the cost here and sort out what those benefits should be. We are just determining which model will be used for the study. I would submit to do a study based on what is currently in law to protect those injured workers currently in the system is the most fair way to approach this.

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

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

The SPEAKER: The Representative may pose his question.

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. I own a small business. I have enjoyed the reforms since 1992. I have never had a lost time claim in my business. I did experience real burdens of workers' comp then. I believe they are in line now. I haven't really studied what they are like in other states. I guess the question I want to ask to anybody who can answer this, can the amendment that is currently before us bring me back to where I was the day, the second, the minute before the Supreme Court ruled on Kotch? That is where I want to go back to, the exact nanosecond before Kotch. Will this amendment bring me to that?

The SPEAKER: The Representative from Ellsworth, Representative Povich has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to respond to that. The amendment presented by Representative Bunker does more than bring us back to the minute before Kotch. It rolls back employee benefits even further than what they were prior to Kotch. Before Kotch the courts had clearly expressed that they would consider multiple work injuries. In this amendment we are limiting the work injuries that are being considered. We will only consider work injuries that contribute to the incapacity and we are not going to consider work injuries where there was a settlement involved and we are not going to consider work injuries where there were no reports filed. This rolls it back even further than the minute before Kotch. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to elaborate a little bit on the question from the good Representative from Ellsworth. The Kotch decision threw the workers' comp system in the State of Maine into a turmoil, to put it as plain as I can. The original bill that was submitted by the Chief Executive and sponsored by Senator Kilkelly would have undone or reversed the decision that was made in the Kotch case and put us back to that precise nanosecond before the State Supreme Court's decision. We have before us now the possibility of two different amendments. We can't go back to the original bill that was presented to us. Now we have a choice between two amendments, the amendment that came to us from the other body. We already have talked about that at length or we have the amendment that is being presented by Representative Bunker.

I think that I have been as fair as I can about the difference in costs of these two amendments. There is no question that (H-1120), the amendment that is before us right now, is going to have more costs attached to it than the bill that arrived here from the other body.

I would like to answer a couple of other questions or comments from a previous discussion. The question of profitability and the reduction of costs that have gone on since 1993 in the comp system, there has been an impression given

here, I believe, in this body that the insurance companies are making huge profits and they are taking out of the State of Maine or they are taking it and running with it. I would just like to remind everybody that 80 percent of the workers' comp business written in the State of Maine is written by nonprofit companies. They are written by the self-insured or MEMIC, which is a mutual company. There is no profit structure within those companies. The self-insured assess for the payments based on what the settlement costs are for comp cases. MEMIC does basically the same thing. They are not a profit-oriented insurer.

That individual who was injured outside of the State of Maine that we were told about has the right to settle that comp claim under the Maine State Compensation Law. That person is not left out in the cold. His rights are protected and he can settle under the workers' comp law for the State of Maine. With those points, I would conclude and vote in favor of the Indefinite Postponement.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. I appreciate the opportunity to address this letter from NCCI, although I think they should be called NCIP, which would stand for National Council for Increased Premiums. This is an insurance industry actuary paid for by the insurance industry, run by the insurance industry and frankly, I am just totally amazed that the Bunker amendment came to the floor of the House at 5:00 p.m. and we have an analysis of it from NCIP that puts a price tag to it when, in fact, in their own memo that the good Representative from Carmel is quoting, they are concerned that a seven month period to do the actual work, to take a sampling of those real workers, those people that are in the system now, the 838 of them. That is what they are. Maybe NCCI thought we asked for the amount of injured workers in all of New England. Maybe they misunderstood the question. There are 838 of them in the system. That comes from the workers' comp board. That is where they are. That is the universe we are talking about. They expressed concern in their letter that seven months would not be enough time and yet in the matter of two hours and forty-five minutes they have done an actuarial study, somehow, that tells us that we are going to spend all these additional monies. That brings us right back to the other NCCI letter that said if you don't repeal Kotch, your costs are going to go up by \$250 million and if you do repeal Kotch, your costs are going to go up by \$200 million.

I don't get it. The question was asked earlier why are we afraid to collect the real data? It is a pretty fair question. I think the question is if we collect the real data we will have to look at this in a real fashion. In a fashion that may not raise premiums as rapidly as the insurance industry and NCCI wants.

I want to bring you back to this handout here. This is data that is collected from the Maine Bureau of Insurance, an agency that is run by the Superintendent of Insurance and under Commissioner Longley's jurisdiction. If, in fact, you look at this piece of paper, I think there is a premise by the Governor, by the industry, by this recent Senate Amendment. The premise is the reason premiums are going up is because our worker benefit package is out of control. Look at this little graph here. In 1993 workers' comp payouts, medical and loss wage benefits, this is the whole industry, non-profits, self-insured, for profits, anybody. Premiums were \$457 million. In 2000, the most recent year we have data is was \$299 million. I am not a mathematical wizard, but that is a \$158 million decrease in premiums. You go over to the final column, which is total payments and that is what they pay out, the lost wages and the health care piece to repair the injured bodies, in 1993 the total payments were \$344 million to

the workers that were injured. In 2000, the payments were \$229 million. That is \$115 million less benefits that are going to the workers. I am not going to argue that premiums are going up, maybe they are, but it is not because the benefits to workers are going up. They are going down. Look at it. Don't listen to this 15 second proposal that is pulled out of the air. Look at the facts from Commissioner Longley's office. It wasn't given up willingly, but thank God it is a public document. Here is the thing, this NCCI thing, their costs if you read it and read it carefully, their costs as you look on the very bottom of Page 1, Paragraph 4 requires the workers' compensation board to take affirmative action based on the actuaries report. Given the composition of the board, it is possible that affirmative action may evolve to receiving the actuary's reports, but not in agreeing to forward the matter. In the Bunker amendment it requires, by law, by statute, that they get that information and not only that they get it, but if they don't make a decision, which is the premise of their costs that they don't make a decision that, in fact, we will force them to make a decision by sending it to an arbitrator.

I have always wanted to use this line. This is not worth the paper it is printed on. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

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

The SPEAKER: The Representative may pose her question.

Representative HUTTON: Mr. Speaker, Men and Women of the House. To anyone who could answer, I am looking at the Maine Bureau of Insurance paper and I am looking at MEMIC's premiums written and the amounts that they have written for the past 10 years and how much they have taken in seems to always be more, in some cases much more, than what they paid out. Can someone tell me what they do with the rest of the money?

The SPEAKER: The Representative from Bowdoinham, Representative Hutton has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Mr. Speaker, Men and Women of the House. I am going to support the Indefinite Postponement and hopefully move on to vote for Senate Amendment "C." When I got up this morning and opened the newspaper I read that the former Chinette in the Waterville area will close its machine shop in 2003 and 35 good paying jobs with good benefits will be gone forever. Unfortunately the residents of Somerset County have become all too used to this kind of news. In the past two years we have had these following announcements. February 2000, Chinette laid off 40 employees. April 2000, Avian Farms laid off permanently 25 workers. May 2000, the Willows Nursing Home closed with 100 jobs lost. June 2000, Avian Farms closed permanently and another 120 jobs gone. January 2001, Solon Manufacturing laid off 39. February 2001, Dexter Shoe in Skowhegan closed with 91 jobs lost. March 2001, CMP permanently laid off 125 workers. July 2001, Sonoco in North Anson permanently laid off 115 workers. August 2001, Woodtech in Anson closed and 60 jobs were lost. October 2001, Chinette permanently laid off 30 salaried workers. October 2001, Dexter Shoe closed with 475 lost jobs. January 2002, Chinette laid off 60 workers over the past four months in addition to the 30 I mentioned previously. March 2002, Sappi Paper Mill eliminates 55 workers. April 2002, Hathaway will close and 275 workers to lose their jobs. Another large company in the area is in Chapter 11. These jobs hang in the balance.

This litany of jobs lost in or near Somerset County is just a small part of the State of Maine. Can you imagine if you put what the statewide picture is? Yes, we have had some gains of jobs,

but most of these are service industry jobs with a much lower salary and most don't carry any benefits. The question now is how do we retain the few manufacturing jobs that we have managed to keep and how do we attract new jobs on par with the jobs that we have lost? How do we attract the jobs of the new high-tech new economy?

First, let me talk about retaining jobs. Most manufacturers are multi-national, multi-state companies. They have plants in more than one state throughout the US. They have the choice of operating in the states they considered to be the least costly. Raising the cost of doing business in Maine is not where we should go today. Attracting new companies or expanding jobs requires that we be competitive with other states. The cost to do business in Maine needs to be as close as possible to other states or we will never attract new companies or new economy jobs. Job expansions or new companies can go to any site, as I said before, outside of Maine. We cannot price ourselves outside of the market or else how will we ever replace these jobs of this long litany that I have read.

