

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twentieth Legislature
State of Maine

Volume 3

Second Regular Session (Continued)
April 2, 2002 to April 24, 2002

Third Confirmation Session
October 3, 2002

First Special Session
November 13, 2002

Interim Communications Appendix

Senate Legislative Sentiments

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STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST SPECIAL SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
November 13, 2002

In compliance with a proclamation of Governor **ANGUS S. KING, JR.**, the Senators convened in the Senate Chamber at ten o'clock in the morning and were called to order by President **RICHARD A. BENNETT** of Oxford County.

Prayer by Reverend Dr. Jesse James of Riverview Community Congregational Parish in South Gardiner.

REVEREND JAMES: Let us pray. Almighty God and Creator of the world, we take this moment to bow before Your awesome presence and inspiration. We ask You for Your divine direction for the proceedings of this hour. Where there is confusion, inspire clarity. Where there is discord, give incentive to unity. Where there is a stalemate, give voice for a new direction. We seek Your face, oh Lord, to be a source of strength during the wearying hours spent serving others as legislators, as staff and assistants, and to all that have the power of voice to speak so that the deliberations of this body continue to protect and to reform. Encourage those here today, who daily strive to serve the people of Maine, our legislators, their staff, and be especially near to their own family members. Fill them with the renewed sense of pride as they support their loved ones' efforts to keep Maine a safe and beautiful state. We come to the door of Your throne and knock. We ask for wisdom to guide the citizens towards a better Maine. You have entrusted these individuals here, preserving honor in our traditions and convictions, for the best way to direct our state. We quietly take this time to acknowledge our need of You, the true source of all wisdom, strength, and inspiration. We all say Amen.

Pledge of Allegiance led by Senator Mary R. Cathcart of Penobscot County.

QUORUM CALL

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#417)

PRESENT: Senators: BRENNAN, BROMLEY,
CARPENTER, CATHCART, DAGGETT, DAVIS,
EDMONDS, FERGUSON, GOLDTHWAIT,
KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY,
MARTIN, MCALEVEY, MILLS, NUTTING,
PENDLETON, RAND, ROTUNDO, SAVAGE,

SAWYER, SHOREY, SMALL, TREAT, TURNER,
WOODCOCK, YOUNGBLOOD, THE PRESIDENT -
RICHARD A. BENNETT

29 Senators having answered the Roll, the Chair declared a quorum present.

At this point a message was received from the House of Representatives, borne by Representative COLWELL of Gardiner, informing the Senate that a quorum of Representatives were assembled for the consideration of such business as may come before that Body.

The Secretary read the Proclamation.

S.C. 935

**STATE OF MAINE
PROCLAMATION**

WHEREAS there exists in the State of Maine an extraordinary occasion arising out of a projected \$240 million budget shortfall for the current fiscal year a shortfall that may increase with revenue reforecasts

WHEREAS, the State of Maine must end the fiscal year with a balanced budget;

WHEREAS, curtailments and administrative reductions in current expenditures are not sufficient to alleviate the shortfall;

WHEREAS, budgetary legislation must be enacted as soon as possible to assure that the fiscal year 2003 budget will be balanced;

NOW THEREFORE, I, Angus S. King, Jr., Governor of the State of Maine, by the virtue of the Constitutional power vested in me as Governor pursuant to Article V, Part 1, section 13 of the Constitution of Maine, convene the 120th Legislature of this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol in Augusta on Wednesday, November 13, 2002 at 10:00 o'clock in the morning, to receive communications, and enact the proposed legislation submitted by the Governor containing budgetary recommendations, or submit legislation that achieves the same objectives.

In testimony whereof, I have caused the Great Seal of the State to be hereunto affixed GIVEN under my hand at Augusta this twenty-ninth day of October in the Year of our Lord Two Thousand and Two.

S/ANGUS S. KING, JR.
Governor

Attest:
S/Dan A. Gwadosky
Secretary of State

Out of order and under suspension of the Rules, on motion by Senator **DAGGETT** of Kennebec, the following Senate Order:
S.O. 37

ORDERED, that a message be sent to Governor Angus S. King, Jr., informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **DAGGETT** to deliver the message to the Governor. The Sergeant-At-Arms escorted the Senator from Kennebec, Senator **DAGGETT** to the Governor's Office.

Subsequently, the Senator from Kennebec, Senator **DAGGETT** reported that she had delivered the message with which she was charged.

Out of order and under suspension of the Rules, on motion by Senator **SMALL** of Sagadahoc, the following Senate Order:
S.O. 38

ORDERED, that a message be sent to the House of Representatives, informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

READ and PASSED.

The Chair appointed the Senator from Sagadahoc, Senator **SMALL** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator from Sagadahoc, Senator **SMALL** to the House of Representatives.

Subsequently, the Senator from Sagadahoc, Senator **SMALL** reported that she had delivered the message with which she was charged.

Senate at Ease.

Senate called to order by the President.

COMMUNICATIONS

The Following Communication: S.P. 836

**STATE OF MAINE
120TH MAINE LEGISLATURE**

November 1, 2002

Hon. Lloyd P. LaFountain III
Senate Chair, Joint Standing Committee on
Banking and Insurance
Hon. Christopher P. O'Neil
House Chair, Joint Standing Committee on
Banking and Insurance
120th Legislature
Augusta, ME 04333

Dear Senator LaFountain and Representative O'Neil:

Please be advised that Governor Angus S. King, Jr. has nominated James A. Clair of South China, Gerald R. Cayer of Waterville, Kathryn G. Pears of Kennebunkport, Suzanne Grover of Norway and W. Godfrey Wood of Falmouth for appointment as members of the Board of Directors, Maine Consumer Choice Health Plan.

Pursuant to Public Law 2001, Chapter 708, these nominations will require review by the Joint Standing Committee on Banking and Insurance and confirmation by the Senate.

Sincerely,

S/Richard A. Bennett
President of the Senate

S/Michael V. Saxl
Speaker of the House

READ and REFERRED to the Committee on **BANKING AND INSURANCE.**

Sent down for concurrence.

The Following Communication: S.P. 837

**STATE OF MAINE
120TH MAINE LEGISLATURE**

November 1, 2002

Hon. Betty Lou Mitchell
Senate Chair, Joint Standing Committee on
Education and Cultural Affairs
Hon. Shirley K. Richard
House Chair, Joint Standing Committee on
Education and Cultural Affairs
120th Legislature
Augusta, ME 04333

Dear Senator Mitchell and Representative Richard:

Please be advised that Governor Angus S. King, Jr. has nominated David R. McCarthy of Cape Neddick for reappointment as a member of the Maine School of Science and Mathematics Board of Trustess.

Pursuant to Title 20-A, M.R.S.A. §8204, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Richard A. Bennett
President of the Senate

S/Michael V. Saxl
Speaker of the House

READ and REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Sent down for concurrence.

The Following Communication: S.P. 838

**STATE OF MAINE
120TH MAINE LEGISLATURE**

November 1, 2002

Hon. Kevin L. Shorey
Senate Chair, Joint Standing Committee on
Business and Economic Development
Hon. John Richardson
House Chair, Joint Standing Committee on
Business and Economic Development
120th Legislature
Augusta, ME 04333

Dear Senator Shorey and Representative Richardson:

Please be advised that Governor Angus S. King, Jr. has nominated George A. Finch of Eastport for appointment as a member of the Washington County Development Authority, Board of Trustees.

Pursuant to Public Law 2002, Chapter 568, this nomination will require review by the Joint Standing Committee on Business and Economic Development and confirmation by the Senate.

Sincerely,

S/Richard A. Bennett
President of the Senate

S/Michael V. Saxl
Speaker of the House

READ and REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

Sent down for concurrence.

The Following Communication: S.C. 934

**DEPARTMENT OF ADMINISTRATIVE & FINANCIAL
SERVICES
BUREAU OF THE BUDGET
STATE HOUSE STATION #58
AUGUSTA, MAINE 04333**

Date: October 16, 2002

To: Honorable Angus S. King, Jr., Governor
Honorable Richard A. Bennett, President of the Senate
Honorable Michael H. Michaud, President Pro Tem of the Senate
Honorable Michael V. Saxl, Speaker of the House
Honorable Jill M. Goldthwait, Senate Chair
Honorable Randall L. Berry, House Chair
Members, Joint Standing Committee on Appropriations and Financial Affairs

From: John R. Nicholas, State Budget Officer

Subject: Report on the forecast of revenues and expenditures for the General Fund and the Highway Fund for the FY 02-03 biennium and the FY 04-05 biennium in accordance with Title 5, section 1665, subsection 7.

