

STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
April 13, 2012

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Senate called to order by President Kevin L. Raye of Washington County.

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

PAPERS FROM THE HOUSE

Pursuant to Statute
Department of Health and Human Services

Prayer by Pastor Michael Donato of Evangel Baptist Church in Bucksport.

PASTOR DONATO: Let's look to God in prayer. Almighty God, loving Heavenly Father, we come to You now to enter into Your presence and to know Your holiness, Your greatness, Your power, and Your might. You alone are God and we praise Your wonderful name for that precious truth. Lord, we thank You for the country we live in and all the wonderful freedoms that we enjoy. We thank You, Lord, for the beautiful state of Maine and that You and Your providence and planning have allowed us to live here. We pray for this gathering of Senators here today. We thank You, Lord, for their willingness to serve our state, their country, and the people of Maine in this way. We thank You, Lord, for the many hours they labor for us. Lord, I think of the day, yesterday, the long day and the late night and pray, Lord, for a spirit of refreshing, enabling, and refreshing upon each one here this day. We ask, Lord, for Your wisdom and grace to be bestowed upon these Senators. They have many matters and issues to debate and consider. Some of them, Lord, are difficult to come to an agreement on. Lord, we ask for Your wisdom, Your strength, and Your guidance that is so readily available to sustain us through this day. Thank You, Lord. Your promises are true, as are Your days, and so shall Your strength be. We commit all these matters to You, resting in the glorious fact and truth that You are in complete control. We thank and praise You now in Jesus' wonderful name. Amen.

Representative STRANG BURGESS submitted the Report of the **Department of Health and Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 32: Allowances for Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1418 L.D. 1914

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

Pursuant to Statute
Department of Health and Human Services

Pledge of Allegiance led by Senator Nichi S. Farnham of Penobscot County.

Representative STRANG BURGESS submitted the Report of the **Department of Health and Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1419 L.D. 1915

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Reading of the Journal of Thursday, April 12, 2012.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Implement Recommendations of the Committee To Review Issues Dealing with Regulatory Takings"
H.P. 1334 L.D. 1810

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-921)**.

Signed:

Senators:
DILL of Cumberland
WOODBURY of Cumberland

Representatives:
BEAULIEU of Auburn
MALONEY of Augusta
MONAGHAN-DERRIG of Cape Elizabeth
MOULTON of York
PRIEST of Brunswick
ROCHELO of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-922)**.

Signed:

Senator:
HASTINGS of Oxford

Representatives:
NASS of Acton
FOSSEL of Alna
SARTY of Denmark
WATERHOUSE of Bridgton

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922)**.

Reports **READ**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Review and Restructure the Workers' Compensation System"
H.P. 1417 L.D. 1913

Reported that the same **Ought to Pass**, pursuant to Joint Order 2012, H.P. 1345.

Signed:

Senators:
RECTOR of Knox
MARTIN of Kennebec

Representatives:
PRESCOTT of Topsham
DOW of Waldoboro
NEWENDYKE of Litchfield
VOLK of Scarborough
WALLACE of Dexter

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**, pursuant to Joint Order 2012, H.P. 1345.

Signed:

Senator:
JACKSON of Aroostook

Representatives:
TUTTLE of Sanford
DRISCOLL of Westbrook
GILBERT of Jay
HUNT of Buxton
HERBIG of Belfast

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-941)**.

Reports **READ**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Establish a Competitive Bid Process for Future Casinos and Slot Machine Facilities"
H.P. 1400 L.D. 1897

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-919)**.

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston
CHIPMAN of Portland
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco

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

Signed:

Representative:

WILLETTE of Presque Isle

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-919) AS AMENDED BY HOUSE AMENDMENT "B" (H-942)** thereto.

Reports **READ**.

On motion by Senator **FARNHAM** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-919) **READ**.

House Amendment "B" (H-942) to Committee Amendment "A" (H-919) **READ** and **ADOPTED**, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Mr. President. This bill would finally create that pause in the action that the Veterans and Legal Affairs Committee has been looking for. It's during the pause in the action that finally the comprehensive look at gaming can take

place. To create the pause in the action, this bill would prohibit the Gambling Control Board from accepting applications for issuing licenses to operate a slot machine facility or casino beginning September 1, 2012. It would put into statute establishing an application privilege fee of \$2,500 for any future slot facility or casino or license. It would establish a minimum license, or cash bid, if a competitive bidding process is established. Getting something into statute is something that this committee has wanted to do for some time. It will also establish the membership of a committee, stakeholder group, or a Blue Ribbon Commission. We also established the commission duties so that that is something that is in statute. The duties would include examining the impact of existing casinos on our local economy; establishing the impact of casinos in neighboring states and provinces on facility licensed in Maine; looking at the potential market for establishing new gambling opportunities and taking existing licenses into account; developing a recommendation regarding our competitive bidding process for the privilege to submit an application to the Gambling Control Board for operating a slot machine facility or casino; and no later than February 15, 2014, the commission would submit a report to be received by the Joint Standing Committee on Veterans and Legal Affairs. This bill has a committee team approach. Our long time members Senator Patrick, Senator Plowman, Representative Valentino, along with Representative Carey and many others on the committee, all came together in different ways and with their varied experience to put together the important pieces of this legislation. It includes the pause needed to finally allow this commission, this Blue Ribbon Commission, of stakeholders and legislators to finally look comprehensively at gaming in the state of Maine.

On motion by Senator **FARNHAM** of Penobscot, Senate Amendment "A" (S-562) to Committee Amendment "A" (H-919) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Mr. President. The pause in the action that I referred to in describing the bill before you, this bill would provide an amendment and it would allow that the prohibition does not apply to an application for a federally recognized Indian tribe that is expressed authorized by law to operate slot machines in Washington County. What we have to determine is, the moratorium or the prohibition to accepting or applying for licenses, should that door be closed, and before that door closes should an Indian tribe licensed to conduct high stakes beano at a gaming facility in Washington County be allowed on the inside of the door or on the outside of the door. The amendment would offer that that group be allowed on inside of the door. They would then be able to offer a bill in the next session. However, if the moratorium or prohibition takes place, that would not be possible. That would be the reason for offering this amendment. I offer this for consideration of this Body, to determine, I guess, the time in which the door closes.

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

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'm not prepared to vote to expand gambling. I believe that the people of Maine have voted. They don't want gambling expanded. I believe this amendment allows gambling to expand.

Senator **THOMAS** of Somerset moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-562) to Committee Amendment "A" (H-919).

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **PATRICK**: Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I think I would ask you to vote in opposition to this. What this actually does, I think, is direct relationship to what this Body did yesterday. I think many people voted the way they did on the Joint Order was the result of how the Joint Order got before this Body. I think many people in this Body that voted the way they did probably would support the issue of allowing the tribes to have a stand-alone bill on the merits of whatever they bring forth next year. I, with the good Senate President in the past, have actually got two bills for the Washington County tribe to the Governor's desk and he vetoed them. He was consistent with the way he believed, but we did try to do it. We did try on the merits of what the good Senator, the Senate President, said the other day. I think all we're looking for is to give them that exemption that I think everyone has spoken about. They should have that opportunity. There is no guarantee that it's going to pass. I think if they have a stand-alone bill at the beginning of next year, with a full public hearing, several public hearings, several work sessions, and vetted out, I think they have a great chance of getting something passed. It will be known to all throughout the state that they will have this opportunity. I think that they'll have their day in court. I really believe that they should have their day in court. Whether you are against gaming or not against gaming that's one thing, but are you willing to give the tribes that chance? I've spoken on their behalf in the past. I've always had it in my heart that if anyone in the whole state of Maine deserves any gaming, or at least a shot at having their say at having gaming, it's the tribes. I'd ask you to vote in opposition to this Indefinite Postponement. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you Mr. President. Men and women of the Senate, I did not intend to rise and I will be brief. I oppose the pending motion for the very reasons that were just stated by my Senate colleague. I am very disappointed, however, because when this was discussed, and until the very end, I thought we had included the tribes and that Washington County was offered. That's wrong. I'm going to oppose the pending motion and then hope we can move from there to make sure that that is removed or we do something for the tribes, federally recognized tribes. Thank you very much, Mr. President.