Senate Amendment "C" still provides protection to injured workers. It preserves the Churchill rule. It also permits the stacking of multiple unrelated work injuries in Maine in the future, but not retrospectively. It also achieves cost neutrality or nearly so, that is open for question. It is something critical to the Maine economy.

In closing, I would like to remind my colleagues here in the House that when you already have a good paying job, it is very easy to overlook the fact that in my small area over the past two years 1,615 workers are now jobless or greatly underemployed. My vote today to support Senate Amendment "C" if I get to do that, will be cast in hopes that in the near future we can bring good paying jobs, much like many of us here in the House have, to some of these 1,615 displaced workers. Thank you Mr. Speaker.

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

Representative BRYANT: Mr. Speaker, Ladies and Gentlemen of the House. To my good friend from Fairfield, Representative Tessier, I hope he wasn't implying that Representative Bunker's amendment is going to increase costs to the workers' comp system. What we have developed is a system that doesn't increase cost. What is driving most of our businesses out of here is free trade and it is a strong dollar. People are being able to work for peanuts and we can't compete. That is the answer to the question there. It is not that you are going to try to protect at least some level of injured worker. I would ask the body today to vote against the Indefinite Postponement because if you vote for the Indefinite Postponement, then basically what you are telling the worst injured workers in the State of Maine is that you are out. This would be the first time that the Maine State Legislature discriminated against, retroactively, workers in the State of Maine that have been injured. If that is the way you want to go out of here, you have that option. What we are saying here today is that the amendment that the chair of Labor has worked out has no cost. It includes all of the workers and it doesn't retroactively discriminate against everybody. I would urge you to vote against the pending motion. Thank you.

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

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I would address the previous statement by the good Representative from Fairfield, Representative Tessier. Not only is the protection for the most seriously injured workers in statute, I ask that question of the good gentleman from Carmel,

and I would remind the body that in Section 201 of Title 39A, preexisting condition, Subsection 4, that promise is there. Those with the most serious preexisting injuries, work-related injuries would be taken care of. Not only is it promised in statute, but it was promised on the floor of this House in '92. This body made a promise. I am sure that my good friend from Fairfield, Representative Tessier, is not asking or implying that those injured workers, those most seriously injured workers, are responsible for those corporations leaving Maine. We should balance the funny numbers from insurers pocketing millions of dollars from our business community. We should help them by taking it out of the hide of injured workers. I am sure that is not what he is implying.

The other day I took a call from the good gentleman's district of Fairfield. An individual from Fairfield called me with multiple injuries. He called me because I used to represent that Senate District in the Town of Fairfield. I was privileged and honored to do that. He said to me, "Zach, you are not going to pull the rug out from my opportunity to continue with benefits if those benefits are decided upon by a hearing officer, because I am still suffering from workplace injuries. Unfortunately I got hurt more than once and unfortunately it happened before 2002." We are not going to simply trash that promise. My word means something. Your word is your bond. It is a commitment to the weakest, to those that need protection. That is all that injured workers got in '92. That is all they got, Section 213, and the promise of extension of benefits if their case was meritorious, if their medical condition had not improved. They would be able to go before the process with the insurance company and everybody else there and have their day in court. Some of those businesses that the good gentleman mentioned from Fairfield are also in my district or across the way at Hathaway. As the good gentleman from Dixfield mentioned, NAFTA has hurt American workers and Maine workers.

Someone talked about the sucking sound going south, dog gone right, and it goes north. America stands for something and the Maine Legislature stands for something and that is its word, its bond. For those that need protection, that they will be protected. We don't take it out of the hide of the weakest to put profits in the pockets of those that have more than most. I am talking about the insurers. As has been mentioned, we have to get a handle on what is going on here, this charade that is being perpetrated by the insurance industry to get at that last little piece. It won't happen. I will send out a clarion call. We will be here as long as it takes to protect those that were promised that they would not be thrown out. There is such an enormous difference between these two amendments. One is fair and one is patently unfair. The one that is fair is represented by the good Representative from Kossuth Township, that treats everyone equally and decides that those that are most seriously injured, those 25 percent, will have their day in court. It doesn't treat those workers from Maine that happen to be union workers in the building trades that work in other states that are not governed by the workers' comp system in Maine. You are out of luck. That is an interesting scenario in this amendment from Senator Kilkelly. We are now going to treat those from out of state differently or Maine workers that work out of state differently because they are not covered by Maine's workers' comp system, yet they are injured. My God, what are we doing here today? What are we proposing to do?

The numbers as has been presented in this discussion tonight, benefits are going down, rates are going up, where is the money going? Where are the dollars going? I will say good things about MEMIC, they do loss control. They do safety prevention and many of the others don't. I say that because I

heard it from MEMIC themselves. They are one of the few that actually gets out there and does safety training. Actually I asked the question in the Labor Committee of the insurers and the business community of their insurance companies, do they come in and do loss control and safety? No, they do not. That was done early on, but not anymore. Let's find the politically expedient easy target and the easy target is always the weakest, those that have more to lose. These are hardworking Maine people that though no fault of their own got hurt and may have been hurt a few times. Thirty or 40 years in a manufacturing plant or working in the woods industry, they may be in your family and mine. They played by the rules. They were promised that they would have their opportunity if their disability continued. They would have their day in court and we are going to take it away. With all due respect to bring in the discussion of businesses leaving because of other external events in Washington that promote businesses leaving this country and blaming injured workers for that is preposterous. Thank you Mr. Speaker.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I feel somewhat obligated to get up and say something on this. I know I don't want to belabor this. However, I need to say why I am going to support the Indefinite Postponement. This is not an easy decision to make. I didn't come down here to help somebody forgive his sins of '92. I didn't come down here to be told that I am not a good Representative for the party that I am a member of. I came down here to try my absolute best to do a good job for the people that I represent. If that means voting in one way to help preserve the jobs of Waldo County, then so be it. To me, I have never been involved in the short time that I have been here, six years, in any issue that has been more confusing to me than this. I feel torn. On one hand I am being told to follow this particular amendment, because it is cost neutral. It won't do anything, but overturn the Kotch decision and then the same person says to me that the workers' comp board hasn't done its own job in the past four years and this will force them to do it. That is more than the Kotch decision. I am being told on the other hand that this is not cost neutral and this will cost money. People that I approach that are supportive of this amendment say, if you take a look at all the information we have been given, you will see that MEMIC and others have been charging these high premiums for a long time now and not paying them out. I don't know how many companies in Waldo County are represented by MEMIC, but I know that there are some that aren't. There is a very large company that is located in Belfast that is self-insured. There is another one in Searsmont and there is one that I am particularly familiar with called SAD #22. Guess what folks? The self-insured tell me they don't have this pot of money out there if it costs more. They are going to increase the cost of premiums. My SAD says to me that they don't have any money, so what are you doing? Why are you going to support a piece of legislation that will cost more?

I would much prefer to have had us face an issue that would have allowed us, or an amendment that would have allowed us, to put this off. That is not in front of us right now. Perhaps it will be at some point later this evening. Maybe we shouldn't be debating and ultimately voting on this critical an issue to quote my friend from Winslow, on Veto Day, the last day. Maybe we should be back and letting another Legislature deal with it. They can take six months to debate it and not be confronted by confusion. I have tried my absolute best to read the material that comes across my desk. I have tried to attend as many of the caucuses as I can. I have tried to be on conference calls and in

meetings with people in Waldo County as often as I can. I haven't got it yet. On one hand I am told, follow my light, it is cost neutral. Someone approaches me and says, they are not telling you the truth. I say, what is the truth? I am told to follow Senator Kilkelly's bill. Then, I am told, don't follow that bill because that hurts currently injured workers. I don't know what to do. I know I am not going to walk out of here and pass something that I can't go home and defend. I think we have done that. The party that I am a member of a year or two ago had to go home, I had to go home, and apologize to voters about the social security thing.

I want to understand what we are doing before we do it. I want to feel comfortable when I throw the switch that says I support that. I am not there yet. I am going to be among the few people on this side of the aisle that are going to vote for Indefinite Postponement. Thank you Mr. Speaker.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I get it. I get it. It is the injured workers that we are going after. That is what this is all about. This morning I came in and I saw the press conference going on from the Chamber of Commerce, 300 business leaders strong down in front of the capitol. Being an activist, I can't get away from those roots, I wanted to get down in the middle of that. I wanted to go face to face with those 300 business owners and I did. I had my little badge that I can't have, but I went down and I walked down those stairs and I started talking to the business owners. They didn't know we were going to repeal Kotch. They weren't given the information. We got into some great debates. I said that maybe it is the Chamber of Commerce that isn't giving you the facts. I stayed there and we discussed it and I listened to the whole press conference, all by myself standing there because I felt that somebody needed to be standing there for the injured workers. You know what, this may be my last vote in this House of Representatives. I have a tough primary. I have been lobbied that threatened about this vote with business people that have called me and you know what I tell them, if it is the last vote in this House amongst the people that I represent, I will be glad. I can look at myself in the mirror. I can go to bed and sleep knowing that I did the last thing that was right for the injured workers. It is not about my reelection. If I can't protect the people that send me here, then I don't deserve to come back. If it is the business people that are going to threaten me when they don't understand that we are all on the same page of repealing Kotch and trying to protect the workers that we made a promise to, so be it.