The Bureau of the Budget is pleased to present its budget forecast for the General Fund and the Highway Fund for the FY 04-05 biennium in accordance with Title 5, section 1665. This effort was initiated and passed into law by the 117th Legislature as fulfillment of one of the recommendations of the Special Commission on Governmental Restructuring to provide a platform for long term financial planning.

This budget forecast is based on the current structure of state revenues and expenditures for both the General Fund and the Highway Fund as required by Title 5, section 1665, subsection 7. However, unlike previous such budget forecasts, this report also estimates the budget impact in FY 04 and FY 05 of the Governor's budget proposals to offset the projected General Fund budget shortfall in FY 03. As a result, this budget forecast should provide the most consistent view of revenue and expenditure trends over the long terms as a basis for financial planning and decision making.

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

The Following Communication: S.C. 936

**STATE OF MAINE
DEPARTMENT OF AUDIT
66 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0066**

Senator Richard A. Bennett
President of the Senate

Senator Michael H. Michaud
President Pro Tempore

Representative Michael V. Saxl
Speaker of the House of Representatives

The Honorable Angus S. King, Jr.
Governor of Maine

We are pleased to submit the Single Audit of the State of Maine for the fiscal year ended June 30, 2001. This report complies with the State's audit requirements, including those placed upon

the State as a condition for the receipt of over \$1.7 billion in federal funds. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States; the requirements of the Single Audit Act Amendments of 1996; and the Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and non-Profit Organizations*.

This document contains the following reports and schedules:

Independent Auditor's Report

Report on Compliance and on Internal Control Over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Report on Compliance with Requirements Applicable to Each Major Program and Internal Control over Compliance in Accordance with OMB Circular A-133

Schedule of Expenditures of Federal Awards

Schedule of Findings and Questioned Costs

Corrective Action Plan

Summary Schedule of Prior Audit Findings

On behalf of the Department of Audit, I would like to express my gratitude to employees throughout State government who have assisted us during the conduct of our audit and in the issuance of this report. We continue our mutual effort to improve financial reporting and accountability to the citizens of our State.

We would be pleased to respond to any questions or comments about the 2001 Single Audit of the State of Maine.

Respectfully submitted,

S/Gail M. Chase, CIA
State Auditor

June 28, 2002

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 937

**STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
DIVISION OF HEALTH ENGINEERING
11 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0010**

June 30, 2002

Honorable Richard A. Bennett
Senate President
3 State House Station
Augusta, Maine 04333-0003

Subject: Advisory Commission on Radioactive Waste and Decommissioning Annual Report

Senate President Bennett,

I am submitting this Annual Report for the Advisory Commission on Radioactive Waste and Decommissioning pursuant to Title 38 Waters and Navigation, Chapter 14-A, Subchapter I: General Provisions, §1453-A. Advisory Commission on Radioactive Waste and Decommissioning. This is being submitted on behalf of the advisory Commission on Radioactive Waste and Decommissioning by the Department of Human Services' Radiation Control Program. This report includes events of 2001, total fees received from each generator, line item detail on expenditures including in-state and out-of-state travel, printing, mailings and hearings, personnel, general operating expenses, supplies and overhead for the department and transfer of funds.

I have attempted to include all information that is pertinent to the operation of the commission, but if you have any questions please contact me at 287-8401.

Respectfully yours,

S/Thomas C. Hillman
Staff, ACORWD
Low Level Waste Coordinator
Radiation Control Program

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 938

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0038**

May 13, 2002

The Honorable Richard A. Bennett
Senate President
Maine State Senate
SHS #3
Augusta, Maine 04333

Dear President Bennett:

Pursuant to "A Resolve to Implement the Recommendations of the Commission to Study Poverty among Working Parents with Regard to an Annual Report Card on Poverty" I am pleased to submit the enclosed 2001 Report Card on Poverty in Maine to you. This year, in addition to the report card, which tracks a standard set of indicators from year to year, we have also

prepared a supplemental report containing newly released demographic data from the Census Bureau that has implications for the level of poverty in Maine.

I hope you find the information contained therein of use to you. If you have questions or would like further information, please feel free to contact Joyce Benson at this office. (tel. 287-1461 or e-mail joyce.benson@state.me.us)

Sincerely,

S/Evan D. Richert, AICP

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

The Following Communication: S.C. 939

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

**BLUE RIBBON COMMISSION TO ADDRESS THE FINANCING
OF LONG-TERM CARE**

November 8, 2002

The Honorable Richard A. Bennett, President
Maine State Senate

The Honorable Michael V. Saxl, Speaker
Maine House of Representatives

State House
Augusta, Maine 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Resolves 2001, chapter 114, the Blue Ribbon Commission to Address the Financing of Long-term Care is pleased to submit its interim report. Copies of the report have been transmitted to the Legislative Council and the Joint Standing Committee on Health and Human Services. Copies of the report have also been placed on file with the Law and Legislative Reference Library.

Sincerely,

S/Senator Betty Lou Mitchell
Senate Chair

S/Representative Thomas J. Kane
House Chair

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

The Following Communication: S.C. 940

**MAINE MILLENNIUM COMMISSION ON HUNGER
AND FOOD SECURITY**

April 16, 2002

The Honorable Richard A. Bennett
President of the Senate
Maine Senate
SHS #3
Augusta, Maine

Dear President Bennett:

The Maine Millennium Commission on Hunger and Food Security is pleased to transmit to you the final report of the Commission.

The Commission has worked for two years to develop a strategy for ending hunger in Maine. An interim report was issued at this time last year along with accompanying legislation addressing some of the Commission's early findings that required legislative action for their achievement. The Commission is heartened and very pleased with the reception received from the 120th Legislature and the steps that were begun to end hunger in spite of budget deficits and the shadow of reports of tough economic times ahead. We believe the State of Maine and its legislature understand the importance of an adequate and healthy diet to improving the health of our citizenry, the academic achievement of our children, the productivity and creativity of our workforce, and to peace and security in the world.

In our interim report, the Commission identified three essential strategies necessary to ending hunger in Maine and established goals for their achievement. In our final report, we further define and identify the steps that are needed to complete the journey to the achievement of the three strategies set forth in our interim report. We also propose several additional and far reaching recommendations that we believe will set in motion the processes that are needed to engage a much wider involvement of policy makers and the public in the move to end hunger. We have found that many things contribute to hunger and that their contribution must be recognized and addressed in policy. We have also found that hunger is costly, and that ending hunger a prudent and critical step that will increase the productivity and well-being of our citizens, and in doing so, achieve great savings in health care, in our educational system, and in other services have been growing exponentially in recent years and demanding a greater portion of our public dollars. In short, hunger is much more than a social problem and to address it comprehensively, we must begin to think in different ways with entirely new perspectives and objectives.

In the pages that follow the Commission has spelled out steps for the upcoming legislative session that will establish the policies necessary to set the stage for ending hunger and that begin strategically to make the monetary investments that will be required. There is much more work to be done. Time has not allowed us to detail every step and strategy offered in our report.

On behalf of the members of the Commission, it has been an honor to serve you and the people of Maine.

Sincerely,

S/Paul C. Christian
Chair

S/Rep. Lois Snowe-Mello
Co-Chair

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

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

ORDERS

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

The Honorable Harold D. Marden, of Albion, beloved husband of Catherine Moses Marden and a well-known business and community leader. He is best known for his liquidation business, Marden's Discount Stores, which started with one store in Fairfield and has now grown to ten stores throughout the State. Mr. Marden, known as "Mickey," was also actively involved in local and state government, having served as a member of the State Senate and a member of the School Board for S.A.D.#49 and as tax collector and treasurer for the Town of Albion. The Honorable Mr. Marden will be greatly missed by his family and friends and the many people he met through his work and public service;

SLS 1017

Sponsored by Senator GAGNON of Kennebec.

Under suspension of the rules, cosponsored by Representative BUMPS of China, President BENNETT of Oxford, Speaker SAXL of Portland, Senators: 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, Representatives: ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, 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, BUNKER of Kossuth Township, CANAVAN of Waterville, CARR of Lincoln, CHASE of Levant, CHICK of Lebanon, CLARK of Millinocket,

CLOUGH of Scarborough, COLLINS of Wells, COLWELL of Gardiner, 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 Kennebec, MUSE of South Portland, MUSE of Fryeburg, NASS of Acton, NORBERT of Portland, NORTON of Bangor, Representative NUTTING of Oakland, Representative 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, 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, THOMAS of Orono, 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 Elliot, WINSOR of Norway, YOUNG of Limestone.