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

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to make one more point real quickly. I don't want to beat this up. Not only am I personally opposed to expanding gambling, the people in my district, the last chance they had to vote, were opposed to it too, 3 to 2.

The President requested the Sergeant-At-Arms escort the Senator from York, Senator **COURTNEY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE**: Thank you Mr. President. I rise very briefly to urge my colleagues to defeat the pending motion. I don't think that we need to repeat the entire debate from last night, but I do believe that this amendment offered by the Senator from Penobscot is an extremely important step forward for the Passamaquoddy people and for the people of Washington County. As we have discussed, it is they who introduced this concept to the public debate 20 years ago. We are about through the passage of the underlying bill to establish a moratorium; in essence, as mentioned by the Senator from Penobscot, closing a door and directing additional hurdles for those who will come forward in the future, a higher threshold for those who want to bring gaming. It seems to me that it is only fair that the Passamaquoddy's, in their 20 year quest to bring jobs and independence to a part of Maine that is sorely in need of both, should be inside that door before it closes and that the new hurdles that will be erected should not be placed in front in them. They have already witnessed the expansion of gaming across the state in other localities and to other entities. I would urge that the Senate stand with the Senator from Penobscot, Senator Farnham, in support of this amendment which will at least send the message to the Passamaquoddy that their efforts, which we know will be coming to the next legislature, will not be short circuited by this legislation. I urge defeat of the pending motion. Thank you.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Washington, Senator **RAYE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from York, Senator **COURTNEY** to his seat on the floor.

Senate called to order by the President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, in 12 years I have never stood up and spoke on this subject. My district has never supported gambling. Last year was the first time I ever voted not to send it back to the people. It only talked about Washington County and Biddeford. I voted last year as I did because we had had plenty of public comment from both of those communities and I supported that. Last night I did not support the Joint Order because I thought it took that process out. As I heard in the debate last night, it was really a Joint Order that was narrowly defined to be able to come back in bill form. What we were doing was creating legislation by a Joint Order. If nothing else, I believe the members of this Body know that I like process. This is process. I'm not going to support this pending motion. I hope we defeat that and then go on to support the tribes and be able to get this bill finally moving where it belongs. I hope people will oppose this motion so that we can get to the next one and move this down the road where it belongs, with a public process and a public hearing and doing it in the full light of day as we are doing today instead of last night in the middle of the night. Thank you very much, Mr. President. I will speak later.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Thomas to Indefinitely Postpone Senate Amendment "A" (S-562) to Committee Amendment "A" (H-919). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#480)

YEAS: Senators: MASON, PLOWMAN, ROSEN, THIBODEAU, THOMAS

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RECTOR, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

5 Senators having voted in the affirmative and 30 Senators having voted in the negative, the motion by Senator **THOMAS** of Somerset to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-562) to Committee Amendment "A" (H-919), **FAILED**.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **HASTINGS** of Oxford, supported by a Division of 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 (#481)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: MASON, THIBODEAU, THOMAS

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **FARNHAM** of Penobscot to **ADOPT** Senate Amendment "A" (S-562) to Committee Amendment "A" (H-919), **PREVAILED**.

Committee Amendment "A" (H-919) as Amended by House Amendment "B" (H-942) and Senate Amendment "A" (S-562) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-919) AS AMENDED BY HOUSE AMENDMENT "B" (H-942) AND SENATE AMENDMENT "A" (S-562)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Lower the Price of Electricity for Maine Consumers"
S.P. 648 L.D. 1863
(S "B" S-555 to C "B" S-495)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-494)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-495)** (5 members)

In Senate, April 12, 2012, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495) AS AMENDED BY SENATE AMENDMENT "B" (S-555)** thereto.

Comes from the House, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494)**, in **NON-CONCURRENCE**.

Senator **THIBODEAU** of Waldo moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

Senator **THIBODEAU** of Waldo requested and received leave of the Senate to withdraw his motion to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

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

COMMUNICATIONS

The Following Communication: H.C. 361

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

April 13, 2012

The Honorable Joseph G. Carleton, Jr.
Secretary of the Senate
125th Maine Legislature
Augusta, Maine 04333

Dear Secretary Carleton:

The House voted today to adhere to its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on Energy, Utilities and Technology on Bill "An Act To Protect Maine's Biomass and Forest Products Industries by Allowing Biomass Generators To Enter into Short-term Contracts" (H.P. 1258) (L.D. 1706)

Sincerely,

S/Heather J.R. Priest
Clerk of the House

READ and **ORDERED PLACED ON FILE**.

ORDERS OF THE DAY

On motion by Senator **COLLINS** of York, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act To Restore Maine's Secondary Roads
S.P. 421 L.D. 1367
(C "A" S-452)

Tabled - March 28, 2012, by Senator **COLLINS** of York

Pending - **ENACTMENT**, in concurrence

(In Senate, March 20, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-452)**.)

(In House, March 27, 2012, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-452)**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-452).

On further motion by same Senator, Senate Amendment "A" (S-561) to Committee Amendment "A" (S-452) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. What this amendment does, clearly, is to put into play a hypothetical situation that may occur in the very near future. I'm not sure the approximate timetable on this. Following down major interstate highways here in the state of Maine there is what has been termed for some time now a utility corridor. A utility corridor could be defined as moving electricity or moving natural gas down the

interstate highway right of way. Utility companies will pay for the right to move their utility down from north or south down the interstate highway corridor. For lack of another term, I'll say they will pay a lease fee. A fee will be charged to access that right of way. This amendment will require the secondary road program, or fund, receive 90% of that utility fee coming down, as I said, from north or south, hypothetically. What it does is puts into play a funding source for Maine's secondary roads. In a lot of cases Maine's secondary roads, not the majors but the secondary roads, for the most part don't get as much attention only from the stand point that they aren't as frequently used. The vehicle count is not as high as on the major highways here in the state of Maine. What the Transportation Committee has attempted to do is establish a revenue source for the secondary road program. This is what this utility right of way will do. The money is derived from leasing out that space to the utilities from, again, north or south to help fund the secondary road fund. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I haven't seen this amendment. I don't think many people had until it got here this morning. I'm very concerned about this whole process, as I expressed in the committee. The concern I have is that the funds generated by this corridor, relying on the various and sundry energy pieces, it is very premature of us to now start dividing that up before even a contract is signed. I think in this case, where it's going to be 10% Efficiency Maine and 90% Highway Fund, there is nothing wrong with having money go to the Highway Fund for sure, but I think there's been larger and more extensive discussions on how this money may want to be divided up. To make these kinds of decisions this early on, I think, is premature on our part. I think everybody needs to be aware of what we're doing. What we're saying is we're now allotting 90% to the Highway Fund and 10% to Efficiency Maine. I think some of you probably might argue that should be reversed. I do understand the sponsor's effort to find ways to fund the highway. It's just that this particular effort may be, again, a bit premature and we probably should look at this a little closer. Thank you, Mr. President.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise to join with the comments of the good Senator from Cumberland. It's not that I'm necessarily opposed to this in terms of the end result, but I really premature because I had the privilege and honor to serve on the Transmission Corridor Commission two Summers ago, or three Summers ago now. This was an extensive component of that debate, how the money should be divided up and, frankly, what obligations revenue may need to be assigned to, meaning the bond holders when you are dealing with the Turnpike Authority. That being said, obviously some of these issues could have been discussed prior. I'm not necessarily privy to it right at this moment, but my concern is that there are many issues that we need to discuss, including what is the best potential revenue source. Are there other investments that we could have a greater economical return on, which were discussed during the Transmission Commission? For example,

should some of this money, potentially, go towards ports, rail, or what have you instead of just directly assigning it to the secondary road fund? Frankly, during the negotiation process of development of the transmission corridor, we might find that we need a little more flexibility in where this revenue could go. I would encourage you to defeat this motion at this time because I just think it's premature to do it. Thank you very much, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I might have the answer right here. I'm not sure. I want to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **JACKSON:** Thank you Mr. President. My curiosity is, I'm not against this proposal, that I'd like to know if any of the proposed line coming down through from the north actually allows the north to connect it? We're not on the grid as of yet.