When Dana Connors finished his speech, I asked, what about the injured worker? No answer was given to me. I looked up in the balcony and there were so many people and they were cheering at this chamber rally. The press came after me. I didn't do it for the press. I did it for the injured worker. They asked me, why did you do this standing there by yourself? Sometimes I think that I have courage that I don't know where it comes from. It is this passion I have for these workers and the business community. It is not for separating one against the other, pitting business against workers. I wanted to try to bring everybody together. I stood there because someone needed to say the words, someone needed to engage in the debate and somebody needed to educate those business people. Little old me dared to do it. You know what, I think I got some respect from some of those business people. I think when I go home and they call me I can defend this vote. If that irks them, she's anti-business, that is not true. They can't have business unless they have good workers. If the workers get injured working for that business,

they deserve to be protected. I do get it. I do get it and this is to preserve some kind of dignity for those workers. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative PATRICK: Mr. Speaker, Men and Women of the House. I am standing here today against the Indefinite Postponement for one reason. As it has been stated, there are 838 people that would be affected if the Kilkelly amendment goes forward versus Representative Bunker's amendment. I have the dubious distinction of being one of the unlucky employees to have multiple injuries, job related, at this time.

I have been educating myself through this whole process. I found the promise that Representative Matthews talked about in the reform act of '92 that said they would not abandon the 25 percent of the most injured workers. I understand that. I also understand what business is going through even though a lobbyist told me I shouldn't think of my selfish self. She didn't say it exactly in that way. I shouldn't think of myself and my problem and I should think of the whole picture with business. I work in the paper mill and the paper industry is devastated right now. I went back after I passed my physical, I was lucky enough to do that I guess, and I got hounded by about 10 or 12 executives of the company stating that it is going to cost us a million bucks. I thought a million bucks, that is a lot of money to a company that has no money to spare. How do I know that? That company laid off about 100 workers and reduced my wages six hours or \$168 a week I am losing. To me, that is an emergency. I know what an emergency is like.

They told me that I have to support the Governor's bill. I looked at them and said that I understand what you are saying to me and not only will I support that amendment, I will go to the Labor Committee and I will lobby each and every one of them if you do me on little favor. I said that as a former union president, you used to open all your books up to me. You let me go to every committee. You had full trust in me. All I want to you to do is I will walk up to the HR Department with you and punch that little button on your computer where you are self-insured and I know your comp costs were \$9 to \$12 million back in '92 or '93. That is an exorbitant amount, but I don't know what they are now. I don't know what formula you use, but all you have to do is punch those numbers out and we will punch in the cost factor for the Kotch thing and if those numbers come out and say you are going to lose anything, I will lobby for you. They said that they were not going to do that. They didn't say it was privileged information. They never used that. I pressed them again. I said that I am a representative of you, the employees and my whole district. All I need from you is honesty because the manure that the insurance industry has spread is so bad that we should get the DEP here to contaminate the whole place. What we need is factual information because there is no factual information. My firm belief is that Kotch won't even affect the workers' comp system because you don't have any information that will prove that. That probably won't even affect it a bit. As a labor person, I am willing to vote to get rid of Kotch if you will give me the information.

The other thing that I told them is, you are in dire straights. You have no money. I have a lot of faith in some of you guys and some of you I don't, but would you make a decision having no facts whatsoever or some ambiguous facts that you just grab out of the sky, kind of like the Majority Leader's assumption of NCCI. They adamantly said no. Unless we have the facts we are not going to make a decision. I asked, where is your information? You are self-insured. Everyone else can complain about their facts, but you cannot complain about your facts. You want me to vote against myself to do away with the opportunity to find out if I

am in that 11.8 percent or 6 percent because we are looking at doing away with it. It is not a committee. They are sending me to see a doctor who is going to make a determination on me. There are a lot of fair doctors out there, but the way the system is they can send me to a doctor who I can guarantee you word for word, all they have to do is change the name from John Doe to John Patrick and there it is. I am a low-life comp phony. I am willing to go to that because that is the system we have. We have a terrible system.

All I want out of this system is facts. I want a chance to find out if myself and my family and the 838 people and their families, which with about four people to a family, it would actually be 3,200 people who are actually affected by this if we abandon them totally for the opportunity of these long-term benefits. I want a chance to vote on Representative Bunker's amendment which is almost identical to Senator Kilkelly's with a couple of exceptions, because if you look at the orange paper on here all of the stuff that came from Representative Tessier from Fairfield it is all the same stuff with a couple of changes. I don't get it. Protect the workers or sell them down the river. I am asking you to vote to get rid of the Indefinite Postponement and move on to the amendment at hand.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-1120) to Senate Amendment "C" (S-623). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 680

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Bowles, Brooks, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Duprey, Etnier, Foster, Fuller, Gagne, Glynn, Goodwin, Gooley, Hall, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, LaVerdiere, Ledwin, Lundeen, MacDougall, Madore, Mailhot, Marrache, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Muse K, Nass, Nutting, Peavey, Perkins, Porpham, Povich, Richard, Rines, Rosen, Savage, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Blanchette, Bliss, Bouffard, Brannigan, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cowger, Cummings, Dorr, Dudley, Dunlap, Duplessie, Estes, Fisher, Gerzofsky, Green, Hatch, Hawes, Hutton, Jones, Koffman, Landry, Laverriere-Boucher, Lemoine, Lessard, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perry, Pineau, Quint, Richardson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Mr. Speaker.

ABSENT - Bagley, Baker, Berry RL, Jacobs, Kane, Lovett, Murphy T, Muse C, O'Brien JA, O'Neil, Shields, Simpson, Volenik.

Yes, 80; No, 58; Absent, 13; Excused, 0.

80 having voted in the affirmative and 58 voted in the negative, with 13 being absent, and accordingly **House Amendment "A" (H-1120) to Senate Amendment "C" (S-623) was INDEFINITELY POSTPONED.**

Representative BROOKS of Winterport **PRESENTED House Amendment "A" (H-1123) to House Amendment "A" (H-1101)**, which was **READ** by the Clerk.

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. After all this, this is the absolute best that I can do. I hope you all have had an opportunity to look at

this amendment. I want to explain to you what it does. It is pretty simple because I am a simple kind of guy and that is the only kind of things that I understand. It doesn't deal with whether the workers' comp board is doing its job or not doing its job. It doesn't do a lot of things. What it does is it takes us back to one day or one second or one minute prior to Kotch. It doesn't affect the Kotch decision. We all understand that. It can't affect the Kotch decision. It is there. It doesn't take away anybody's rights. What it does is it sets up, for the lack of a better term, a moratorium. It takes us back to pre-Kotch and leaves us there until October 2003 when it sunsets. That gives the next session of the Legislature an opportunity to work on this legislation.

It also amends the law which will, hopefully, prevent future decisions by the Maine Supreme Court on Kotch. We have been living with this workers' comp legislation in law since 1993. We have heard that ad nauseam. It wasn't until January when the Kotch case came up that suddenly this became such a huge issue. Another year is not going to do any harm. The people who are in the 800 plus are still going to be there. The workers in Maine will get injured in the meantime are still going to be dealt with. I understand from testimony and from private discussions that I have had that the workers' comp board hasn't done its job in four years and some previous legislation would have forced that to happen, I understand. Another year is not going to hurt things.

Again, I go back to what you heard me say earlier tonight. I can't vote on something that is this confusing on the final day and then go home and defend it. That doesn't mean I can't go home and get reelected or elected or whatever. I am not talking about that. I am talking about going home and talking to my sister who works for one of the largest companies in Belfast if she gets a layoff notice. I am talking about talking to the companies, the people of Waldo County, many of whom are employed by companies that are self-insured. I ask that you help me and adopt this amendment and put this off for a year so that we have an opportunity to make appropriate decisions based upon good information. Thank you Mr. Speaker.

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

Representative **MENDROS**: Point of Order, Mr. Speaker.

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

Representative **MENDROS**: Thank you Mr. Speaker. This amends House Amendment "A," which was just Indefinitely Postponed. Is this properly before the House?