READ.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. It's good to see everyone here today. Unfortunately, we do have the sad news that a former Senator, and certainly a well established icon in our area, passed away during the last few weeks. He was not known as 'Mister Marden' to many people, he was 'Mickey.' In fact, we used to talk about the great boutique we had on College Avenue. We referred to it as Mickey Marden's. We used to visit there every now and again.

You could find anything from women's negligees to the orange caps for hunting. If you needed a wheel or lost a caster on a table, you could probably find it someplace in a box at Marden's. I remember when I was a kid, it was a fascinating place to go. Back in those days, when there truly were fire sales, you'd be looking through a box and actually see the charred corner of the box. Mickey certainly brought a lot to the state and spread his stores to different corners of the state. He certainly made a name for himself, and a name for our area, in Marden's. We are certainly going to miss him very much. He's been quite an establishment in the area. His stores will go on and we will keep thinking about Mickey in our prayers. Thank you.

ADOPTED.

Sent down for concurrence.

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **KILKELLY** of Lincoln was granted unanimous consent to address the Senate off the Record.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **DAGGETT** of Kennebec, **RECESSED** until 11:30 in the morning.

After Recess

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: H.P. 1747

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

September 25, 2002

Hon. Michael V. Saxl
Speaker of the House
120th Legislature

Hon. Richard A. Bennett
President of the Senate
120th Legislature

Dear Mr. Speaker and Mr. President:

On September 24, 2002, 1 bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 308.2, this bill was referred to the Joint Standing Committee on September 24, 2002, as follows:

APPROPRIATIONS AND FINANCIAL AFFAIRS

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003" (EMERGENCY) (H.P. 1746) (L.D. 2220) (Presented by Representative BERRY of Livermore) (GOVERNOR'S BILL) (Cosponsored by Senator GOLDTHWAIT of Hancock and Representative: NASS of Acton, Senators: CATHCART of Penobscot, MILLS of Somerset)

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

S/Pamela L. Cahill
Secretary of the Senate

Comes from the House, **READ** and **ORDERED PLACED ON FILE**.

READ and **ORDERED PLACED ON FILE**, in concurrence.

The Following Communication: H.P. 1748

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

Hon. Millicent M. MacFarland
Clerk of the House
Maine House of Representatives
2 State House Station
Augusta, ME 04333-0002

Dear Clerk MacFarland:

Thank you for your letter of May 13, 2002, transmitting to Administrator Whitman a Joint Resolution concerning the Clean Air Act's New Source Review (NSR) Program. In the Resolution, the members of the Maine Legislature urge the President and the Environmental Protection Agency (EPA) to maintain the existing

NSR regulations and urge Congress to block regulations that would result in diminished public health and environmental quality. I want to briefly respond to the points raised in the Resolution and request that you communicate this response back to the Legislature.

I want to assure you that I am committed to the air quality benefits provided by the NSR program. However, I believe the program can and should be improved. Many of our stakeholders share this view, including governors and State environmental commissioners from both major parties. EPA worked with a diverse group of stakeholders for more than 10 years to respond to these calls for the reform of the program. We evaluated several possible ways to make the program better, including a number of ideas that were developed and proposed by prior administrations.

The regulatory improvements that we announced on June 13, 2002, are intended to address widespread concerns about the effectiveness of the NSR program. The improvements are aimed at creating incentives for companies to reduce emissions and at removing barriers to environmentally beneficial projects. They are also intended to promote greater certainty for regulated sources, improving overall environmental compliance. These ideas have been developed over several years and have reflected an extraordinary level of public participation.

Because the Maine Legislature's Resolution mentions NSR litigation, I also want to assure you that NSR enforcement remains a high priority. I continue to believe that reductions from such cases will provide Americans with cleaner, healthier air. For example, in New Jersey earlier this year, we settled a major enforcement action involving PSEG Fossil, LLC which EPA estimates will result in significant reductions in SO2 (by 36,000 tons per year) and NOx emissions (by 18,000 tons per year).

Again, thank you for your letter. I appreciate the opportunity to be of service and trust that the information provided is helpful.

Sincerely,

S/Jeffrey R. Holmstead
Assistant Administrator

Comes from the House, **READ** and **ORDERED PLACED ON FILE**.

READ and **ORDERED PLACED ON FILE**, in concurrence.

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

REPORTS OF COMMITTEE

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003" (EMERGENCY)

H.P. 1746 L.D. 2220

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1126)**.

Signed:

Senators:

GOLDTHWAIT of Hancock
CATHCART of Penobscot

Representatives:

BERRY of Livermore
MAILHOT of Lewiston
TESSIER of Fairfield
BRANNIGAN of Portland
ETNIER of Harpswell
JONES of Greenville

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

Signed:

Senator:

MILLS of Somerset

Representatives:

NASS of Acton
WINSOR of Norway
ROSEN of Bucksport
BELANGER of Caribou

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1126)**.

Reports **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-1126) **READ**.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1126), in concurrence.

Senator **DAGGETT** of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **DAGGETT** of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator **SMALL** of Sagadahoc, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

Joint Resolution

On motion by Senator **GOLDTHWAIT** of Hancock (Cosponsored by Representative **BERRY** of Livermore and Senators: **MILLS** of Somerset, **TREAT** of Kennebec, **CATHCART** of Penobscot, Representatives: **McKEE** of Wayne, **NASS** of Acton), the following Joint Resolution:

S.P. 839

JOINT RESOLUTION RECOGNIZING THE RETIREMENT OF JOHN R. NICHOLAS

WHEREAS, John, "Jack," R. Nicholas of Winthrop, formerly of Litchfield, husband of Nancy Nicholas, father of Suzanne Roy and Diana Flaherty and proud grandfather of Nicholas, Kyle and Ryan, will retire on November 15, 2002 from his position as State Budget Officer after more than 29 years of selfless service to the People of Maine; and

WHEREAS, Jack has given of his extensive knowledge, expertise and tireless efforts as State Budget Officer to Governor Angus S. King, Jr., former Governor John McKernan, Jr., the governors' staff, the commissioners of the Department of Administrative and Financial Services, the chairs and members of the Joint Standing Committee on Appropriations and Financial Affairs, the Maine State Legislature, the legislative staff and the National Association of State Budget Officers; and

WHEREAS, Jack inspires others through his leadership, effective communications and excellence in financial accounting and reporting, which have assisted the State in achieving 2 bond rating increases; and

WHEREAS, Jack's dedication and vision served as a catalyst as he worked with the Governor and Legislature to institute the historical change to performance budgeting supported by the budget and financial management system, thereby increasing the State's accountability to its citizens; and

WHEREAS, Jack is an effective and analytical problem solver who has worked to balance and then implement over 47 budgets for the State, spanning good and difficult economic times, and to uphold the Constitution of the State of Maine as he served as a member of the Revenue Forecasting Commission and conducted 4-year expenditure forecasts; and

WHEREAS, Jack's sound judgment, integrity, mentoring, customer focus and good humor have earned him the deep respect and confidence of his staff, peers and colleagues; and

WHEREAS, Jack's service to State Government, always being the first into the office every morning and the last to leave at night, also served to improve the operations of the Maine Technical College System and the Department of Public Safety; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature, now assembled in the First Special Session, do pause in our deliberations to express our sincere appreciation to John R. Nicholas and to recognize his years of dedicated service to the State; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to John R. Nicholas, "Jack," as a lasting token of our friendship, gratitude and respect.

READ.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. When I was being oriented to the Appropriations Committee in December of 2000, I was sitting in the conference room in the Fiscal Office, and as they were taking me through the different parts of the budget, they were saying 'you have to do this that way because that is what Bob says' and 'you have to do this that way because that is the what Bob says.' Finally I said, 'who is Bob?' That was the acronym for the Bureau of the Budget. So that was how green I was when I started. But it caused Jack, if I may, to forever be known as 'Jack Bob' in our committee. I will say that he took that, and probably other abuse from us, with his usual good humor. You've heard a lot in the resolution about the skills that Jack brought to this job. What you don't know, especially if you've never had the pleasure of serving on the Appropriations Committee, is the monumental amount of time and effort that people in those divisions put into the work that comes to us in a way that we can comprehend and work with. I think what it didn't necessarily reference in the resolution was perhaps Jack's biggest asset, he is an incredibly even-tempered person. He would come into the room every time in the same calm, unhurried way, and in the frenzy we can get ourselves into down there, it always had a positive influence on the work. Because Jack had shown up, we knew he'd be able to answer the questions. He had this wonderfully steadfast demeanor. Above all, the hallmark of Jack is that this man, through and through, is a gentleman. So it is with great pleasure that I submit to you this Joint Resolution and thank him, and his wife who is present today for the sacrifices in time spent without him that I know she made, from the bottom of my heart and just want to say again that it was an incredible job. We truly could not

have gotten through in the style that we did without Jack behind us every step of the way. It's our heartfelt thanks to him for being there for us. Thank you.