THE PRESIDENT: The Senator from Aroostook, Senator Jackson poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wish I could answer the good Senator from Aroostook's question. I can't. To my knowledge there is none. While I'm standing I'd like to give my version of this, I guess. Remember when we were kids and if you lost a tooth you would save the tooth and you'd put it under your pillow. You'd get up in the morning and there would be a dime or a quarter or a dollar. The Toothfairy left it. There is Toothfairy, apparently, from my memory as a kid. There is no Roadfairy. There is no place where we're going to get money to fix our roads unless we find it. People in my district are traveling 75 miles often times one way, paying \$4 a gallon for gas. How do we ask them to pay any more in gas tax? If we don't find some money somewhere, then these roads never fixed. They get worse and worse. If we're going to have a decent economy, we need to plan on fixing some of our roads because you need to transport the raw materials in and you need to transport the finished products out. People need to get to work and they need to get back. We're asking our constituents to tear their cars up, especially this time of year. We've got a potential for some money to come from renting highway right of ways. Those right of ways were purchased with Highway Fund money. Why should they be diverted to another purpose? Those are Highway Fund purchased right of ways and we're leasing them and we're getting revenue for them. Why shouldn't that go back to the Highway Fund? Why should that go somewhere else? I'm not saying these other places aren't good causes. They are. If we don't make a commitment to fixing our roads at some point in time how are they going to get fixed? There is no Roadfairy. We've got to find the money. We don't want to change the split on public safety. We talked about that yesterday. We pay for all kinds of things out of the Highway Fund that you can't justify. We've had OPEGA reports. We've been told time and time again that we need to do something about these roads. When you go home your constituents want the roads fixed. How

are we going to do that if we keep diverting money to every good cause that comes along? At some point in time we've got to stand up and say, "We've going to fix our roads and we're going to find the money and we're going to do it." This is one way to do that. I suppose we can siphon this money off like we have so much other money, but I really hope that you will support this amendment. If there is, at some point in time, some money, I hope we put it into the highways and we fix our roads so that you can get back and forth to work, and you can get back and forth to Grandma's house without tearing your car all up. Thank you.

On motion by Senator **DIAMOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Collins to Adopt Senate Amendment "A" (S-561) to Committee Amendment "A" (S-542). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#482)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SHERMAN, SULLIVAN, WOODBURY

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **COLLINS** of York to **ADOPT** Senate Amendment "A" (S-561) to Committee Amendment "A" (S-542), **PREVAILED**.

Committee Amendment "A" (S-452) as Amended by Senate Amendment "A" (S-561) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-452) AS AMENDED BY SENATE AMENDMENT "A" (S-561) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

RECESSED until 3:00 in the afternoon.

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:

SENATE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Lower the Price of Electricity for Maine Consumers"
S.P. 648 L.D. 1863
(S "B" S-555 to C "B" S-495)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-494)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-495)** (5 members)

Tabled - April 13, 2012, by Senator **COURTNEY** of York

Pending - FURTHER CONSIDERATION

(In Senate, April 12, 2012, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495) AS AMENDED BY SENATE AMENDMENT "B" (S-555)** thereto.)

(In House, April 13, 2012, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494)**, in **NON-CONCURRENCE**.)

(In Senate, April 13, 2012, Senator **THIBODEAU** of Waldo moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**. Senator **THIBODEAU** of Waldo requested and received leave of the Senate to withdraw his motion to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.)

Senator **THIBODEAU** of Waldo moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

Senator **ALFOND** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **COURTNEY** of York, supported by a Division of 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 (#483)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **THIBODEAU** of Waldo, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

The Chair appointed as conferees on the part of the Senate the following:

- Senator **THIBODEAU** of Waldo
- Senator **WHITTEMORE** of Somerset
- Senator **JACKSON** of Aroostook

Senate at Ease.

Senate called to order by the President.

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:

Emergency Measure

An Act To Make Additional Supplemental Appropriations and Allocations and To Change Certain Provisions of the Law for the Fiscal Years Ending June 30, 2012 and June 30, 2013
H.P. 1405 L.D. 1903
(H "F" H-949 to C "A" H-938)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Emergency Resolve

Resolve, To Support the Development of a Model Charter for the St. John Valley Regional Planning Commission
H.P. 578 L.D. 771
(CC "A" H-948)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Senate at Ease.

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Encourage Responsible Teen Driving"
(EMERGENCY)

S.P. 684 L.D. 1912
(S "A" S-557 to C "A" S-551)

In Senate, April 12, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-551) AS AMENDED BY SENATE AMENDMENT "A" (S-557)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-551) AS AMENDED BY HOUSE AMENDMENT "A" (H-953)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **COLLINS** of York, the Senate **RECEDED** and **CONCURRED**.

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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Joint Order Directing the Joint Standing Committee on Veterans and Legal Affairs To Report Out a Bill Permitting the Passamaquoddy Tribe To Operate a Slot Machine Facility
H.P. 1416

In House, April 12, 2012, **READ** and **PASSED**.

In Senate, April 12, 2012, **READ** and **FAILED PASSAGE**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

On motion by Senator **FARNHAM** of Penobscot, the Senate **INSISTED**.

Senate at Ease.

Senate called to order by the President.

Senator **SNOWE-MELLO** of Androscoggin requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Review and Restructure the Workers' Compensation System"
H.P. 1417 L.D. 1913

Majority - **Ought to Pass**, pursuant to Joint Order 2012, H.P. 1345 (7 members)

Minority - **Ought Not to Pass**, pursuant to Joint Order 2012, H.P. 1345 (6 members)

Tabled - April 13, 2012, by Senator **COURTNEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 12, 2012, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-941).**)

(In Senate, April 13, 2012, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, this bill before us is here following the introduction of a bill that was carried over from last year and was disposed of in the Labor, Commerce, Research and Economic Development Committee. Over the Summer, Fall, and Winter, this had lead to a dialogue among a number of stakeholders for whom I think we all owe a debt. While we may not have achieved what any one group desired, we did find common ground in many aspects and crafted many provisions that improve our Workers' Comp system with a goal to make it more fair.

THE PRESIDENT: The Senator will defer. The Chair would inquire if the Senator is moving a report?

Senator **RECTOR:** Thank you Mr. President. Indeed, he is. I'm sorry, Mr. President. I thought the Report had been moved. I apologize. I stand corrected.

Senator **RECTOR** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I rise in strong opposition to L.D. 1913, An Act to Review and Restructure the Workers' Compensation System. According to the authors of this bill, the compromise reached to completely restructure our Workers' Compensation law in 1993 has been a disaster. After sitting in on the public hearing of this bill, I couldn't agree more. L.D. 1913 address none of the real problems now present in the Workers' Compensation law. Rather it robs injured workers of notice of their deadline to file a claim and it creates a windfall for insurance companies who will now face reduced exposure after already collecting premiums from Maine businesses. Most importantly, the bill eliminates benefits for the most severely injured workers in the state of Maine. Under the current law, the 25% most disabled workers are entitled to receive benefits for the duration of the disability while the other 75% are only entitled to benefits for a maximum of 520 weeks. That's current law. As a result of the system that is currently in place, the Workers' Compensation Board issued, as part of the February 2012 tri-agency report, a statement that overall dispute resolution is performing at high levels of efficiency. Compliance with the Workers' Compensation Act is high. Frequency of claims is down