The SPEAKER: It is properly before the House. The Chair would answer that this is House Amendment "A" (H-1123), which amends House Amendment "A." It would be as if it was Committee Amendment "A" or whatever. That would be the House Amendment "A" that is on the bill. This is the first amendment to that amendment. Those amendments go in alphabetical order so the first one that was introduced would be House Amendment "A." The second would be House Amendment "B." The way a member can determine the difference between the amendments is by the filing number, which is (H-1123). The posture of this one is House Amendment "A" to House Amendment "A." It is the same principle as we just had House Amendment "A" to Senate Amendment "C." The A thru Z to the amendment you are amending in the second degree. The filing number pertains to the different substances of the amendment. Is that perfectly clear?

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

Representative **MENDROS**: Point of Order, Mr. Speaker.

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

Representative **MENDROS**: Thank you Mr. Speaker. I thought we just voted on House Amendment "A" and it was Indefinitely Postponed, which is the House Amendment "A" right here that this is amending. This amends what we just voted on.

The SPEAKER: The Chair would answer in the negative. This House Amendment is to the House Amendment that was adopted on April 9, 2002, which is (H-1101).

The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Here we are. It is 8:30 and I have already reserved my motel room. I have called my sub. We are trying the last hour to make a major change to a system. There is something I don't understand. If, indeed, we have repealed Kotch and both amendments we have looked at tonight said we did, then why are we arguing. I never heard this argument about workers' comp until the Chief Executive with whom he had already met with business people and those business people had started to e-mail me talking about repealing the Kotch decision. As a lawmaker I didn't even know it was coming forth. It was done under the cover of darkness. It is a shame that the good Representative from Yarmouth, Representative Buck, is not here. I am not going to disappoint him tonight.

Unlike in my classroom we seem to change things in the darkness of night. Repeal Kotch and both sides, labor and management, have said the other side doesn't repeal it and in some cases we need to go back because now it is going to cost and we have the Churchill and we have thrown around so many different what ifs, ands and speculations and worst case scenarios. I wonder if I am going to need a psychiatrist and I hope my health insurance has mental illness.

People, in two weeks of us being here we want to solve something that evidentially what we thought we solved in 1993, now there is a chance to maybe make some different changes. I am not willing to play with workers and their rights and I am not willing to play with the businesses because we need their jobs. This amendment I am going to support. It is real simple. My seventh graders would understand it. It simply says we are going to disregard Kotch. We are going to repeal it. We are going to disregard it. That is what all my e-mail said to do. We are repealing it. None of this about Churchill and none of this about anything else. It says there might have been another amendment coming that was a little different, and I happen to know it, because I had offered it. This got up first and I don't care, I want to go home. We need to go home, but we need to do the right thing. The right thing is to repeal what we need to repeal and let the next group come here and spend in the committee of jurisdiction, where they have time and no one is holding something to your head, because we need to get out of here because we are tired, because we don't make good decisions. This says repeal it. This is all we were asked to do. Both sides agree that it needs to be repealed. Both sides got greedy. They wanted a little more. We could just tweak it a little bit here, tweak it a little bit there. We did that with the school formula, people. We kept tweaking it year after year. Now the formula doesn't work. We are going to tweak this just a little bit in a week and we are going to tweak that. This repeals it. There is not one of us that can't go home and say that they repealed it. It then says, let's do the real work we were elected to do in the next House that is elected by the people and come forth from the committee of jurisdiction with the bill. There is too much emotion in this now. There is much too much emotion. It is much too late to bring this forth. We should do only what we were asked to do,

repeal it and then the committee of jurisdiction. That is how the law works. That is how the process works. We have forgotten the process. None of us would have this bill through. It missed the deadline.

I am pro-business. I am pro-worker, but I am pro-process. We are the lawmakers here. We are, not the hall of lobbyists, not the second floor. We are the lawmakers and we don't have time to make a good law. Let's repeal it and let's let the people that come here in the 121st do what they will be elected to do. Let's go home to fight this battle later. Let's go home and see our families. We will hug them and kiss them that they are alive and well and let's be fair to business, workers, to the people and to ourselves. We can't fix what has taken years and years. I ask you to support this amendment. It is the best hope we have. Thank you.

The SPEAKER: The Chair recognizes the Representative from Levant, Representative Chase.

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

The SPEAKER: The Representative may pose his question.

Representative CHASE: Mr. Speaker, Men and Women of the House. My educational background was in education, math and science. I never had anything formal in government so I don't know what I am talking about. I will acknowledge that. As I look at this, I like the idea of it and what it wants to do. For any attorney in the room, is there a problem with separation of powers here where the Legislature can completely ignore the decision of the Supreme Court? Is that legal?

The SPEAKER: The Representative from Levant, Representative Chase has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. In response to the question, I think maybe in an hour I may begin to sound like the good Representative from Winslow. There was no attempt on my part to interfere with the Judicial Branch of government. This does not change Kotch. Kotch cannot be changed. Thank you.

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

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative's question, the Legislature can indeed overturn decisions of courts when it comes to construing statutes that the Legislature originally passed. The Legislature certainly could not overturn a constitutional decision short of amending the Constitution. You will see occasionally in our history that the Legislature has overturned decisions when it feels the court has misconstrued what was a policy of this branch of government. That, again, comes to statutory interpretation by the court, not by decisions that rest solely on constitutional principle.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I guess I could make an analogy right now that we have come to a y in the road. We can either accept the amendment that has just been presented that does nothing, except delay until October 1, 2003 and tell the hearing officers to disregard the Kotch decision and suffer the ramifications of doing that or we can pass the bill that came over to us from the other body (S-623), which does everything that we have been asked to do. It protects the injured worker's rights. It has that bad word, cost neutrality. At least it does something and it is not just for the sake of doing something and taking a chance that it is something wrong. I think this has been well thought out. I don't think we are

going to be doing anything that will be harmful to any injured employee or the workers' comp system.

Mr. Speaker, I would, again, move Indefinite Postponement of this current amendment so that we can move on to accept (S-623) that came over from the other body. I would also ask for a roll call.

Representative TREADWELL of Carmel moved that **House Amendment "A" (H-1123) to House Amendment "A" (H-1101) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1123) to House Amendment "A" (H-1101).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinitely Postpone House Amendment "A" (H-1123) to House Amendment "A" (H-1101). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 681

YEA - Andrews, Annis, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Glynn, Gooley, Haskell, Hawes, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, LaVerdiere, Ledwin, MacDougall, Madore, Mailhot, Marrache, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Mitchell, Morrison, Murphy E, Muse K, Nass, Nutting, Peavey, Perkins, Pinkham, Rosen, Savage, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Ash, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cowger, Cummings, Dorr, Dudley, Dunlap, Duplessie, Gerzofsky, Goodwin, Green, Hall, Hatch, Hutton, Jones, Koffman, Landry, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tracy, Tuttle, Twomey, Watson, Mr. Speaker.

ABSENT - Bagley, Baker, Estes, Jacobs, Kane, Lovett, Murphy T, Muse C, O'Brien JA, O'Neil, Shields, Simpson, Volenik.

Yes, 78; No, 60; Absent, 13; Excused, 0.

78 having voted in the affirmative and 60 voted in the negative, with 13 being absent, and accordingly **House Amendment "A" (H-1123) to House Amendment "A" (H-1101) was INDEFINITELY POSTPONED.**

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

The same Representative **REQUESTED** a roll call on the motion to **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 Winslow, Representative Matthews.

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

The SPEAKER: The Representative may proceed.

Representative **MATTHEWS:** Thank you Mr. Speaker. Being a county boy, I am not sure what I am voting for. Could you explain the motion and what it means?

The SPEAKER: The motion to Concur at this time, if it were to prevail, the House would be of the same posture as the other body. We would adopt the other body's previous posture, which

would be passage to be engrossed as amended by Senate Amendment "C."