On motion by Senator **GOLDTHWAIT** of Hancock, **ADOPTED**.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber John 'Jack' R. Nicholas. Would he please rise and receive the greetings of the Senate.

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

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

COMMUNICATIONS

The Following Communication: S.C. 941

STATE OF MAINE

November 12, 2002

Hon. Pamela Cahill
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Cahill:

Pursuant to our authority under P.L. 2001 Ch. 677 we are pleased to appoint the following members of the public to serve as members of the Maine Small Business Health Coverage Plan Board:

Robert Hardison of Sanford
Jacqueline Wardell of Bristol
John Kelly of Portland
Ellen Jane Schneiter of Portland
Gordon Smith of Manchester

If you have any questions regarding these appointments, please contact us.

Sincerely,

S/Angus S. King, Jr. S/Senator Richard A. Bennett
S/Representative Michael V. Saxl

READ and ORDERED PLACED ON FILE.

ORDERS OF THE DAY

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

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain

Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003" (EMERGENCY)

H.P. 1746 L.D. 2220

Tabled - November 13, 2002, by Senator **DAGGETT** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-1126)**, in concurrence

(In House, November 13, 2002, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1126)**.)

(In Senate, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. Committee Amendment "A" (H-1126) **READ**.)

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. First I want to thank you, my colleagues, Mr. President, and President Pro Tem Michaud for the extraordinary opportunity of sharing this most amazing and challenging Committee. In case there was any doubt: I loved every minute of it. There is evidence, I think, by our record, that that we can get together and perform not only well, but admirably under some very difficult circumstances.

Once again, the Appropriations Committee, all 13 members, worked their hearts out over the last 6 weeks to get a report in front of you that would be positioned in a way that was as easy to deal with as we could. Until well into the afternoon on Friday, it looked like we could bring that effort to a conclusion with very, very few areas of disagreement; the biggest of those being the Business Equipment Property Tax issue. Unfortunately, though we felt that we would probably end up agreeing to disagree on that item but agreeing on almost everything else, the business community indicated their lack of interest in one of the two options before us, and frankly, that left some of my colleagues on the Committee really without a place to go. This was regrettable because we had done a lot of work to bridge the gap on so many of the difficult items within the budget and I would have liked to be able to present a stronger report for you today. But here we are and I want to talk very briefly about the importance of passing a budget today.

November 15th, just a few days from now, is the deadline for when we need to provide the information for printing the tax forms, including the electronic filing software. We had 160,000 electronic filers last year. If we don't get the information on what we're doing to the people who prepare those forms soon enough, they will not be able to get them out to the taxpayers. And in turn, refunds will go out in a way that is not timely. I am willing to bet that you would hear from your constituents if that were to be the case. Another problem is that at some point in the very near future, in the next couple of weeks, we begin to lose some of the savings opportunities in this proposal. The next legislature would clearly have to go back to the drawing board and start looking for even more money. The final, and probably most important reason why the 120th legislature should pass a budget today, is

that the 121st will have big trouble of their own. They are looking at a shortfall far greater than the one that we are contemplating now. They are looking at it in a context where everything is gone. There is no Rainy Day Fund. There are no reserves left anywhere. They are starting from zero. It is going to be an enormous challenge to them, many of who are in this room today, to carry on with that work.

It has been said that by simply controlling the growth in expenditures, we can solve perhaps half of this gap. But let me tell you why that is not true. Fully one-third of the budget coming up is devoted to healthcare. Most of that is entitlements. You cannot control that 18% growth and keep that at cost of living without either eliminating programs or drastically reducing eligibility. Retired teachers' health insurance and retirement makes up a smaller proportion of our budget; it's growing at 27%. There has been a lot of testimony in this building when there were proposals to reduce those things. Are you going to control that to cost of living, say at 3%? I don't think so. It's going to be very difficult to accomplish those things. So this is not a gap that's going to go away easily. To hand them, in addition to the work they have to do, a \$300 million shortfall that is rightly the responsibility of this legislature would be to position a new legislature and a new chief administrator in a very unfortunate way. It would be regardless of your affiliation, if you have one. It would be an unfortunate thing to do at time when people ought to be breaking new ground at the beginning of a new legislature.

I feel a bit like I'm at a gas station and I've got the pump out and I've just stuck the nozzle in my truck when I look up, and next to me is somebody with an unlit cigarette in their mouth pulling a match out of their pocket. My plea is, 'can we talk about this before you light that match?' I'm not exaggerating when I say that. To me, the situation is that serious. There are a lot of people out there watching what we are doing this afternoon. Including, I'm certain, the Governor-elect and transition staff, but most importantly the public, and incoming legislators. They are looking at us to see how we're going to solve this. Two years ago we had an interesting, and perhaps unique, problem in this chamber and we solved it in a way that became something we could point to with pride because we solved it quickly and efficiently and we did it in a way that didn't cause repercussions afterwards in the whole two years in which we served in this strangely divided chamber. This is the time to rise to the occasion again and pass a budget with a strong vote. A unanimous vote wouldn't be a bad thing because if you vote simply ought not to pass, you're saying it's not important that we balance this budget. If you favor cuts in government, you should be voting for this budget. It may not make all the cuts you want. It may not make the breath of cuts that you were hoping for. It does cut government. To walk out of here without voting for a plan that balances the budget indicates to me that perhaps you don't want to cut the budget. I don't think that is true of anybody in this chamber.

The lesson to incoming legislators is paramount in my mind because when United States Senators Cohen and Mitchell left public service at this level I remember the editorials in Maine newspapers that said part of why they were leaving was that nobody wanted to compromise any more. Nobody wanted to govern. People wanted to hold onto their last little issue until they turned blue. It's time for us to make that statement again that we have made repeatedly in Maine; that we can govern and that we will govern. We are beyond the point of elegance. We are beyond the point of policy debate. We are at the point of balancing this budget and clearing the way for the 121st

legislature. It's time to make lemonade and I hope you will join me in doing that. Thank you.

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

Senator **MILLS:** Mr. President and men and women of the Senate, I don't rise in opposition to the idea of passing the budget, by any means. There was a great deal of work done in the Appropriations Committee leading up to the document that is now in front of you. There was considerable discussion among the minority members of the committee about what our posture should be. Most were convinced that the document that is now before you would be passed in some form or another. The question before us was whether we produced our own minority report and cut down as many trees as were necessary to photocopy it 186 times or whether we simply make our points in oral floor debate. That is the route that we have chosen, or at least that I have chosen. My major criticism of the document that lies before you is that it does not take into account the needs of the next biennium. There is too much stuff in it that is labeled, frankly, as a one-time measure or a one-time gesture. It does succeed in draining practically every last vestige of reserve funds that are available to this administration and to the legislature. On those occasions within this budget where there was the opportunity to do something on a on-going basis that would give some relief, some further relief, to those who must assemble the budget document for the next biennium, it stops short for reasons that are beyond my ken.

A small example, last year we passed a bill that gave certain economic concessions to the nursing home industry. Even though we have 1,000 empty beds in Maine in the nursing home industry, there was a bill passed last spring to say that we should help to compensate the industry for maintaining those beds as open beds, even though we need, in this state, desperately to reduce the number of those beds that are available. The Governor, in his wisdom, proposed a budget to us that would have repealed that provision of law that was in last spring's budget on the basis that we couldn't afford to subsidize 1,000 empty beds in this state, among the 7,700 that are authorized presently. I see, to my chagrin, that in this budget the subsidy is postponed until the end of this fiscal year. But then beginning on July 1, 2003, this economic concession, at least in language, is again made and it will contribute significantly to the structural gap that must be filled by those who succeed us in these chambers.