and compensation rates have dropped 56% since 1993. MEMIC has already declared a \$12 million dividend to Maine businesses, all of which contribute to a Workers' Compensation system that is moving towards stabilization. Yet, at the public hearing we heard the horror stories of injured workers and the price they have paid for the cost savings. These are the injured workers that have fallen through the cracks, as the Governor LePage appointee, the Executive Director of Workers' Compensation Board termed it. Instead of recognizing the cost savings that have occurred since 1993 and passing a law to repair the cracks injured workers are admittedly falling through, a select few in the insurance company community have decided to dynamite those cracks into canyons. Now the most severely injured workers in Maine will have benefits arbitrarily stopped after 520 weeks unless they can meet a ridiculous multipart test that no one would qualify for. You would have a better chance of winning the Megamillions jackpot than qualifying. In order to qualify you have to have greater than 25% whole body impairment. Right now 75% of permanent injuries result in permanent impairment less than 12%. As an example, in order to have 25% impairment or greater for a back injury, using the preferred DRE method of the AMA guide 4th edition which is used to rate impairment, you need to have essentially a partial paralysis. For the handful of people in the entire state that would manage to meet the first requirement there is more. Next you would have to actually be working and be doing so within two years of your 520 weeks expiring. For those workers that are unable to find employment because of the severity of their injury, too bad. If you are able to somehow find a job with these severe limitations, you must then only earn less than 50% of what you were making 10 years earlier, when you got hurt, without any adjustment for the inflation that has occurred during these 10 years. Does that sound fair to me? For example, if an injured worker was earning \$800 per week when injured, they would have to be earning less than \$400 per week 520 weeks after their injury, without accounting for inflation. This is, of course, unreasonable because if wages only increased 3% per year you would only be able to earn the equivalent of \$295 a week, or 37% of your current wages, in order to qualify. Additionally, the eligibility must occur at 520 weeks. In other words, if the injury worsens, as often is the case, too bad because you did not meet the criteria at the time. There are other loopholes as well. The bottom line is that people will not be eligible after 520 weeks, yet the few from the insurance industry are claiming this is designed to be a revenue neutral piece of legislation and not meant as a cost saving measure. How can this possibly be? If I have 25 apples and I take 25 away, I have zero apples left. This is what the legislation does. It eliminates 25% of claims, and not just any claims but the most severe claims. Yet it's proponents have alleged this is revenue neutral and is not intended to be a cost saver.

The windfall for insurance does not stop there. The bill also retroactively changes the permanent impairment threshold for dates of injury occurring from January 1, 2006 through January 1, 2012 to acquire permanent impairment in excess of 12% whole body, even though the insurance premiums have already been collected based on the assumption that the 25% most disabled workers would retain benefits for the duration of the disability. A pilot study that was done by the Workers' Compensation Board before Governor LePage took office and nominated the current Executive Director stated the permanent impairment threshold for the 25% most disabled workers is probably 8% to 10%. As a result, even though insurance companies collected premiums

based on having to pay out claims for the duration of disability when permanent impairment is 8% to 10%, they now don't have to pay those claims. What do you think will happen to the higher premiums that those companies have been charging Maine businesses for the last 6 years? Do you think those will be returned to the injured workers or the employers? No, the insurance industry is profitable under a simple maxim. Take in premiums and do not pay out claims. Section 8 of this bill is nothing but a windfall for insurance companies on the backs of Maine businesses.

As if this were not enough, the bill also changes the current time limits for filing a claim for Workers' Compensation benefits. As written now, if a worker suffers an injury that results in lost time, meaning these are not Band-Aid injuries, a Maine employer is obligated to file a form with the Workers' Compensation Board called a "first report of injury" informing the board of the injury. This filing triggers a letter from the board to the worker telling the worker there are two years in which to file a claim for benefits. As written now, if the worker does not lose time from work the employer is not required to file that form, but the two year time limit does not begin to run on the worker's claim. The Maine Supreme Court discussed this rule and noted the obvious policy advantage to keeping a worker's claim open until the worker receives notification of the time deadlines for pursuing that claim, otherwise the legitimate claims of hard working people will simply disappear without a worker even knowing of the time limits. That is precisely what will happen under Section 6 of the current bill. After two years a worker's claim is gone whether or not the employer even told the board that an injury occurred and whether or not the worker even knew the time limit was two years. If that was troubling enough, this particular portion of the bill was not included in the draft that was presented by the Labor, Commerce, Research and Economic Development Committee. This section somehow snuck in between April 3, 2012 and today. The draft presented to the committee kept in the current language that extends the two year claims period for injuries that cause lost time until an employer tells the board about it. On this change alone, the current bill should not be passed. This is only a small part of the problem in L.D. 1913.

In summation, this bill takes a system that is already cracked and makes it completely broken. There is no doubt that injured workers, their families, and Mainers will suffer as a result of that, so that costs for insurance companies that are already down 56% can be cut more. This bill should not pass. I hope that you would support the Ought Not to Pass.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator RECTOR: Thank you Mr. President. Men and women of the Senate, as I was saying earlier, in error and I apologize, while we did not achieve what any one group desired, we did find common ground on many aspects and crafted a variety of provisions that improves our comp system with the goal to make it more fair, more transparent, and, rather than seeking reductions in cost, really looking for ways to put more money in the pockets of injured workers. The last comp reform that happened here in Maine happened back in 1992 and 1993. Since that time all three Governors subsequent to that have identified problems with the Workers' Comp system, particularly Section 213. We're finally trying to address those problems in a way that allows for clarity for employers and injured workers, provides a safety net for the

most seriously injured, and encourages injured workers to get retrained and ready to live the most fulfilling life possible with their injury. It does all this while reducing the litigation costs and providing more money available for injured workers and less to litigating attorneys. You will hear that costs are down. Indeed, they are. That's down from the highest in the nation, but remaining in the top, fifth in national costs. Due to investments in safety in worker training, reflecting the hard work of employers and employees in partnership, working together to provide a safer working environment, and the implementation of the medical fee schedule that was enacted in the last session by all of us in a bi-partisan fashion, we have seen cost reductions. To be clear, before I lay out the terms of this bill, let me say that medical benefits are always paid forever for a work related injury, now and in this bill. Let me also say, to be clear, that this bill is prospective. It does not take effect until 2013 and all those who are currently in the comp system, or who suffer injuries between now and January 1, 2013, are under the existing law. To clarify a point made by the good Senator from Oxford, Senator Patrick, we do clarify in this bill that for those who were injured in the period between 2006 and 2012, in that period, we did not meet the statutory requirement to set the threshold for partial permanent impairment and we are setting it at 12% in this bill, which is higher than the existing limit by which we have been operating.

What else does this bill do? It encourages retraining, which I think is extraordinary and I think members of the committee agreed, and the adaptation to injuries in a way that allows for all workers to achieve the most fulfilling life possible with their injuries. In junction with the Department of Labor and working with memorandums of understanding with the Comp Board, we're allowing for vocational rehabilitation training with no jeopardizing of benefits and limits. The review while an injured worker is participating in rehabilitative training, that's a new change. A very important change, I think, because while you are being retrained there is no opportunity for your claim to be challenged. We believe that encourages folks to be able to get out there and learn how best to adapt to whatever their disability might be. It promotes a safer workplace by requiring more prompt reporting of injuries to allow for unsafe conditions to be corrected and to allow all workers in a workplace to be better protected. It provides for an increase in benefits by increasing the maximum benefit amount by more than 10% over \$700 per week; very important for high wage earning employees. It simplifies the means of calculating the benefit amount to make it clear and easy to understand. Of great importance to those I have spoken with who were around back when this was in place in the past, it provides an appeals panel for either employees or employers to have an automatic right of appeal. Currently, if an outcome is unsatisfactory your only right of appeal is to the law court. Currently, the law court takes somewhere between 4% and 5% of the cases that are brought there on appeal. This broadens that opportunity for all workers. In addition, it provides for the most seriously injured, under Section 213, by providing a safety net for the more severely injured workers should they meet a threshold. There will be an amendment coming, which I can't speak to at this time. It changes what the threshold is in the bill as it is being presented to you to the threshold of partial incapacity, the loss of earning capacity from previous earnings. Just for reference sake, understand that 45 states in the United States have durational limits with no safety net. No safety net. When you reach the limit of time, there is no safety net. We have a rather substantial one. We'll talk about that when the amendment is presented. In

addition, in cases of hardship, longer benefits can be awarded. In the cases of the most severely injured, under Section 212, there are applicable lifetime benefits available.