The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I may not sound like the good Representative from Winslow, but I guess I am just as much of a country boy and confused. I am going to vote against Concur and I am not sure what that is going to do to us at all if we all do that. A little while ago we heard complaints about the fact that this particular bill that was going to be before us is not retroactive and it is going to damage the workers in the State of Maine. We also heard complaints that this was going to disregard the out of state worker. That is the posture that we are going to be in. It is going to be the Kilkelly amendment. I am sorry if I am doing this wrong. I cannot even think of the words to say. I cannot support Concur. Thank you.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I spent a long time working on this issue. I thought we had a solution to this issue that was cost neutral to aid the employees and the employers. We had people in this body, quite frankly, to get up and prevent that from happening. I think the last speaker that just spoke for me made it very clear. I thought we had all these problems with this current amendment, but everything we have done to this point is causing the current posture of the other body to go forth into law. You can't make it any simpler or plainer than that. I know when to give up a fight. I don't want to give this fight up. I don't want to give this fight up for the employees and for the employers who think they go out and pay a fair premium for a fair benefit for their employees when they get hurt. Ladies and gentlemen, the current vehicle does not do that. We can sit here and have coffee and tea and lunch and sit there and say that in the perfect world I wish we could go a day before or a second before or we should do this or we should do that. The committee of jurisdiction sat down, I spent two weeks of my hard earned pay to be here to find a cost neutral solution that would protect both the premiums that the employer pays and make sure that the employee gets a fair shake at getting to that 20 percent threshold. I did it. It is here. It is in both of these amendments. The amendment that we are going to concur with right now, well, I made the motion, I am going to vote against it, but be clear exactly what the good Representative just said. You are going to say those workers from this point backwards don't count and you are going to say that you don't want accurate sample data of everybody in the system and treat everyone in the system fairly. If that is what you want to do, then vote to Concur. If you want to go forward with a fair chance of continuing this discussion and this dialog with this other body, then you will vote not to follow this motion. It is up to you folks. If you want to continue the dialog and see if there is some middle ground that we can come out of here knowing we did the right thing for the employer and the employees or do we want to cave in and believe all the garbage that has been going on in the hallway. If that is what you want to do, then do it.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I will not vote for this motion to Concur. To do so will be to sacrifice injured workers arbitrarily and irrationally simply because there are some who feel that if a plant closes or a job is lost, do we have to sacrifice a worker to appease what? The gods, the international companies. Do we have to sacrifice our Maine workers to somehow create the climate where jobs are

going to stay here? We know that is not the case. We know it is NAFTA and free trade that causes companies to leave. We should not be like these ancient civilizations were when the conditions were difficult and there was drought, they looked to human sacrifice. Here we are being asked to sacrifice the workers. It is not rational. Let's not do it.

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

Representative **BOUFFARD**: Mr. Speaker, Ladies and Gentlemen of the House. If we do not vote to Recede and Concur, which is the posture we are in right now, then this bill will die between the two bodies and the Kotch decision will remain. Am I right or am I wrong?

The SPEAKER: The Chair would answer in the negative. The pending motion is to Concur. If this motion does not prevail, it will be up to the members of this body to select a separate motion. The two bodies sometimes interpret the rules of order in a slightly different way. My understanding of the other body's interpretation of the rules would be that if we then go on to Adhere or Insist, that the bill would be dead between the bodies.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. Would it be in order for a motion to Recommit?

The SPEAKER: The Chair would answer that if the motion to Concur was defeated, then the motion to Commit would be in order.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Men and Women of the House. This could actually be, if we keep this up, a day of infamy in Augusta. We are going back in time today. We did it this morning. We failed to override a veto of a good bill that would have simply given the mentally ill equal protection under the law. We failed there. We are about to fail again.

We have before us an amendment and concurring would do that. It would very unfairly discriminate against workers, both retroactively and prospectively also. We cannot afford to do that. This is not the right thing to do. I, for one, refuse to worship at the altar of insurance companies and HMOs. Look at the mess they have put us in. Enough is enough. There should be an alliance right now between business and workers on one side and insurance companies that are gouging on the other side. That is what this should be about. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I am sitting here thinking tonight about someone in my district. I could probably think of five or six people in my district who called me with whom worked over the past six years. They are workers who have been injured. In the very best case scenarios of all six workers it has been a long and arduous journey for any kind of justice. I have watched in two particular cases where a person's body literally atrophied over time do to inaction. I have been with the person. I have attended the meetings. I am thinking of another person who is sitting home tonight with her four children without the use of one arm. It has been over a period of two years without the adequate kind of attention. That has happened with the 1992 reforms. We did lower costs. It has been a tough system to access, but it has driven down costs. Everyone has said it is working. It hasn't been working very well. For me to sit here and think tonight with

these votes that it is now not going to work very well at all with a larger number of people is very discomfoting. We have seen dozens and dozens of people from business today. Many of these are my good friends. We have talked over this issue over the past month. They took the day off. They had lunch. They all have good jobs. They are fighting so that they can continue to conduct the operations of their businesses in the black. I understand where they are coming from. They have had problems with health insurance. What have we done for them regarding health insurance? They say that is also something that is preventing them from operating in the black as well.

Tomorrow morning when this vote is reported, I can tell you that there are going to be at least 500 people who are going to realize what we were doing. Those people did not have the lobbyist. Those people did not have the chamber. Those people did not have anyone who could take off from work today and come and represent them. A few of them have been here. Not one has called me and I know why. They don't know. I am their Representative and I represent both my good friends in business and my good friends, the injured workers. I have told my friends in business that I am trying to be fair. Costs have gone down. Perhaps they have gone up recently. Hasn't your health insurance gone up? Mine has gone up 40 percent. I fear that we are headed in health care just as we may be headed in workers' comp. It may be only 25 percent that really get the care that they need. That probably wasn't fair to start with, but it is the system that we have. I greatly fear that tomorrow morning there is a group of people that will be discriminated against. Please be fair. Both groups of people need our understanding of this issue. Vote against the amendment. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I hope you will not Concur tonight. I have a sneaking suspicion that there may be some on another part of the State House sitting back and smiling. There may be some folks out in the halls that work for large insurers that are smiling. Come tomorrow morning there will be a lot of Maine people that will wonder why they were betrayed.

I have an abundant faith in the Legislature and in each and every member of this House. In the past, even on labor issues, we have had bipartisan support. I can remember a number of occasions last session. This particular issue came to us at the very end of the session, although the law court decided the case in February the Chief Executive decided to wait until the end of the session. We can't allow this scenario to play out because it was those individuals from the insurance side, the Chief Executive and others that knew this would happen. The pressure would be too much for the Legislature, the House and the Senate. There is not enough time for them to deliberate. They won't get into the teeth of the matter and find out the truth. They won't take the time. Why not try this scenario? It was done in '92. I remember those days in '92. We had some member of the other body, a minority group of members, that held the state hostage. They used state employees as pawns to pass their workers' comp act of '92. The insurers and the Chamber and large corporations descended upon the State House. We had that gun to our head.

This is a new Legislature. Many of you were not here in '92, but you remember what the greatest concern of citizens in Maine coming out of '92 and the mistakes and the way things were done that we would do things in the light of day. We would be a deliberative body. We would seek out both sides of each issue. I believe that the good Chair from Kossuth Township has tried to forge a middle ground. I have to tell you that I had some

concerns, but I do believe in his heart that he was trying to do the right thing. What we are about to do is let the lobby and those that have a financial vested interest do our job and we know what happens when that occurs. Your constituents and mine sent us here to do the right thing and we still have a chance to do the right thing. Let's not play out the scenario that has been laid out by some in part of the grand design that injured workers would again become that easy target. The numbers aren't there, ladies and gentlemen. The comp system and the Chamber, insurers and others have come into the Labor Committee over and over again for the last three or four years and said, don't touch the comp system, it is working fine.

Now we are going to allow a midnight plan to take benefits from injured workers.

The SPEAKER: Would the Representative defer? The Chair recognizes the Representative from Kossuth Township, Representative Bunker. The Chair would inquire to what reason the Representative rises?

Representative **BUNKER**: Mr. Speaker, I object to going after 9:00 and wish to have a vote on that please.

Representative **BUNKER** of Kossuth Township **OBJECTED** to extending the session past 9:00 p.m. and requested a vote.

Subsequently, the same Representative **WITHDREW** his **OBJECTION**.

Subsequently, the same Representative **WITHDREW** his request for a roll call on the motion to **CONCUR**.

Subsequently, the same Representative **WITHDREW** his motion to **CONCUR**.

Representative **DUPLESSIE** of Westbrook **PRESENTED** House Amendment "B" (H-1124) to House Amendment "A" (H-1101), which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Mr. Speaker, Ladies and Gentlemen of the House. If you will look at this amendment, it is plain and it is simple and it is concise. It takes the Supreme Court decision, the Kotch decision and orders the comp board to disregard injuries that are non-job related. That was the battle cry we all heard three to four weeks ago around these halls, in this chamber, from the Executive and from many others. That was the battle cry, repeal Kotch. Now this is your chance to do that and only that. There is no other mumbo jumbo that people get confused with that people who think they are attorneys try to confuse the issues with. This is a straight up or down simple amendment. It solves the problem that everyone wanted to solve. It takes care of it once and for all. Thank you Mr. Speaker.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT** House Amendment "B" (H-1124) to House Amendment "A" (H-1101).

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. In looking at the amendment that has been presented (H-1124), it looks very similar to (H-1123) that we just voted to Indefinitely Postpone prior to our break. Essentially it does about the same thing. Mr. Speaker, I would move Indefinite Postponement of (H-1124).

Representative **TREADWELL** of Carmel moved that House Amendment "B" (H-1124) to House Amendment "A" (H-1101) be **INDEFINITELY POSTPONED**.