Another such example is the broadcaster tax exemption, which was passed against my better judgment certainly, last spring. The Governor proposed a bill this fall to repeal that exemption and to go back to the law as it has stood because we simply can't afford to grant sales tax exemptions to this industry, no matter what kind of a case they may be able to make for it. I see that in this budget document that lies before you we have postponed the exemption through June 30, 2003. Low and behold, it springs up again to cost us millions of dollars in the next biennium and the biennia that will ensue.

The Governor's proposal this fall was to put in a tax and match proposal for hospitals. When you look at the large line items in the major departments of our government and when you look for areas where you can cut a budget, you necessarily get to a point of looking carefully at the Department of Human Services which is where a great deal of the money is spent. Within the Department of Human Services, if look at the hospital reimbursement line you see that it is a large number, a significant

number, and you say, 'all right, let's cut that line by say, \$3.5 million,' which was the policy decision made by the Governor. But if you cut that line by \$3.5 million, if you simply cut it, you are costing all 39 hospitals something like \$10.5 million because you lose the Medicaid federal match when you seek to save state money. So no matter how badly you may want to cut the state budget, you can't do so in the Medicaid line very easily without converting your thinking into a tax situation. This is the genesis of the impetus of the movement to impose a tax on hospitals. If you put a tax on them for \$3.5 million, that is all that it costs them; but if you take it away from them in Medicaid reimbursements, it costs them 3 times as much. The Governor looked carefully at what the federal government is currently authorizing for tax and match - call them schemes if you wish - and put forth a tax and match plan for hospitals that would have taxed them a lot more than \$3.5 million, but would have at least refunded to them a large share of the new federal money generated and it would have enabled us to go further and provide a much needed reimbursement for some of the medical specialties that are dropping out of the Medicaid system because the reimbursement rates are so far below their actual cost of doing business. On top of all of that, the plan would have generated \$3.5 million to the general fund. The figures differed on this, but most of us felt that it would have held most of the hospitals harmless; in fact most of the hospitals would have gained under this arrangement. For whatever reason, largely because of disagreements between the Hospital Association and the Department of Human Services, we as a legislature fell through the cracks and decided to tax them. The majority budget seeks to tax the hospitals without generating the corresponding match from federal sources and without getting us all of the beneficent goals that had been generated by the Department's plan. Not the least of which was to re-base completely the hospital reimbursement system under Medicaid. Right now we reimburse them based on costs that were generated in 1983. Things are sadly out of whack.

We missed out here, frankly, on an opportunity to reform the entire method by which hospitals are reimbursed under Medicaid. We did not adopt any measures, although I had suggested them in Committee, to do some tax reform to enhance the circuit breaker program, perhaps at the expense of the homestead exemption, which I think might have gone a long way towards fending off the tax revolts that we are going to see and that we did see, frankly, at the polling places this last week.

Finally, the personal property tax that this majority budget proposes to push off by 8 or 10 months; reimbursements under the BETR program. It perpetuates a very unstable situation in regards to the personal property tax. Everyone involved in it agrees that our current system is politically unstable, economically unstable, and inappropriate. In my view, we have overlooked in this budget, the opportunity to make some long term changes to how personal property, business equipment, and machinery is taxed in this state. I think we could have come to an interesting new proposal, a resting point that would have cost the state less money in the long run and would have given a more stable form of relief to the businesses and the industries who have been lobbying to make these changes. For these reasons, I intend to vote no on the budget and would hope that you would respect my decision.

Off Record Remarks

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126) **READ.**

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

Senator **ROTUNDO:** Thank you, Mr. President, men and women of the Senate. There has been a great deal of publicity in past months about the stresses and challenges that my city, Lewiston, has faced as a result of a sudden increase in the population of immigrants that have come into our community over the past year. I'm very proud of the fact that we have been so welcoming, but there have been significant financial challenges involved with the immigration. I'm not aware of any community in this country that has experienced such a large immigration in such a short period of time. State agencies, for the most part, have been very helpful in terms of helping us to deal with this situation. But there is still some work that can be done.

The amendment that is before you right now is simply one that directs DHS to go after existing federal dollars that could be brought back to this state to help all communities, not just Lewiston, that are dealing with immigration issues at this point in time. There are no matching dollars that would be required by the state as we try to capture these federal dollars. It is simply money that we can bring back to Maine to help communities throughout the state, dollars that would otherwise go to other states in this country. So I urge adoption of this particular amendment. Thank you very much.

Senator **GOLDTHWAIT** of Hancock moved Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126) be **INDEFINITELY POSTPONED.**

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. You will no doubt become familiar with this little speech in the next half hour. As Senate chair of the Appropriations Committee and a signer on the majority report, I will be opposing all amendments except my own, which is a technical amendment. I will say that there may be a case or two, and this maybe one of them, where a rather benign amendment is swept into the vortex of my opposition based on my position as chair of the Committee. Nevertheless, I will be opposing them all and this is one of them. Thank you.

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

Senator **SMALL:** Thank you, Mr. President. As a non-signer of the bill, I'm up for grabs here on this. My question would be, can the Department do this already or do they need to be instructed or authorized by the legislature in order for them to do this, to apply for this?

THE PRESIDENT: The Senator from Sagadahoc, Senator Small poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you. The Department could do this on their own. We felt, in this instance, a little pushing might be helpful.

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

Senator **DOUGLASS:** Mr. President, ladies and gentlemen of the Senate. I rise to ask members of the Senate to vote against the motion for indefinite postponement for the reason that I also represent the City of Lewiston and the City of Auburn, which have experienced a substantial influx of immigrants who are using certain services that should be reimbursed through these federal grants that are available and for which we, in the State of Maine, ought to apply. It's true that we don't need to demand that the Commissioner apply for these; he could do it on his own. Nevertheless, we're here to set policy. This is the right policy for Maine, to ask for those services that we are entitled to. I ask you to vote against the pending motion.

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

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. I've heard from several of my constituents in regards to this matter and most of them are opposed to any additional funding for the City of Lewiston or any other city in the state. I just wanted to relay that to the body. I believe the motion is indefinite postponement and I would urge everyone to vote for that motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Goldthwait to Indefinitely Postpone Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126). Is the Senate ready for the question?

The Chair ordered a Division. 11 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126), **FAILED**.

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126) **ADOPTED**.

On motion by Senator **MARTIN** of Aroostook, under unanimous consent on behalf of Senator **KNEELAND** of Aroostook, Senate Amendment "C" (S-631) to Committee Amendment "A" (H-1126) **READ**.

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

Senator **MARTIN:** Thank you, Mr. President, members of the Senate. I am presenting this amendment on behalf of the

Senator from Aroostook, Senator Kneeland, who is ill and could not be here today. It was his intention to present the amendment, but as a result of that, I request unanimous consent to present the amendment. It is his name that is on the amendment. It is obviously clear, by reading the amendment, that it involves Aroostook County. Which plays a role in part of the reason why I'm speaking. There is, by the way, before you a letter that the Senator from Aroostook, Senator Kneeland, has written to you, asking for your consideration.

When the budget cuts were being prepared, the Governor's office asked, obviously, every department to put together monies that they could give up or whatever. Part of the money which was given up by FAME turned out to be money that would have gone to the Northern Maine Regional Planning Commission or the Northern Maine Commission, as it's now called, for part of a study that would be done in order to take a look at what takes place, or could take place, with the pipeline that presently exists from Searsport to the Loring Air Force Base. That pipeline was used during the existence of the Loring Air Force Base for the transmission of jet fuel. Since that time, of course, it has been left vacant and not being used. There have been a number of attempts to try to figure out what might be done with the pipeline, since obviously it is now and continues to be owned, by the Air Force.

Recently there has been an agreement by the Air Force to transfer the pipeline to the Loring Development Authority. That development could potentially lead to a benefit to Aroostook County and to the rest of the state. Based on that, there was money that was put into the budget last time that then would have gone to the Loring Development Authority to fund part of a study to take a look at the feasibility of using the pipeline for natural gas, and for the development of a natural gas facility at the former Loring Air Force Base. Part of the agreement that was made was that some of the funding would come from this process, from the state budget, and the rest of it would come from the developer, which happens to be Stone and Webster. They have already put up the money. They have already started the process. In the middle of it, the state, basically, is now pulling out that portion of the budget and their portion of that study. The purpose of the study, obviously, is to determine the feasibility of being able to use the pipeline for that very purpose. The reason why it cannot wait until next year, quite frankly, is because the study has to be done now because the time period is soon to expire in early spring in terms of the period that the agreement was for. Keep in mind that the study has to be conducted before the ground is frozen. In Aroostook County, we've already had 4 snowstorms, we've had frost, and we've already had a couple of inches of frost downward. There isn't much time left. I hope I can make my point that way. Frankly, the money is a necessity in order to complete the study and it is needed now.