We're making calculations for benefits easier. We're increasing the benefit cap. We're rewarding and making retraining and returning to work a priority by providing protections while workers participate in those retraining activities. We're making reporting injuries a priority to allow for workplace safety. We're creating a fair appeals process for all while preserving the option to appeal to the law court. We're ensuring a safety net for the more seriously injured. We're providing lifetime benefits for the most severely injured while we're reducing litigation and putting more dollars in the pockets of injured workers, where they belong. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm pretty much just an ordinary guy. I work in the woods. I probably don't know everything that a lot of people might know about this system, but I do know that this is something that's not good for Maine workers. This is another bill that we've seen come down the pike. That is, while people want to talk about friction and all that, another thing that when you're talking in the back rooms it's about this proposed thing, that's there is fraud and people that are on Workers' Comp that shouldn't be there. We need to take them off the system. I can't sit here and not say what I feel in my heart is wrong with this bill. It started almost from the get-go in the committee. We had testimony when all kinds of injured workers came. One of the first things that we heard was that this original proposal, which we don't have before us today, was based on a report done by this Atkinson guy. This Atkinson report supposedly was brought to the Workers' Comp Board and it was told to us that the report had been buried. No one had ever seen it and it had never seen the light of day. The whole basis of the bill that we were working on was from information that came out of this Atkinson report. Not only that, the former compliance officer for Workers' Comp, Steve Minkowsky, was the one that was told to have been burying this report. Quite honestly, not knowing what kind of inner workings that there were at the Workers' Comp Board, I had no idea if this was true or not. It certainly made me sit up and take notice. Some days after the hearing we actually were made aware that this report was not buried, it was actually shown to the complete Workers' Comp Board. Both labor and management had voted to not use the recommendations in the report because it was a report that had very little information in it and actually didn't show anything of great substance that could be used. We were told that the report had been buried that said that we should be using the 618 week cap, or something to that effect. In subsequent work session, when we had asked that the former compliance officer, Minkowsky, be able to get up and testify to the fact that what was actually in the Atkinson report, or if the Workers' Comp Board had the chance to look at it, we were denied that. We were given the option that he could come up and read a statement, but we couldn't ask any questions. That's what happened. We sat in the committee and waited and sat on our hands and didn't ask any questions. It was made clear that the report wasn't buried. We've seen the minutes of the Workers' Board. The report hadn't been buried. That was, in my mind, the first problem with this bill and all the things that was running

through my head about friction costs and not worrying about the costs of the system and saving money. There was something wrong as far as I was concerned. After that we sent the people out to try to come to a compromise. There were things in the original proposal that I think we all could have come to, but it all came down to the Section 212 in the original report that we, at least myself and some others, were not happy with. We can talk about a safety net and all that, but the way the law is written, which we haven't changed, as far as I'm concerned there is no safety net. There is a short period and we looked at reports. I had the Executive Director give me, I think it was, 144 reports that supposedly were supposed to talk to the safety net. The longest person that I found in those reports was just over a year that actually went in that safety net and they came out. What happens is that when people are originally injured, and are laying in a bed somewhere with broken bones and stuff like that, they obviously have no work capacity. That's when they are in that portion of the Workers' Comp system. As soon as they get somewhat healthy and some type of work capacity, they fall out of that. It is clear to me that the hearing officers can't do anything but take them out of that section of the Workers' Comp system because they do have some work capacity. It may be very minimal, but they have some work capacity. We sent people out to try to come up with a compromise on this. We had a number of scheduled work sessions after that. Every time the work sessions came up these people were still working on the compromise. People came to the work sessions and we sent them home with very little discussion at all until, I believe, last Wednesday or last Tuesday. We had a work session and then right out of the blue, as far as I'm concerned, there was a completely brand new amendment that came before us, as far as Section 212. Completely new. Nothing that I had seen. Nothing that I knew except that the people were actually working on a compromise. When the Executive Director was before us talking about this new report, I asked him if he had ever seen an amendment that talked about long term partial incapacity. While an employee demonstrates their incapacity after the exhaustion of benefits under Section 213, 70% or less than the employee's earnings at the time of injury. The employee is working within his documented capacity, the employer shall pay two-thirds the difference between the employee's average weekly wage at the time of injury and the employee's post injury wage, but not more than the maximum benefit under 211. Compensation under this section should be paid at a fixed rate and is reviewable no more frequently than every two years. When I read that possible amendment I asked the Executive Director if he'd seen it. To his credit, and quite honestly, he said yes he did. He wrote it. It was told to us that this was the amendment that they had been working on to come to a compromise. When asked, he said that he had compromised or agreed to this with Jim Case of the AFL. We were told just before that that there was no compromise and that the status quo was the same and people didn't want to negotiate. It seemed quite clear to me that there were some people that were willing to negotiate because the Executive Director wrote this amendment that was a compromise. Despite that, right out of the blue came a brand new amendment. When I asked the Executive Director whose amendment was he presenting, it was told to the people on the committee it was the Governor's. Again, to the Executive Director's credit, he said it wasn't the Governor's. I moved again to ask him whose amendment was it. I have never gotten that answer as to whose amendment we were working with. I don't know really, at that

point, who we were negotiating with, but it certainly wasn't the people that I knew that had been sent out of the room to compromise. As far as I'm concerned, I've been on the Labor Committee for 10 years and I'm not going to say that I never took suggestions or amendments from anyone else, I've never seen anything like that, where an amendment came in right out of the blue one day and I was expected to vote on it. The other thing that I have never seen in that regard was, when you are out trying to get a compromise, when the compromise breaks down you go that much further away from what the original proposal was. That's what this proposal did. What the Executive Director brought us originally was far better than what we're voting on today, in my mind. I can't help but stand here and think that. We heard on the committee that people are just going to have to be personally responsible. We knew that some people would fall through the cracks, but that was just too bad. I don't think that it's personally responsible or I'd have to just say well it's too bad that some people are going to fall through the cracks when quite possibly they've been injured and haven't done anything other than have the misfortune to be injured. We heard testimony at the beginning, in that original public hearing, from a woman who testified on behalf of her son. I have her testimony here. I looked at it at that time and I knew what was going to be in the last pages as I was reading through it. Her son was denied after being hurt. He was denied a number of times. I asked afterwards if I could speak about this because she shared something with us that I thought was very personal. In the end of this testimony, her son ended up killing himself. Two days after his suicide he got his final denial letter from Workers' Comp. That's the type of people that we're talking about here today. We're not talking about those slackers and those people that you think are committing fraud and the cheats. We're talking about the people that are hurt, are seriously hurt, and they are the ones that are going to take it really hard with this bill. There is no one in this room that can't say that. The Executive Director is right back there and he knows that worst injured people are going to get hurt in this bill. There is no true safety net in this bill. There is none. The whole reason for this bill is to get those most costly, most injured people out of the system and you'll have to figure out some other way. It's probably not going to be General Assistance, because we know what's going to happen with that. We can sit around here and not worry because a lot of us don't have to worry about those people. We know for sure that a lot of us in here aren't going to be the ones that get hurt and end up like those people. There is going to be people that are going to be out there and they are going to be hurt. You might not take their calls when they call you, but I know that I am going to have to. I don't know how I'm going to explain to people that they did nothing wrong but go to work on day and ended up having the misfortune of getting an injury that they never could have expected. We also heard testimony there of a gentleman that, at dinnertime, his boss left the office in a fit of rage and ran over him. Because he worked for that man, he couldn't sue him. He couldn't do anything other than get Workers' Comp. If it would have been the man's wife, she could have got damages. Because he actually worked for him, but he wasn't working at the time, he can't do anything other than to get this pittance that we're going to give him today with the passage of this bill. It's one of those things where obviously we know where this is going. I can't sit here and think that we've done anything to help the system. Yeah, if you want to make sure that people don't ever have to pay Workers' Comp then we are doing a great thing. We're lowering