Representative DUNLAP of Old Town **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-1124) to House Amendment "A" (H-1101)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-1124) to House Amendment "A" (H-1101). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 682

YEA - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Etnier, Fisher, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, LaVerdiere, Ledwin, MacDougall, Madore, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy E, Muse K, Nass, Nutting, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, 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, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jones, Koffman, Landry, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, McDonough, McGlocklin, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Mr. Speaker.

ABSENT - Bagley, Baker, Estes, Jacobs, Kane, Lovett, Michael, Murphy T, Muse C, O'Brien JA, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 65; No, 71; Absent, 15; Excused, 0.

65 having voted in the affirmative and 71 voted in the negative, with 15 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-1124) to House Amendment "A" (H-1101) FAILED**.

The **SPEAKER**: A roll call having been previously ordered. The pending question before the House is Adoption of House Amendment "B" (H-1124) to House Amendment "A" (H-1101). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 683

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

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Etnier, Fisher, Foster, Glynn, Gooley, Hall, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, LaVerdiere, Ledwin, MacDougall, Madore, Marrache, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy E, Muse K, Nass, Nutting, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J,

Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Estes, Jacobs, Kane, Lovett, Michael, Murphy T, Muse C, O'Brien JA, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 69; No, 67; Absent, 15; Excused, 0.

69 having voted in the affirmative and 67 voted in the negative, with 15 being absent, and accordingly **House Amendment "B" (H-1124) to House Amendment "A" (H-1101) was ADOPTED**.

House Amendment "A" (H-1101) as Amended by House Amendment "B" (H-1124) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1101) as Amended by House Amendment "B" (H-1124) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**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 Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores"

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

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

That the House **RECEDE** from Passage to be Enacted; **RECEDE** from Passage to be Engrossed as Amended by Committee Amendment "A" (H-1049); **RECEDE** from Adoption of Committee Amendment "A" (H-1049) and **INDEFINITELY POSTPONE** same; **READ** and **ADOPT** Committee of Conference Amendment "A" (H-1122); and **PASS THE BILL TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (H-1122)**.

That the Senate **RECEDE** from Indefinite Postponement and **CONCUR** with the House.

Signed:

Representatives:

TUTTLE of Sanford
PATRICK of Rumford
MAYO of Bath

Senators:

GOLDTHWAIT of Hancock
DAGGETT of Kennebec
MILLS of Somerset

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

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

Committee Amendment "A" (H-1049) was INDEFINITELY POSTPONED.

Committee of Conference Amendment "A" (H-1122) was READ by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee of Conference Amendment "A" (H-1122) in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**SENATE PAPERS
Non-Concurrent Matter**

Joint Order – Relative to Recalling L.D. 2041 From the Legislative Files

(H.P. 1740)

READ and **PASSED** in the House on April 24, 2002.

Came from the Senate with the Joint Order **READ** and **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

Representative GOODWIN of Pembroke moved that the House **ADHERE**.

Representative SCHNEIDER of Durham moved that the House **RECEDE AND CONCUR**.

Representative CLARK of Millinocket **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**: 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. 684

YEA - Andrews, Belanger, Bruno, Buck, Bumps, Chick, Cressey, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Madore, Mayo, McKenney, Morrison, Muse K, Nass, Nutting, Pinkham, Rosen, Schneider, Stedman, Trahan, Treadwell, Waterhouse, Winsor, Young.

NAY - Annis, Ash, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Carr, Chase, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Mailhot, Marley, Marrache, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mendros, Michaud, Mitchell, Murphy E, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Sherman, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Usher, Watson, Wheeler EM, Mr. Speaker.

ABSENT - Bagley, Baker, Estes, Jacobs, Kane, Lovett, Michael, Murphy T, Muse C, O'Brien JA, Povich, Shields, Simpson, Volenik, Weston, Wheeler GJ.

Yes, 34; No, 101; Absent, 16; Excused, 0.

34 having voted in the affirmative and 101 voted in the negative, with 16 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

Non-Concurrent Matter

Bill "An Act to Correct Recently Enacted Legislation" (EMERGENCY)

(H.P. 1741) (L.D. 2216)

PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1118) in the House on April 24, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1118) AND SENATE AMENDMENT "A" (S-625)** in **NON-CONCURRENCE**.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass pursuant to Joint Order 2001, H.P. 1703** on Bill "An Act Amending the Membership of the Emergency Medical Services' Board"

(H.P. 1745) (L.D. 2219)

Signed:

Senators:

McALEVEY of York
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

BLANCHETTE of Bangor
TOBIN of Dexter
QUINT of Portland
PEAVEY of Woolwich
SNOWE-MELLO of Poland
GERZOFSKY of Brunswick
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1121)** pursuant to **Joint Order 2001, H.P. 1703** on same Bill.

Signed:

Representatives:

POVICH of Ellsworth
O'BRIEN of Lewiston
MITCHELL of Vassalboro

READ.

On motion of Representative QUINT of Portland, the Majority **Ought to Pass** Report was **ACCEPTED**.

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**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

SENATE PAPERS

Resolve, to Fund the Operations of the Workers' Compensation Board for Fiscal Year 2002-03

(S.P. 835) (L.D. 2217)

Came from the Senate, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested.

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

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

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

**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

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

FINALLY PASSED in the House on April 9, 2002. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "B" (S-608)** thereto.)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "D" (S-627)** thereto in **NON-CONCURRENCE**.

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Improve the Responsiveness of the Unemployment Insurance Program"

(H.P. 1742) (L.D. 2218)

Sponsored by Representative BUNKER of Kossuth Township.

Cosponsored by Senator EDMONDS of Cumberland.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **LABOR** suggested.

Representative DAVIS of Falmouth **OBJECTED** to giving this Bill its **FIRST READING WITHOUT REFERENCE** to a committee.

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

Representative **DAVIS**: Mr. Speaker, May I pose a question to the Chair?

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

Representative **DAVIS**: Mr. Speaker, when was the public hearing on this bill? Could you tell me that please?

The **SPEAKER**: The Representative from Falmouth, Representative Davis has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. In response to the good Representative's questions, the bill that is before you that is being asked to be referenced without a committee hearing is identical to all the merits of the bill that we had discussed earlier in the day and we had a full public hearing on the merits of this pending action in front of us. The only difference is you all voted earlier in the day on the Chief Executive's concerns about the bill that were presented to him and instead of recalling something, this is the vehicle that addresses the concerns that were addressed in the written letter from the Chief Executive and that is the reason why we are asking to continue forward with making the changes that they had concerns about.

Representative **SAXL** of Portland moved that the rules be **SUSPENDED** for the purpose of giving this Bill its **FIRST READING WITHOUT REFERENCE** to a committee

Representative **DAVIS** of Falmouth **REQUESTED** a roll call on the motion to **SUSPEND** the rules.

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 Suspension of the Rules pursuant to House Rule 308. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 685

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

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Marrache, Mayo, McKenney, McNeil, Mendros, Morrison, Murphy E, Nass, Nutting, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Estes, Jacobs, Kane, Lovett, Michael, Murphy T, Muse C, Muse K, O'Brien JA, Povich, Rines, Savage, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 74; No, 59; Absent, 18; Excused, 0.

74 having voted in the affirmative and 59 voted in the negative, with 18 being absent, and accordingly the rules were **SUSPENDED** for the purpose of giving this Bill its **FIRST READING WITHOUT REFERENCE** to a committee

The Bill was assigned for **SECOND READING** later in today's session.

**BILLS IN THE SECOND READING
House**

Bill "An Act to Improve the Responsiveness of the Unemployment Insurance Program"

(H.P. 1742) (L.D. 2218)

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

On motion of Representative **BRUNO** of Raymond, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I know it is getting late and the last thing you want is a full fledged debate on this bill. I would just like to point out that this bill has a sunset provision in 2006. If we did not expand the benefits from the Unemployment Comp Fund in 2006 with the \$32.5 million that is currently coming in from the distributions, the appropriate schedule at that time would be Schedule A and the fund balance would be about \$482.4 million. That is the goal of having a solvent Unemployment Comp Fund. If we pass the part-time unemployment bill, this one that we are talking about, we would be at Schedule B, which would be at a higher contribution rate for all the employers in the State of Maine

and the fund balance would be \$471.4 million. It is going to deplete some of the fund reserves. It is also going to call for a higher contribution rate from the employers. It is essentially the same bill that we vetoed earlier, except that it has a sunset provision in it.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. Again, we will put it down on the list for the good Representative Berry, but we don't want to debate this bill all over again today, but the changes in this bill that are before you are very simple. It is moving the extension of these benefits back two years and bringing up the money that we need to do for other things within the comp system. Exposure to the comp system out into the areas are going to the lowest rating possible for the next several years. I do agree that we need to look at this again and that is why we have a sunset on this to make sure that when all the numbers come in that we are not unfairly increasing the cost of the comp fund or to our employers. This puts it working and we will be able to see the ramifications of that with the existing money that we got from the federal government for the next several years. From that point on we can make a rational decision if the impact, which we feel is very, very minimal really has any adverse affect on the comp system when we get closer to 2006. I would ask you to support this and to send it on its way.