There are some who suggested that perhaps the money should be put up entirely by Stone and Webster. Let me tell you what the danger of that is. If, in fact, that were to happen, then it is quite clear that the study would be owned by that company and the state would have absolutely nothing to say about it, would not have access to the study, and we would be at a loss. That's why we are in the position that we are in now. Those are the facts. But let's look at where we are right now. I fully appreciate the work of the Appropriations Committee and I'm not here to try to cut it apart. It is clear that to put this \$235,000 back into the budget creates another hole of \$235,000 that then would be added with the \$40 million yet to be found. I understand that. Nor am I trying to say that this is better than some of the cuts that

have been made in the budget. I'm not trying to make those comparisons and I hope that you don't either. I also know that the various committees who made recommendations, including the Public Utilities Committee, including some other committees that were involved, accepted the cut. But part of it, I think, is in part because not all of the facts were available at that point. That's where we are right now.

I guess I just want to say that I'm a late player to this because I don't represent Limestone. That is part of the Senator from Aroostook, Senator Kneeland's district and that is why he was so involved with it. So I would simply urge you, after the motion to indefinitely postpone is made, to vote against the motion to indefinitely postpone.

Off Record Remarks

Senator **GOLDTHWAIT** of Hancock moved Senate Amendment "C" (S-631) to Committee Amendment "A" (H-1126) be **INDEFINITELY POSTPONED**.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. This is an awkward thing to do in the absence of the Senator from Aroostook, Senator Kneeland. I apologize for speaking against what is his proposal when he is not here to defend it. By the way, I wish him well and hope that he has a speedy recovery in strength and will soon be joining you in the next legislature.

But I do have some serious reservations about both parts of this amendment. The first part proposes striking out part 'M' of the committee amendment, which would restore, as the other Senator from Aroostook, Senator Martin referenced; the \$235,000 with no other provision for funding. The budget before you has an ending balance of .3. That's not big. That means two things, one is that if we had a bigger balance, we could be applying that against the number we're going to get next week, be it \$40 million or \$50 million or whatever, and it wouldn't go very far, but it would be something. The other issue is, because of the way that we inevitably seem to come together at the end of the budget process, the Fiscal Office was doing their best overnight, over the weekend, to get a document ready for you, and in the event, the very unlikely event, that there were any errors in computation, as they worked at that speed through the night, it is helpful, to say the least, to have a small cushion to adjust if one needed to and .3 is already way too small. This would eat up .235 of that .3 and for that reason I think it is not advisable.

As the Senator from Aroostook, Senator Martin, mentioned, this proposal was jointly heard by the Business and Economic Development Committee, who recommended that we take this revision. We offered it to the Utilities Committee, since it seemed to fall partially within their jurisdiction, who proposed on a 4 to 1 vote, with only 5 of their members present, that we take it. In the Appropriations Committee we actually had someone there to provide us with all the information we could ask for on the proposal, so I think we had all of it. The Appropriations Committee voted unanimously to take it. So that's reason

number one why I will be voting to indefinitely postpone. Number two is, and this is kind of a funny thing and I hate to say this in the absence of the Senator from Aroostook, Senator Kneeland, and I don't know how we would have voted on this budget, but to try to amend a budget which you are then going to vote against seems peculiar to me. I liken it to taking your Thanksgiving turkey and putting some lipstick on it before you chopped its head off. In which case, you would be wasting your time if the decapitation was successful, and if you missed you'd just have a prettier turkey. So I don't quite follow the logic of amending a budget that you are going to vote against. The second part of the amendment proposes something else that I think is curious. That is an increase in a debt ceiling by \$100 million. We have heard many speeches in this chamber about how our debt level is too high already. It surprises me to see a proposal that would raise this particular debt another \$100 million. It is not general obligation debt; it is moral obligation debt. But that does not necessarily get the state out from under any risk in this regard. If we were to have a default situation here, there is the potential for risk to the state with this proposal, a risk that we can ill afford right now. So I hope you will join me in voting for indefinite postponement of this amendment.

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

Senator **FERGUSON:** Thank you very much, Mr. President. This money came from an original study to study the electrical grid in Northern Maine. This is surplus funds. After the study was concluded, there was \$235 million left over. The Utilities and Energy Committee took this under advisement and our recommendation was to let the funds lapse to the General Fund and compete with any other programs that were going to come up in the 121st. This is the first I knew about this amendment. I haven't had any contact with the Senator from Aroostook, Senator Kneeland, in this regard. It seems to me that we should be here trying to reduce our spending rather than increasing it. This is, as the good Senator from Hancock, Senator Goldthwait, alluded to, we're going to be sailing pretty close to the wind. If we add another \$235,000 into this spending, it's not going to be good, although it's a small amount. I would urge everyone in this body to join me and vote for the pending motion of indefinite postponement. Thank you.

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

Senator **MARTIN:** Thank you very much, Mr. President, members of the Senate. First of all to the Senator from Hancock, Senator Goldthwait; I'm sure that if we were to vote for this amendment and the Senator were to do that, I'm sure that the Senator from Aroostook, Senator Kneeland, would be happy to buy her a turkey. Because I think it means that much to him, and it means that much to Aroostook County.

Let me just say this; what we are talking about here is a potential development of \$55 to \$65 million. That's the potential impact if this were to happen. The number of jobs would be obviously substantial. The income to the state would be substantial. So I think, frankly, that it is a good investment and I urge you to vote for the amendment and against the motion to indefinitely postpone.

On motion by Senator **MARTIN** of Aroostook, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

The Chair noted the absence of the Senator from Aroostook, Senator **KNEELAND** and further excused the same Senator from today's Roll Call votes.

ROLL CALL (#418)

YEAS: Senators: **BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, LAFOUNTAIN, LEMONT, LONGLEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, TURNER, WOODCOCK, THE PRESIDENT - RICHARD A. BENNETT**

NAYS: Senators: **DAVIS, KILKELLY, MARTIN, MCALEVEY, SAVAGE, SAWYER, SHOREY, SMALL, YOUNGBLOOD**

ABSENT: Senators: **MICHAUD, MITCHELL**

EXCUSED: Senator: **KNEELAND**

23 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **GOLDTHWAIT** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-631) to Committee Amendment "A" (H-1126), **PREVAILED**.

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "F" (S-634) to Committee Amendment "A" (H-1126) **READ**.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I've been having a little bit of fun with this amendment today because this is the only vehicle in which we could accomplish what we wanted to do.

The President Pro Tem presented a bill last session that created a commission for veterans of World War II and the Korean War to have a memorial plaque placed in the Hall of Flags down stairs, similar to what was done for Vietnam vets and of course other vets from years past. I was fortunate enough to be appointed by the President to this commission, to co-chair it with Representative Fisher. The appointments were made very late, and unfortunately the legislation, which is typical in legislation such as this, would allow the legislative council to allow the commission to continue meeting beyond whatever is

called for in the legislation, in which case there was only one meeting that was authorized. There was not proper language that would allow the legislative council to consider allowing the commission to meet longer. Even though this may seem like a relatively small matter to some of you, veterans, of course, find this very important. We're talking about World War II veterans and Korean War veterans. In that first meeting we actually accomplished quite a bit in terms of where the plaques will be located, how they would be situated, and where they would be placed on the walls as well as what the structure would be for raising the funds for these plaques. It is going to be a very expensive endeavor. In the past the money has been raised from outside sources, primarily through the various veterans groups.

So what I would like to do, since this group has been meeting and so that their work isn't erased, and so this commission can continue to meet and not just be dissolved. The commission had asked that we submit an amendment to this budget that would allow them to at least ask the legislative council to allow them to continue meeting. That's what we're doing. That is what this amendment does and I would appreciate your support. I'm sure the veterans' organizations throughout the state would appreciate your support also. Thank you.

Senator **GOLDTHWAIT** of Hancock moved Senate Amendment "F" (S-634) to Committee Amendment "A" (H-1126) be **INDEFINITELY POSTPONED**.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would only point out that I'm not sure how the good Senator was fortunate enough to not have a fiscal impact because if the study is expanded, and there are legislative members, there will be a cost to that. At any rate, in keeping with my principle, I am supporting an indefinite postponement motion. Thank you.