the cost even though that's not what the premise of this bill is. We're not supposed to be worrying about the cost, just the friction. I'm reminded of last session when we talked one time about a bill and we talked about the Hotel California with the Eagles. Today this reminds me of ADCD's Dirty Deeds Done Dirt Cheap.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I'd like to put a little bit of a different light on this. I think the piece of this bill that really sold me on this bill is the fact that it's going to foster the idea that there is dignity in a days work. I've spent my life training people, young people, to go out into the workforce. I know when I see that look on their face when they've obtained a skill that they know they are going to be able to go out and use and to earn money and make a living. Currently, in the system that we have, a system that I believe traps people, an injured worker loses benefits if they are being retrained. There is a reason why this piece of it has really sunk into me. This bill, if passed, allows for a person to retain their benefits while being retrained. I've done a lot of homework and a lot of soul searching on this bill. The 520 weeks that is in this bill really equates to 10 years. I really think that it should be displayed that way, as 10 years. What I've understood to happen is that it may take up to two years to come to grips with an injury before it levels out to a point where they know the limitations of that injury. The current system says that if they went to be retrained they would lose their benefits that they were receiving. This bill would allow them, after the person figured out where they stood after two years, to go back to school to learn a new trade for up to eight years. Think of it. Eight years to learn a new trade or skill. That will enable them to compete in a 21st Century workforce. As we know, that is changing every day. To me, this bill incentivizes training and getting back to work. The system we have now traps people. It traps those who are most injured and keeps them in a system that tells them not to work. It keeps them from accessing the training that would allow them to reenter the workforce. To me, there is no better therapy than being able to do a days work for a days pay. I came to grips with that myself in 2001 when I had bilateral hip replacements. I have titanium hips. Let me tell you, the thought of coming out and not being able to stand in my kitchen and be able to work and be able to run my restaurant was something that I had to come to grips with because that was certainly headed my way. I know what I would feel like if I couldn't work. I would not be a fun person to live with at all. When I met with injured workers in my district recently about this bill, a gentleman came up to me and said, "I just want to work." The system we have now doesn't allow that to happen. To me, the people that really need this the most are the ones that are being kept behind. I am really sure that this bill will let them become more productive citizens, lead more productive lives, and will incentivize the fact that they can go back to work. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. I had the opportunity, I guess would be the word, to serve on the stakeholders group that was convened by the Executive Director

to look at the provisions of the original proposal. There is no question that even this proposal is better than the original bill that was brought forward last year. There are some very good pieces in this bill. I think the vocational training and being able to retain your benefits is incredibly important because there are people who can't access retraining options because they would have to give up their \$7.50 an hour job to go do that and they would lose all their Comp and the ability to do that. There are a couple of other reasons, good provisions. I think the appellate review is a good option. I think it has worked successfully in the past and will work successfully again. The real friction in this bill really comes around Section 213, which is partially capacity benefits. I am, for full disclosure, an attorney and I represent injured workers. It's a big part of my practice. I work with them every single day and have for years. I find it somewhat troubling when I hear the notion that people on Workers' Comp are somehow trapped and unable to work, trapped from working, or that they don't want to work. Nobody wins on Workers' Comp. I don't have a case that I would say I've won some great victory for my client because at the end of the day, even if you get a settlement that helps them to get back on their feet or you get them the weekly benefits started that allows them to pay their rent or their mortgage, the best you can do under the current law is 80% of your after tax earnings. That's somewhere between 64% and 70% of your earnings. That's it. At the end of the day, even if you are able to resolve the case and settle it, you are left with an injury, permanent effects of an injury in many of these cases. It's important to understand the kinds of people we are talking about. They are everybody. Someone who is working in a factory, maybe making \$20 an hour. They get an injury. Yes, they have work capacity, but that work capacity may be netting them \$7.50 or \$8 an hour or maybe they can only work 25 or 30 hours a week. They are making a fraction of what they earned before. That earning incapacity, in many cases, is permanent. Permanent. When you say we are going to have a fixed 10 year cap, you are saying we are cutting off your benefits even though we know that your work has caused a permanent injury. If this were a tort you would be able to collect. You would be able to go after the person who had hurt you and get the full loss of that earning capacity. Because it's comp you can't. The 10 year cap is brutal on people. If you are someone who has a serious cervical injury, a shoulder injury, or a very serious back injury, maybe you are 15% incapacity. You did physical work your whole life. Now you are expected to find work you can do and make the same amount of money. Once in a while it happens. It's wonderful. I take back what I said earlier, I do win some cases. There are cases where we successfully get someone back working. When it works it's when they go back with their employer. We can get them back working despite their ongoing limitations. Those people make it through the system okay. If you have 15% impairment you now can't do the physical work you've done. You are in trouble. If you have a serious neck injury you are not going to be sitting at a computer in an office. You are going to have a hard time, possibly, being a cashier and doing many other jobs. There is little out there that you can do, but you find something. The vast majority of folks who get Workers' Comp do find work they can do, but it may be paying them 20% or 25% of what they were making before. That's a lifetime problem for them.

I think that is the concern of 213. The idea that people are somehow mooching off the system is ridiculous. Would you want to take a 50% to 75% pay cut, lose your house, or lose your cars? You should see some of the calls I get around the holidays. It's

heart wrenching. People can't buy presents for their kids. In some cases they want to quickly settle their case. They'll say, "Just get me what you can get me because I need to pay my rent. I'm going to lose my apartment. I'm going to lose my house. I need to get through Christmas. I just need to have a good Christmas for my family for a change." It's heart wrenching. There is nobody on Comp because they want to be. The best case scenario for those folks is to settle out their case. They get a fraction of the value. We ask at the Comp hearings, "What is it you plan to do with your settlement?" That's just asking to get a general idea to make sure that the settlement's in their best interest. The number one thing you hear, the first thing out of everybody's mouth, is, "I'm paying off the bills I've wracked up because of this injury. I'm just trying to get caught up." The lucky ones have enough money that they can prepay some of their mortgage or put it in an account to pay their rent for a while. It sort of helps them to get by while they are adjusting to a very different lifestyle. It's devastating. I can come up with example after example of a person who is getting lifetime benefits, or is potentially eligible for lifetime benefits, and I don't think that you or I would want to trade places with any one of those people. Their life is devastated and it is a huge impact on their lives and their ability to live day to day. There is no question that this bill, as drafted and presented, is draconian in the effect that it will have on those people. To say after 520 weeks, or 10 years, that we're done with you, no matter what the impact is, is draconian. It hurts not just those individuals. It hurts their families, hurts their children, and hurts their community. You have to recognize that impact.

During the advisory committee we met a number of times and there is no question that the hardest challenge for us was 213. At the last scheduled meeting we sort of looked and we knew that the bill that had been proposed, everybody agreed, didn't really solve the problem with Section 213. I think we can get agreement that there is probably a better way than the current 213. We all agreed we didn't have the answer and a lot more analysis needed to be done to really understand a good approach that would be, basically, revenue neutral in terms of not taking huge benefits away from people. It had to be something that would be easy to administer and be more predictable, more reliable. We agreed that we really weren't there yet. Then, out of the blue, comes this report and this proposal. I think that is what troubles a lot of folks as well. We worked hard on this with some experts, some of the leading experts on Comp sitting in a room. We couldn't come up with an answer. Yet, out of the blue, bang. Here's a proposal. Then it is changed again. It just makes you question whether it really is good or whether it's really going to solve the problem. We know this proposal, as presented here, will save a lot of money out of the Comp system, but at whose expense? At the expense of injured workers who did what we all want ourselves and everybody around us to do; to get the dignity of work, to get up and go to work. Because of some bad accident that happened to them on one given day, their life is forever changed. This proposal is draconian and we will be going on to discuss other options to try to make it a little less draconian. I do think it's important to understand the people that we're dealing with, people with very serious injuries. No one wants to be in those positions. We want to help keep Comp rates down, but we can't do it at the expense of people who have the courage and the dignity to go to work, trying to earn a living for their families, and who, through no fault of their own, have been injured. Now their life is forever and ever changed. Thank you, Mr. President.