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

ROLL CALL NO. 686

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

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Marrache, McGowan, McKenney, McNeil, Morrison, Murphy E, Muse K, Nass, Nutting, Perkins, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Baker, Estes, Jacobs, Kane, Lovett, Murphy T, O'Brien JA, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 80; No, 58; Absent, 13; Excused, 0.

80 having voted in the affirmative and 58 voted in the negative, with 13 being absent, and accordingly the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

After Midnight

**ENACTORS
Emergency Measure**

An Act to Correct Recently Enacted Legislation
(H.P. 1741) (L.D. 2216)
(H. "A" H-1118; S. "A" S-625)

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. 104 voted in favor of the same and 14 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act Amending the Membership of the Emergency Medical Services' Board
(H.P. 1745) (L.D. 2219)

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.

**ENACTORS
Emergency Measure**

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. "D" S-627 to C. "A" H-1046)

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. 77 voted in favor of the same and 53 against, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate. **ORDERED SENT FORTHWITH.**

**SENATE PAPERS
Non-Concurrent Matter**

Resolve, to Fund the Operations of the Workers' Compensation Board for Fiscal Year 2002-03
(S.P. 835) (L.D. 2217)

PASSED TO BE ENGROSSED in the House on April 24, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-626) 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 Kossuth Township, Representative Bunker.

Representative **BUNKER:** Mr. Speaker, Ladies and Gentlemen of the House. Do to the lateness of the hour I am sure that many people are not aware of what happened in the other body. Just to be clear, an amendment was placed and the Recede and Concur will basically gut the operating budget for the

workers' comp system and not allow them to do anything. We are going to completely cripple the workers' comp system and not allow them to do anything whatsoever. Even if we do deal with the other bill, we won't even be able to work through all of the processes that we need to do in the other bill. I would ask you to vote against the Recede and Concur and vote to Adhere.

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. 687

YEA - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Duprey, Foster, Gagne, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Muse K, Nass, Nutting, Peavey, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, 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, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gerzofsky, Goodwin, Green, Hatch, Hawes, Hutton, Jacobs, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Rines, Savage, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Mr. Speaker.

ABSENT - Bagley, Baker, Estes, Hall, Kane, Lovett, McGlocklin, Murphy T, Muse C, O'Brien JA, Perkins, Perry, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 62; No, 72; Absent, 17; Excused, 0.

62 having voted in the affirmative and 72 voted in the negative, with 17 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED.**

Subsequently, the House voted to **ADHERE. ORDERED SENT FORTHWITH.**

**SENATE PAPERS
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) AS AMENDED BY HOUSE AMENDMENT "B" (H-1124) thereto in the House on April 24, 2002.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-623) in NON-CONCURRENCE.**

Representative BUNKER of Kossuth Township moved that the House **RECEDE AND CONCUR.**

Representative MATTHEWS of Winslow **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 Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. It has been a long day and a long battle. I would hope that we would not Recede and Concur and pull that rug out from many injured workers. As I have looked at the Legislative Record and thought about my service here before and having been around in '92, it is hard for me to believe that what is going to happen this evening is that we are going to break faith with all of those injured workers that were promised the benefits that the law provided and that the court has upheld, we are going to retroactively back to '93, tell 800 injured workers that they no longer will be able to receive that benefit.

You have to remember that these are the same injured workers that gave up their weekly benefits. We now have one of the lowest weekly maximum benefits for workers' compensation in the country. They gave up duration of benefits. They gave up the right of council. At that time it was truly a conspiracy by the insurers. Again, another nightmare has fallen upon the injured workers of Maine, because the lobby and the insurance industry is going to win another one tonight. As I just came out of the Speaker's Office I went down the hall and the other body had just finished and a group of the lobby were assembled smiling and laughing and in good spirits. There will be a lot of injured workers tomorrow morning that will ask why? Why did you do this to me? When injured workers gave up everything in '92. The prior workers' comp system was sacked. It was changed from A to Z. Now we have a new system in place and benefits have been going down and rates are still going up, but from the business community for the last six or seven years, don't touch workers' comp, we like the system the way it is. Don't change the benefits. Benefits haven't changed for injured workers. We are going to keep the system the same. We like the way it is. Guess what? We just took that last provision for those most seriously injured, if we vote to Recede and Concur.

I want to say that I talked to the good gentleman from Kossuth Township and I understand the agony and his feeling this evening. He has tried. I am amazed at what he has tried to do for injured workers and finding a compromise. He has been trying to reach out across the State House and the aisle to find compromise with the other body and the Governor. He did a gallant thing. This body is a separate institution or body of the House of Representatives. We don't necessarily give in to the other body. There are times we have to stand on principle here. As I have said before, this is truly the people's house. When the public loses the people's house, that is serious. We have gone as far as we can go in trying to find compromise and now I think we need to stand on principle. We need to stand up for those that are not here this evening out in the hall. They are home with their families, preparing for another day, working because many of these families both spouses work trying to put food on the table and pay the taxes. They are the folks that send us here. It is not the insurance lobby that sends legislators here. It is the people. The people on Main Street. Let's not forget who sent us here.

There is a conspiracy of the highest order being perpetrated on the people of Maine by the insurers and by big business because I don't believe that small business and the majority of our Maine businesses would want to do this tonight. I don't believe it for a minute. This is a cut deal and unfortunately someone on the second floor was also involved in this deal. It is bad news. It is breaking faith. It is déjà vu for me. When it happened in '92, I said I am outta here. I have to take a break. It has been 10 years and what a way to end those last two. It was extortion of the highest order in '92 and that is what is going on

again. When I came back and had the opportunity to come back to the House, I love the issues, I love the comradery on both sides of the aisle, I have loved the debate, but on this issue tonight, it is a sad night for me. I know I will not vote for this. I always hold that there is a ray of hope that the sun is going to come up this morning and we are going to go back to our home districts. I hope we will go back having done the right thing. Let's defeat the motion to Recede and Concur and Adhere. Let's show the people of Maine that we are not controlled by any interest group. We are here to do the public's business and protect those that need to be protected. Thank you Mr. Speaker.

Representative **SMITH** of Van Buren moved that the Bill be **TABLED** one legislative day pending the motion of Representative **BUNKER** of Kossuth Township to **RECEDE AND CONCUR**.

Representative **BRUNO** of Raymond **REQUESTED** a roll call on the motion to **TABLE**.

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 Table. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 688

YEA - Berry RL, Blanchette, Bliss, Bouffard, Bryant, Bunker, Canavan, Clark, Cote, Cummings, Dorr, Dudley, Duplessie, Gerzofsky, Goodwin, Green, Hawes, Hutton, Jacobs, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norton, O'Brien LL, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tracy, Tuttle, Twomey, Watson.

NAY - Andrews, Annis, Ash, Belanger, Berry DP, Bowles, Brannigan, Brooks, Bruno, Buck, Bull, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Colwell, Cowger, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Dunlap, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Jodrey, Jones, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Muse K, Nass, Norbert, Nutting, O'Neil, Peavey, Pinkham, Rines, Rosen, Savage, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

ABSENT - Bagley, Baker, Estes, Hall, Kane, Lovett, McGlocklin, Murphy T, Muse C, O'Brien JA, Perkins, Perry, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 43; No, 91; Absent, 17; Excused, 0.