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

Senator **GAGNON:** Thank you, Mr. President. Yes, in response to the good Senator, I believe there is about a \$500 fiscal note. I think that has to be the case, even though I would be willing to not be paid to be there and I think other legislators would also because it is vitally important to these veterans' groups. In fact, I think if there were a way, they would be willing to commit the money if that is what was necessary.

They are small amounts. This is \$500. If in fact the legislative council allows them to continue meeting, and they might chose not to do that. Leave it in the hands of the legislative council is what I ask.

On motion by Senator **GAGNON** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#419)

YEAS: Senators: GOLDTHWAIT, LEMONT, LONGLEY, MILLS

NAYS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, KILKELLY, LAFOUNTAIN, MARTIN, MCALEVEY, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

4 Senators having voted in the affirmative and 28 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator GOLDTHWAIT of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-634) to Committee Amendment "A" (H-1126), **FAILED**.

On motion by Senator GAGNON of Kennebec, Senate Amendment "F" (S-634) to Committee Amendment "A" (H-1126) **ADOPTED**.

Senator MARTIN of Aroostook moved to **TABLE** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1126) as Amended by Senate Amendment "B" (S-630) and Senate Amendment "F" (S-634) thereto, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by the President.

Senator MARTIN of Aroostook requested and received leave to withdraw his motion to **TABLE** pending **ADOPTION** of Committee Amendment "A" (H-1126) as Amended by Senate Amendments "B" (S-630) and "F" (S-634) thereto, in **NON-CONCURRENCE**.

On motion by Senator GOLDTHWAIT of Hancock, Senate Amendment "D" (S-632) to Committee Amendment "A" (H-1126) **READ**.

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

Senator GOLDTHWAIT: Thank you, Mr. President, ladies and gentlemen of the Senate. This is a technical amendment supported by the chairs of the Committee for the purpose of removing the emergency preamble, and also there were two other changes that we made when we took the majority vote on Friday night relative to nursing facilities which made ongoing changes; either one-time or simply delayed. So those are the

three technical changes that conform to the motions taken in the Committee on Friday. I hope you will support the motion. Thank you.

On motion by Senator GOLDTHWAIT of Hancock, Senate Amendment "D" (S-632) to Committee Amendment "A" (H-1126) **ADOPTED**.

Off Record Remarks

On motion by Senator MARTIN of Aroostook, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1126) as Amended by Senate Amendments "B" (S-630); "D" (S-623) and "F" (S-634) thereto, in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: S.C. 943

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BUSINESS AND ECONOMIC DEVELOPMENT**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Business and Economic Development has had under consideration the nomination of George A. Finch of Eastport, for appointment to the Washington County Development Authority, Board of Trustees.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS Senators	2	Shorey of Washington, Youngblood of Penobscot
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LEGISLATIVE RECORD - SENATE, WEDNESDAY, NOVEMBER 13, 2002

Representatives 7 Clough of Scarborough, Dorr of Camden, Hatch of Skowhegan, Michaud of Fort Kent, Murphy of Kennebunk, Richardson of Brunswick, Thomas of Orono

that the Committee's recommendation be **ACCEPTED** and the nomination of **George A. Finch** of Eastport, for appointment to the Washington County Development Authority, Board of Trustees was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

NAYS 0

ABSENT 4 Sen. Bromley of Cumberland, Rep. Bryant of Dixfield, Rep. Duprey of Hampden, Rep. Morrison of Baileyville

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

COMMUNICATIONS

The Following Communication: S.C. 942

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of David R. McCarthy of Cape Neddick, for reappointment to the Maine School of Science and Mathematics, Board of Trustees.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Nutting of Androscoggin, Rotundo of Androscoggin
	Representatives	10	Andrews of York, Cummings of Portland, Desmond of Mapleton, Estes of Kittery, Ledwin of Holden, Richard of Madison, Skoglund of St. George, Stedman of Hartland, Watson of Farmingdale, Weston of Montville
NAYS		0	
ABSENT		1	Sen. Mitchell of Penobscot

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of George A. Finch of Eastport, for appointment to the Washington County Development Authority, Board of Trustees be confirmed.

Signed,

S/Kevin L. Shorey
Senate Chair

S/John G. Richardson
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#420)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of David R. McCarthy of Cape Neddick, for reappointment to the Maine School of Science and Mathematics, Board of Trustees be confirmed.

Signed,

S/Betty Lou Mitchell
Senate Chair

S/Shirley K. Richard
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#421)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **David R. McCarthy** of Cape Neddick, for reappointment to the Maine School of Science and Mathematics, Board of Trustees was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

Senate at Ease.

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 944

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BANKING AND INSURANCE**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Banking and Insurance has had under consideration the nomination of Kathryn G. Pears of Kennebunkport, for appointment to the Maine Consumer Choice Health Plan, Board of Directors.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS Senators	3	Douglass of Androscoggin, LaFountain of York, Small of Sagadahoc
Representatives	7	Canavan of Waterville, Dudley of Portland, Glynn of South Portland, Marrache of Waterville, O'Neil of Saco, Sullivan of Biddeford, Young of Limestone
NAYS	0	
ABSTAINED	1	Mayo of Bath
ABSENT	2	Rep. Michael of Auburn, Rep. Smith of Van Buren

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Kathryn G. Pears of Kennebunkport, for appointment to the Maine Consumer Choice Health Plan, Board of Directors be confirmed.

Signed,

S/Lloyd P. LaFountain III
Senate Chair

S/Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BANKING AND INSURANCE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#422)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Kathryn G. Pears** of Kennebunkport, for appointment to the Maine Consumer Choice Health Plan, Board of Directors was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

COMMUNICATIONS

The Following Communication: S.C. 945

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BANKING AND INSURANCE**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Banking and Insurance has had under consideration the nomination of Gerald R. Cayer of Waterville, for appointment to the Maine Consumer Choice Health Plan, Board of Directors.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS Senators	3	Douglass of Androscoggin, LaFountain of York, Small of Sagadahoc
Representatives	8	Canavan of Waterville, Dudley of Portland, Glynn of South Portland, Marrache of Waterville, Mayo of Bath, O'Neil of Saco, Sullivan of Biddeford, Young of Limestone
NAYS	0	
ABSENT	2	Rep. Michael of Auburn, Rep. Smith of Van Buren

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Gerald R. Cayer of Waterville, for appointment to the Maine Consumer Choice Health Plan, Board of Directors be confirmed.

Signed,

S/Lloyd P. LaFountain III
Senate Chair

S/Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BANKING AND INSURANCE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#423)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Gerald R. Cayer** of Waterville, for appointment to the Maine Consumer Choice Health Plan, Board of Directors was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

COMMUNICATIONS

The Following Communication: S.C. 946

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BANKING AND INSURANCE**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Banking and Insurance has had under consideration the nomination of James A. Clair of South China, for appointment to the Maine Consumer Choice Health Plan, Board of Directors.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the

Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS Senators	3	Douglass of Androscoggin, LaFountain of York, Small of Sagadahoc
Representatives	8	Canavan of Waterville, Dudley of Portland, Glynn of South Portland, Marrache of Waterville, Mayo of Bath, O'Neil of Saco, Sullivan of Biddeford, Young of Limestone
NAYS	0	
ABSENT	2	Rep. Michael of Auburn, Rep. Smith of Van Buren

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James A. Clair of South China, for appointment to the Maine Consumer Choice Health Plan, Board of Directors be confirmed.

Signed,

S/Lloyd P. LaFountain III
Senate Chair

S/Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BANKING AND INSURANCE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#424)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **James A. Clair** of South China, for appointment to the Maine Consumer Choice Health Plan, Board of Directors was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

COMMUNICATIONS

The Following Communication: S.C. 947

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BANKING AND INSURANCE**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Banking and Insurance has had under consideration the nomination of Suzanne K. Grover of Norway, for appointment to the Maine Consumer Choice Health Plan, Board of Directors.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Douglass of Androscoggin, LaFountain of York, Small of Sagadahoc
	Representatives	8	Canavan of Waterville, Dudley of Portland, Glynn of South Portland, Marrache of Waterville, Mayo of Bath, O'Neil of Saco, Sullivan of Biddeford, Young of Limestone
NAYS		0	

ABSENT 2 Rep. Michael of Auburn,
Rep. Smith of Van Buren

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Suzanne K. Grover of Norway, for appointment to the Maine Consumer Choice Health Plan, Board of Directors be confirmed.