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

Senator **MARTIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I will try not to rattle on like I usually do. I just want to say that you've heard a lot of good testimony and a lot of good work has been done here. I think the Administration has done what they were tasked with. A fresh set of eyes has been cast on this department. They have come up with some really good changes, not only for the employer but also the employees. We have seen some cost shifting of funds. There are some savings, but those savings went back to the employees by how we calculate their benefit and how much benefit they get. It isn't truly just a one sided affair. Only a handful of years ago we had the most costly Comp system in the nation. We were an outlier in the nation in that we were the only state that takes 25% of all injured workers, no matter what their working ability is, and we give them full benefits. That truly is one of the bigger pieces that made this process work. We have seen Comp rates come down and they are still coming down. We were still 10th, the 10th most costly program in the nation. Actually one report puts us at 9th. I think, as we move forward and as we try to draw business to the state, they look at Comp rates and they look at UI rates. That's their biggest cost for a business. Their most valuable cost in business is other employees. To think we're doing this to hurt the employee, I think, is completely false. We need to do this. This is the best thing for the state and the best thing for our businesses. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, one of the things I always look at on these issues is the statistics, the percentages of this and the percentages of that. Actually a lot of the percentages are actually names to people.

I'm just going to go over a couple of injuries that I know of; people that I personally know, that I work with, that I've seen. I have one worker, Barry J., who severely hurt his shoulder. Barry has had four major full-blown rotator cuff shoulder replacement surgeries. Barry's life is forever partially ruined. Barry still remains at work at light duty. I've got another coworker, Mike M. Mike's a maintenance mechanic. Mike's got an 8th grade education. There is no more prouder employee in our company than this man because he feels he has reached the epitome of what he can do with his education, being a world class maintenance mechanic. Mike hurt his back. Had two back surgeries and a fusion. That gives him probably about 10% by the ratings. Mike also had six shoulder surgeries, three on each shoulder. Mike crawls into work, basically, with pain killers. He makes it through the day on light duty. He's never said, and I don't know if he's ever gotten it, but I would probably say Mike's probably up with those statistics around 18% to 20%. Mike is 60 years old. When that man retires his quality of life is going to be next to nothing. Yet he is still crawling into work everyday because they do have medication and a lot of doctors today just push the pills to keep them in there because that's going to save them money. Bonnie A. almost got her arm ripped off when she got it caught in the paper machine. Basically ripped all of her shoulder muscles right out. Bonnie doesn't work any more. Her

life is totally devastated. I don't think she can work after she's recovered because of the emotional trauma of what she went through. I see her all the time and I say to myself, "Wow, I can't imagine going through that." I have a friend, Joyce, that I went to school with. I'm not sure exactly what happened to Joyce, but when you work in a paper mill there are all kinds of chemicals. Joyce developed a chemical hyper sensitivity where she can't even have any type of deodorant or any type of perfume or any type of shampoo or anything with any scent in it because she gets severely ill. Larry P. got chlorine gas years ago. Cooked his lungs. I'm not sure how much lungs are left. I never really got into the permanent impairment for lungs. I see that man all the time and he's got oxygen tank with him wherever he goes. Junior T. had the same thing happen to him. He got chlorine plus something else, which kind of made some type of other kind of gas that is even worse than chlorine gas. His lungs were cooked. He's retired. His quality of life is next to none. You want to talk about something severe; the poor guy is constantly fighting to try to get his inhalers that will give him enough breath so he can enjoy life a little bit. Ed C. is 6' 6" and weighs 230 pounds. A really big tall man. Hurt his back. Ed, like a lot of us, had specific training. Our company's been great because they bring a guy who teaches ergonomics on how to lift and how to do everything. When you are 6' 6" and you have to bend over, even if you bend your knees and lift the way you are supposed to, a lot of times you can hurt your back. I'm going to bring Ed up later on because there is something that happened to me years ago that gives me an understanding of why there is a difference of opinion on that. Jean D. was working as a maintenance mechanic. We have these 500 pound bales of pulp. Actually a couple of bales crushed him and he did something with his chest. There is a bone that he can't have operated on because there is a chance he might die. His life is changed forever because he liked hunting and fishing. He can't even carry a 12 pound rifle. John C. actually had one of those 500 pound bales fall and hit him in the head. John is actually alive and he's actually functioning, but I'm sure glad I'm not him. My classmate, Shane, I don't know how many surgeries he's actually had. I know he's had at least six shoulder surgeries and two or three foot surgeries, carpal tunnel surgeries, and others. He's getting ready to retire. He told me just the other day, "I'm going to retire because there is almost nothing I can do now." All these cases are cases of people that are still working because our company has a light duty program. I hurt my shoulder one time, rotator cup, and I was down to first aide. We have a first aide station where they will actually give you services down there. Actually they did before, but because of cut-backs they don't do that all that well. Having a shoulder surgery, there is a thing called a hydro cuff that they put on your shoulder that you put ice water on it and it actually helps your shoulder for the swelling and all that stuff. It's really neat because they have a little cubical with a little curtain drawn to give you a little bit of privacy. Not that I needed it. What happened after that, I was sitting there with the ice cube and the assistant mill manager came in. He's now retired. He said to the nurse, "What happened to Ed C.?" She said, "He hurt his back. He's pretty hurting." I really can't use the language he used, but he basically said, "That lazy so and so. Blankety blank. We ought to slap him on the doggone table with a chain saw, open him up so we can see if he has an injury or not." That's when I knew there was a thing called management that had a different perspective. Totally different perspective. I heard it with my own ears. I took my bottle, hydro cuff, and I opened up the thing and I looked him right

in the eye. He was so ashamed he left there. I will never forget what they think. That's management for you. That is the way management thinks. Employees, when they get hurt, they are no good. Disposable commodity. The members that I just named here are injured workers. I'm sure they are all around 10%, 12%, or 15%. We're going to throw them under the bus. We're going to show them that they are a disposable commodity. They don't deserve it. Who cares about their quality of life? They are just a statistic.

I was at that first meeting. I was ashamed. I actually voted for the Director. I voted for him and I told him, "I'm going to keep my eye on you. I'm going to throw my vote to you because I talked to you and I think you're a pretty good guy." I listened to the lawyer who was talking on behalf of the insurance industry, I think, or the self insured. Between the both of them, I thought they gave an Academy Award performance with their rendition of "Pinocchio." That's how ashamed I was when I learned what they were talking about, Steve Minkowsky. The shame those people brought to this committee chamber was disgusting. The whole scenario that went on there, I wish I could tell you everything but I'm not going to. Those that went through that whole thing know.