43 having voted in the affirmative and 91 voted in the negative, with 17 being absent, and accordingly the motion to **TABLE FAILED**.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. The pending motion before you is Recede and Concur. It is very difficult for me to stand here and tell you to do that. I am going to tell you folks that I won't be following this motion myself. I think anybody that does follow this motion has their reasons to do so. I will leave here respecting them. It doesn't mean I am going to agree with it. I don't agree with it. We all know that the only thing that is going happen because of this is the people we are sent here to represent are going to be hurt by it. I just can't fathom the understanding of how we got to this position here today. In the right fashion that I should be as the Chair, I think that the resolution is clear that this is going to be

the end result of all the hard work that we have done here. It saddens me to say that, but please vote the way you have to on both sides of this aisle. We will come back to fight this issue on another day. I appreciate all your support up to this point and have been very proud of this body up to this point. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I think it is very important that I set the record straight based on some of the things that the good Representative from Winslow, Representative Matthews, said a few minutes ago. We have been reducing the benefits for those people who are receiving workers' comp benefits. Since 1999 the physical impairment threshold has been lowered from 15 percent down to 11.8 percent, which means it is easier for a person to qualify for lifetime comp benefits by that change in the percentage from 15 down to 11.8 percent. Since then we have had two 12-month extensions in the benefits for temporary disabilities. It went from five years to six years and now it is at 7 years. We also have increased the weekly maximum benefit payable. It was at \$441 until about two years ago when it went to \$458 and I would assume that it hasn't already been done, there will be another increase in the weekly benefit for 2002. Based on those figures, I don't see how we can say that we have been lowering the amount of benefits payable to those injured workers out there. I think they have been very adequately compensated.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I will be voting against the Recede and Concur. It is a matter of conscience. The theory behind the amendment presently before you is that somehow because of this Kotch decision, because of whatever these decisions are that there are going to be all kinds of costs incurred. If I believed the figures that have been floated out to you, I would be voting in favor of the Recede and Concur, but I don't believe them. I believe that in a year or so from now we will know that those figures are fraudulent. For that reason and because I don't believe we should be making decisions on figures that don't have any basis in fact or reality and I don't believe we should be making decisions based on hysteria that was whipped up to try and beat down the worker's benefits. I will be voting against this.

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

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. I will be voting against Recede and Concur, but I just had to get up. I want to thank the good Chair of the Labor Committee for the work that he has put in. He has impressed me. He has put the time in and the energy in. He had a good solution to our problem. It disappoints me that the Chief Executive of this state, in his last official move that he is going to do as he goes out of office, is he is going to kick right in the teeth the most hurt people in the State of Maine. It is shameful.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I am not smiling. I am not laughing. This is really disgusting. I am going to tell my constituents the whole story. It goes back to when I was a child. I asked my mother and father the difference between parties and that is what this vote shows. Who is standing up for the working people? Twenty-five percent of injured workers, hey, this is not a lot of people. So, we lose a few votes. They don't vote. They count on us to be their voice. I am going home tired to tell them that we didn't get the mental parody bill. We didn't get workers' comp, but there were lots of

smiles. It is disgusting and that Chief Executive, I hope he rides out in that Winnebago. It is terrible what he stood for. It was not for the working people. That is his legacy.

The SPEAKER: A roll call having been previously 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. 689

YEA - Andrews, Annis, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Cowger, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Jones, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Ledwin, Lemoine, Lundeen, MacDougall, Madore, Mailhot, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Muse K, Nass, Nutting, O'Neil, Peavey, Pinkham, Rosen, Savage, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

NAY - Ash, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cummings, Dorr, Dudley, Dunlap, Duplessie, Gerzofsky, Goodwin, Green, Hatch, Hawes, Hutton, Jacobs, Laverriere-Boucher, Lessard, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Rines, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Mr. Speaker.

ABSENT - Bagley, Baker, Estes, Hall, Kane, Lovett, McGlocklin, Murphy T, Muse C, O'Brien JA, Perkins, Perry, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 78; No, 56; Absent, 17; Excused, 0.

78 having voted in the affirmative and 56 voted in the negative, with 17 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

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

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)

(S. "D" S-627 to C. "A" H-1046)

FAILED of FINAL PASSAGE in the House on April 25, 2002.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046) AS AMENDED BY SENATE AMENDMENT "E" (S-628)** thereto in **NON-CONCURRENCE**.

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

ENACTORS

Acts

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)

(CC. "A" H-1122)

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.

COMMUNICATIONS

The Following Communication: (S.C. 743)

**SENATE OF MAINE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, ME 04333-0003**

April 25, 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 Joint Order Recalling L.D. 2041 From the Legislative Files (H.P. 1740) was Indefinitely Postponed, in Non-Concurrence.

Sincerely,

S/Pamela L. Cahill

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ENACTORS

Acts

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)

(H. "B" H-1124 to H. "A" H-1101)

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

On motion of Representative MATTHEWS of Winslow, was **SET ASIDE**.

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

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

ROLL CALL NO. 690

YEA - Ash, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cowger, Cummings, Dorr, Dudley, Duplessie, Gerzofsky, Green, Hutton, Jacobs, Landry, Laverriere-Boucher, Lessard, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, Paradis, Patrick, Pineau, Quint, Richardson, Rines, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Dunlap, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Glynn, Gooley, Haskell, Hawes, Heidrich, Honey, Jodrey, Jones, Kasprzak, Koffman, Labrecque, LaVerdiere, Ledwin, Lemoine,

Lundeen, MacDougall, Madore, Mailhot, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Muse K, Nass, Nutting, O'Neil, Peavey, Pinkham, Richard, Rosen, Savage, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Andrews, Bagley, Baker, Estes, Goodwin, Hall, Hatch, Kane, Lovett, McGlocklin, Murphy T, Muse C, O'Brien JA, Perkins, Perry, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 53; No, 78; Absent, 20; Excused, 0.

53 having voted in the affirmative and 78 voted in the negative, with 20 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Representative MATTHEWS of Winslow **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. 691

YEA - Annis, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Chizmar, Clough, Collins, Cowger, Crabtree, Cressey, Daigle, Davis, Desmond, Dugay, Duncan, Dunlap, Duprey, Etnier, Fisher, Foster, Fuller, Gagne, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Jones, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Ledwin, Lemoine, Lundeen, MacDougall, Madore, Mailhot, Marrache, Mayo, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Muse K, Nass, Nutting, O'Neil, Peavey, Pinkham, Richard, Rosen, Savage, Schneider, Sherman, Snowe-Mello, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

NAY - Ash, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Clark, Colwell, Cote, Cummings, Dorr, Dudley, Duplessie, Gerzofsky, Green, Hawes, Hutton, Jacobs, Laverriere-Boucher, Lessard, Marley, Matthews, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, Paradis, Patrick, Pineau, Quint, Richardson, Rines, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Usher, Watson, Mr. Speaker.

ABSENT - Andrews, Bagley, Baker, Estes, Goodwin, Hall, Hatch, Kane, Lovett, McGlocklin, Murphy T, Muse C, O'Brien JA, Perkins, Perry, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 79; No, 52; Absent, 20; Excused, 0.

79 having voted in the affirmative and 52 voted in the negative, with 20 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

ENACTORS

Resolves

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

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

(S. "E" S-628 to C. "A" H-1046)

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 **FINAL PASSAGE**.

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 692

YEA - Ash, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hawes, Hutton, Jacobs, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McKee, McLaughlin, McNeil, Michaud, Murphy E, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Rines, Savage, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Twomey, Watson, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clark, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Marrache, McGowan, McKenney, Mendros, Michael, Mitchell, Morrison, Muse K, Nass, Nutting, Peavey, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Andrews, Bagley, Baker, Estes, Goodwin, Hall, Hatch, Kane, Lovett, McGlocklin, Murphy T, Muse C, O'Brien JA, Perkins, Perry, Povich, Shields, Simpson, Volenik, Wheeler GJ.

Yes, 70; No, 61; Absent, 20; Excused, 0.

70 having voted in the affirmative and 61 voted in the negative, with 20 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

**ENACTORS
Acts**

An Act to Improve the Responsiveness of the Unemployment Insurance Program

(H.P. 1742) (L.D. 2218)

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. **ORDERED SENT FORTHWITH**.

**ENACTORS
Resolves**

Resolve, to Fund the Operations of the Workers' Compensation Board for Fiscal Year 2002-03

(S.P. 835) (L.D. 2217)

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

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

The Chair appointed Representative COLWELL of Gardiner on the part of the House to inform the Senate that the House was ready to adjourn without day.

The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor Angus S. King, Jr., and inform him that the House was ready to adjourn without day.

- Representative TUTTLE of Sanford
- Representative BERRY of Livermore
- Representative ETNIER of Harpswell
- Representative FISHER of Brewer
- Representative GREEN of Monmouth
- Representative POVICH of Ellsworth
- Representative RICHARD of Madison
- Representative SAVAGE of Buxton
- Representative MURPHY of Berwick
- Representative WATERHOUSE of Bridgton
- Representative WHEELER of Bridgewater
- Representative WINSOR of Norway
- Representative BRUNO of Raymond

Subsequently, the Committee reported that they had delivered the message with which they were charged.

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

At this point, a message came from the Senate borne by Senator SMALL of Sagadahoc informing the House that the Senate was ready to adjourn without day.

The **SPEAKER**: The Chair recognizes the Representative from Lebanon, Representative Chick who wishes to address the House on the record.

Representative **CHICK**: Mr. Speaker, Men and Women of the House. First I would like to say something about the Clerk Emeritus, the Honorable Joseph Mayo. We will meet again. Mr. Speaker, I move that we stand adjourned without day.

On motion of Representative CHICK of Lebanon, the House adjourned without day at 4:44 a.m., Thursday, April 25, 2002.