Signed,

S/Lloyd P. LaFountain III S/Christopher P. O'Neil
Senate Chair House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BANKING AND INSURANCE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#425)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY,
CARPENTER, CATHCART, DAGGETT, DAVIS,
DOUGLASS, EDMONDS, FERGUSON, GAGNON,
GOLDTHWAIT, KILKELLY, LAFOUNTAIN,
LEMONT, LONGLEY, MARTIN, MCALEVEY,
MILLS, NUTTING, O'GARA, PENDLETON, RAND,
ROTUNDO, SAVAGE, SAWYER, SHOREY,
SMALL, TREAT, TURNER, WOODCOCK,
YOUNGBLOOD, THE PRESIDENT - RICHARD A.
BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Suzanne K. Grover** of Norway, for appointment to the Maine Consumer Choice Health Plan, Board of Directors was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

COMMUNICATIONS

The Following Communication: S.C. 948

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BANKING AND INSURANCE**

November 13, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 120th Maine Legislature, the Joint Standing Committee on Banking and Insurance has had under consideration the nomination of W. Godfrey Wood of Falmouth, for appointment to the Maine Consumer Choice Health Plan, Board of Directors.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Douglass of Androscoggin, LaFountain of York, Small of Sagadahoc
	Representatives	8	Canavan of Waterville, Dudley of Portland, Glynn of South Portland, Marrache of Waterville, Mayo of Bath, O'Neil of Saco, Sullivan of Biddeford, Young of Limestone
NAYS		0	
ABSENT		2	Rep. Michael of Auburn, Rep. Smith of Van Buren

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of W. Godfrey Wood of Falmouth, for appointment to the Maine Consumer Choice Health Plan, Board of Directors be confirmed.

Signed,

S/Lloyd P. LaFountain III
Senate Chair

S/Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BANKING AND INSURANCE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#426)

YEAS: Senators: None

NAYS: Senators: BRENNAN, BROMLEY,
CARPENTER, CATHCART, DAGGETT, DAVIS,
DOUGLASS, EDMONDS, FERGUSON, GAGNON,
GOLDTHWAIT, KILKELLY, LAFOUNTAIN,
LEMONT, LONGLEY, MARTIN, MCALEVEY,
MILLS, NUTTING, O'GARA, PENDLETON, RAND,
ROTUNDO, SAVAGE, SAWYER, SHOREY,
SMALL, TREAT, TURNER, WOODCOCK,
YOUNGBLOOD, THE PRESIDENT - RICHARD A.
BENNETT

ABSENT: Senators: MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **W. Godfrey Wood** of Falmouth, for appointment to the Maine Consumer Choice Health Plan, Board of Directors was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

Off Record Remarks

On motion by Senator **TREAT** of Kennebec, **RECESSED** until 7:30 in the evening.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003" (EMERGENCY)

H.P. 1746 L.D. 2220

Tabled - November 13, 2002, by Senator **MARTIN** of Aroostook

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-1126) AS AMENDED BY SENATE AMENDMENTS "B" (S-630); "D" (S-623) AND "F" (S-634)** thereto, in **NON-CONCURRENCE**.

(In House, November 13, 2002, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1126)**.)

(In Senate, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. Committee Amendment "A" (H-1126) **READ**. On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126) **READ** and **ADOPTED**. Under unanimous consent, on motion by Senator **MARTIN** of Aroostook, Senate Amendment "C" (S-631) to Committee Amendment "A" (H-1126) **READ** and on motion by Senator **GOLDTHWAIT** of Hancock, **INDEFINITELY POSTPONED**. On motion by Senator **GAGNON** of Kennebec, Senate Amendment "F" (S-634) to Committee Amendment "A" (H-1126) **READ** and **ADOPTED**. On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "D" (S-632) to Committee Amendment "A" (H-1126) **READ** and **ADOPTED**.)

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

Senator **MARTIN:** Thank you, Mr. President, ladies and gentlemen of the Senate. I think that it is appropriate that I make a few comments based on where we are at this point. You have before you a proposed amendment, which I will not be offering at the request of the industry. I will say that part of the concern that has been expressed by many is that they believe that the department will do what they say they are going to do. The purpose of the amendment was to put into law the rules that the department is talking about being promulgated to carry out the intent of the legislation, which you have in the budget.

The budget presently contains a requirement that there be a 6% tax on the revenues of nursing homes. There is then an allocation of funds, which is placed in the budget to demonstrate that those funds become available for the various portions that occur within the industry. There is no guarantee that this will occur and if the department were not to promulgate the rules the way that they say that they are going to do it, then it is entirely possible that the tax would then be borne by the industry and by nursing homes in this state without getting the revenue which they claim and apparently has been promised to them. I, personally, and I've expressed this privately and publicly, feel that

throughout the past number of years it has not been unusual for the department to say that they are going to promulgate a rule and then chose to do something else. In the course of that, what it means, assuming that is what then takes place, is that assumptions are made by nursing homes who then do not have the money to carry them out.

I am presently involved in a case, for example, with a nursing home in Aroostook County, not in my hometown, where the money supposedly had been agreed upon to be used for salaries for those employees working on the floor and that it could be given in the form of a bonus for salaries. This was agreed to. Then subsequently, the Bureau of Audit in the department came in and said that this was in violation of what was supposed to have occurred. Then, of course, the nursing home was penalized for money that they had given the CNAs on the floor in the nursing home. I can recall that it was either \$36,000 or \$56,000, somewhere in that range, that they are now being required to pay back to the department. That's of grave concern to me and it leaves me, frankly, a little bit uptight as to whether or not that, in fact, will take place by the department. The industry, basically, is willing to take the assumption that it will occur. Of course, my personal feeling has been all along that if that's the assumption, why should we then do the 6% tax? That's the issue before us. Frankly, I am not going to offer the amendment only because the nursing home industry is willing to take the chance that maybe the department will do what they say.

Committee Amendment "A" (H-1126) as Amended by Senate Amendments "B" (S-630); "D" (S-623) and "F" (S-634) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1126) AS AMENDED BY SENATE AMENDMENTS "B" (S-630); "D" (S-623) AND "F" (S-634) thereto, in **NON-CONCURRENCE**.

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

On motion by Senator **MARTIN** of Aroostook, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

The following proceedings were conducted after 12:01 a.m., Thursday, November 14, 2002.

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

ENACTORS

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

Act

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003

H.P. 1746 L.D. 2220
(S "B" S-630; S "D" S-632;
S "F" S-634 to C "A" H-1126)

On motion by Senator **SMALL** of Sagadahoc, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#427)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LONGLEY, MARTIN, MCALEVEY, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT

NAYS: Senators: CARPENTER, DAVIS, FERGUSON, MILLS, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: LAFOUNTAIN, LEMONT, MICHAUD, MITCHELL

EXCUSED: Senator: KNEELAND

18 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 4 Senators being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by the President.

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

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

ORDERS

Senate Order

On motion by Senator **SMALL** of Sagadahoc, the following Senate Order:

S.O. 39

ORDERED, that a message be sent to Governor Angus S. King, Jr. informing him that the Senate has transacted all business before it and is ready to Adjourn Without Day.

READ and PASSED.

The Chair appointed the Senator from Sagadahoc, Senator **SMALL** to deliver the message to the Governor. The Sergeant-At-Arms escorted the Senator from Sagadahoc, Senator **SMALL** to the Governor's Office.

Subsequently, the Senator from Sagadahoc, Senator **SMALL** reported that she had delivered the message with which she was charged.

On motion by Senator **DAGGETT** of Kennebec, the following Senate Order:

S.O. 40

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all business before it and is ready to Adjourn Without Day.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **DAGGETT** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator from Kennebec, Senator **DAGGETT** to the House of Representatives.

Subsequently, the Senator from Kennebec, Senator **DAGGETT** reported that she had delivered the message with which she was charged.

Senate at Ease.

Senate called to order by the President.

At this point a message was received from the House of Representatives, borne by Representative COLWELL of Gardiner informing the Senate that the House had transacted all business before it and was ready to Adjourn, Without Day.

LEGISLATIVE RECORD - SENATE, THURSDAY, NOVEMBER 14, 2002

On motion by Senator **SAVAGE** of Knox, the Honorable **RICHARD A. BENNETT**, President of the Senate, declared the First Special Session of the 120th Legislature, **ADJOURNED SINE DIE** at 12:35 in the morning in memory of and lasting tribute to the Honorable Harold D. Marden of Albion.