We're going to sit here, ladies and gentlemen, and say this overhaul is good. How many people in this room have ever had an occupational injury? A compensable occupational injury. I'd like to see you raise your hand. I'm one of them. In this room we have, basically, seven attorneys, six business owners, two CEOs, an economist, full time Mom, God bless her soul, a furniture manufacturer, an information technology director, three legislators, a logger, a maintenance worker, a merchant, a retail supplier, six retirees, one in sales, and one self-employed. Out of all of us here, ladies and gentlemen, we're going to be casting our votes to throw the most vulnerable people out on the street. It almost sounds like unemployment, when we went after the senior people there. This happens not to be the senior people but the most injured people. To say these are great reforms, that's a travesty. Too many times I've stood in this place, in this building, mostly in the other Body, and we always went after the most vulnerable. Many of you might not remember the Cox Decision. That, I think, threw 81 or 87 of the most severely injured people out in the street. How do you get to 26%? If you have a severe back injury and you blow out one or two discs and you have vertebrae fusion, what do you get? You are about 10% permanently impaired. Does anyone here want to have two blown discs and vertebrae fusion? At 10% you are not going to get lifetime benefits. Has anyone seen anyone with a vertebrae fusion? Two blown discs? I have all the time. They are happy to be alive. You know what happens when you have a cervical vertebrae fusion or a back fusion? You know what the surgeon is going to tell you? The surgeon is going to tell you that you have a great probability of having problems with the disc below and the disc above down the road. You know in a lot of my working career, 32 years in the paper mill, that surgeon was right. It happens all the time. If you have a full-blown rotator cuff surgery, and you can lift your arm up fully extended, do you think you're going to be able to do that the rest of your life if you continue to work in the trade? I think not. People who work in industry, Bath Iron Works or paper mills or construction, that continually do the same job over and over, when they retire from their work they are hoping they can have quality of life. Many of them hope they can get out of bed, take medication, and enjoy the day and maybe walk the dog. What do you get if you have a rotator cuff surgery? Full-blown. You can have some with the orthoscope, that's minor,

but if you have a total reconstruction you might get 3%, 4%, or 5%, maybe 6% if you are lucky, but I don't think so. A lot of these most severely injured people have had major surgeries, multiple major surgeries, and we're going to say to those people, "God love you, go out and get a job doing something else." That's what we're saying to these people. Go out and do that so you can give the extra money to the insurance companies. God bless America. I don't know any constituent I have that I've ever talked to that has any respect for insurance companies. In 1992 the good Representative said that over the last few years things have been getting better. The reforms were in 1993 or 1992, 20 years ago. That's quite a long time, folks. Most of the changes since 1992 have not benefited injured workers. Actually most of them hurt them. Boy, we're going to make some changes and, God love us, we're going to make sure they pay this time again.

Friction, we talk about friction. Where does the friction come from? The friction comes from employers or insurance companies denying claims. No fault insurance. What did we do to employees? We gave them a system where they can have somebody help them with their claim or you can choose to hire a lawyer. Advocates. There is some support for the advocate system and I think they do the best job that they possibly can. When a company denies your claim you want to make sure you're adequately covered. The employee has to take it on the chin if they hire their own lawyer. The friction comes from when they deny the claim. Just like anything the insurance companies do, denial means cha-ching. Dollars in their pockets. You've got to love those guys. I know I do. Ladies and gentlemen, I'm not going to belabor the point any more. I know what you're going to do. You've got to do what you've got to do. I've always been here for the working men and women of the state of Maine. I'm proud to say that I'm going to be voting against this motion to accept the Majority Ought to Pass Report. I want to go onto the Ought Not to Pass. I don't care if we make a change. We could probably take a look at maybe making some changes to lower the thing from the horrendous 26% and maybe lower it down a little lower; 18% would be just as bad. I think the Representative said that it was really nice January 1, 2012. They weren't rated, so we changed it from 11.9 to 12. We increased it. God love them. What happened to the 12%? Now we're going to 26%. Boy, those criminals. Those injured workers. They deserve to take it on the chin, I guess. I love those insurance companies. I guess I've said enough, Mr. President. I'd ask you to vote against this motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, can't hardly stay out of this one. I'm that furniture manufacturer that was mentioned a little while ago. I had 50 people pretty much year-round working in my factory running scythes, sanders, lathes, and all the equipment you'll find in a furniture factory. I carried Workers' Comp insurance and I'm very happy I did. It protected me, the owner of the company, from injuries that might occur in my company, on my machinery, while making my products that were shipped to 50 states and Canada. I'm here tonight to oppose this bill because at the waning hours of the first part of the 125th, late on a Friday night, at that time we were talking about restricting voter's rights. Tonight it's another assault on the working men and women of the state of Maine. The 650,000 working men and women in the

state of Maine that don't work under union contracts, that only have the protection that we give them in this Body. This Body, this Senate of the people of the state of Maine, where they come to get their answers and to address their government. This Body, who votes on these important issues. Mr. President, I'll try not to get too loud tonight as might have happened in the waning hours of the first part of this session, late on a Friday night. It's an assault on the working people of this state. I can listen to debate on both sides of the aisle. Are we going to defend the insurance companies who come to talk early and often, are we going to defend some of our major manufacturers, some of our major companies in the state of Maine, or are we going to defend and stick up for and legislate for the people that work and earn a living, put their kids through school, and go to the polls and vote here in Maine? I'm very disappointed. I knew early on and I gave a little bit of a speech about the consequences of elections and how some people are going to have to suck it up. As you've seen, I've sucked it up and so have a lot of other people in this Body. The people of the state of Maine don't have to suck it up. They deserve the protection that this Body should give them. As we found out last November, the people didn't really like what we were talking about in the waning hours of the first part of the session. They told us so. I dare say they will do it again. They will tell us so if they don't think that their government, their State Senate, is protecting their best interests by passing legislation that only benefits those that get to the trough early. Don't forget, ladies and gentlemen, the people get to the trough with us when we come and defend them and we come and try to protect them. Tonight my good friend from York County, who just walked in, does not have the gavel in his hand. Mr. President, as you can see, I hope that we're on the same page. That we are here to protect the people and this bill doesn't do it. I urge everybody in this room to defeat this motion. I urge the members of this Body to remember who sent us here. It's the people in the shops. It's the people in the factories. It's the people in the stores and the working people of this state that we should be here representing. Yes, we should protect business and we do. We give them the protection that they need. I don't think since 1993 that we've given them extra high rates. I think we settled it back then pretty well and I see no reason for us to change that. Ladies and gentlemen, thank you for your respect and thank you for listening to the people of Maine, at least the citizens of Senate District 10.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Rector to Accept the Majority Ought to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#484)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, THOMAS

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **RECTOR** of Knox to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

READ ONCE.

House Amendment "A" (H-941) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **RECTOR** of Knox, Senate Amendment "D" (S-564) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, let me just explain briefly what this amendment does. I want to thank a number of individuals who helped craft this amendment. We had folks representing business, organized labor, the Director of the Workers' Comp Board, the good Senator from Cumberland, Senator Bartlett, and the good Senator from Aroostook, Senator Jackson, was part of this early in the game. What we tried to accomplish here is to meet a goal that we had set initially. That was to try to keep this as close to revenue neutral as possible to the current funding of the Workers' Comp program. What this does is reduces the percentage of permanent impairment required to receive long-term partial incapacity benefits under Section 213 from 25% to 18%. It is a significant reduction. It also changes the necessary percentage of the employee's earnings, the reduction in earning from what they were receiving before, their pre-injury earnings, from 50% to 65% of their pre-injury weekly wage. One of the things it also does is includes consideration of the employee's psychological work capacity when assessing the employee's earning capacity and their permanent partial impairment. It changes the necessary earnings period for earnings for employment from not less than 24 months prior to the expiration of the 520 week, that 10 year durational limit, to a period of not less than 12 months within a 24 month period prior to that expiration, recognizing that in many parts of the state seasonal or part-time work might be all the work that is available. In addition, this amendment specifies that the statute of limitations that bars a petition, unless filed within two years after the date of injury or the date that the employer files the first report of injury, and makes that change. Finally, it does something that we should have been doing for the last 20 years. It requires the Workers' Comp Board to report, at least annually, to the Legislature on cost to employers associated with long-term partial incapacity benefits and permanent impairment rating numbers so that we have some good data with which to examine and understand Section 213, partial incapacity provisions of the current law. All of these, I believe, are improvements. I thank those who participated in the discussions to get us to this place. I urge your support of this amendment.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. I do appreciate this amendment coming forward. I think this is an improvement to the bill. It does not make it perfect. It does not begin to solve some of the problems with Section 213 that we talked about, but it is an improvement. I think reducing the permanent impairment rating from 25% to 18% is very significant. There are many, many people with serious injuries who will be helped from this change. I support it. I also support the other changes, some of which will make a very significant difference for some workers. I also just wanted to emphasize the need for good data collection. The challenge that we were having in the stakeholder group in assessing what needed to change to 213 was understanding what was going on with 213. We didn't have good information. We still don't have good information, which is one of the problems with even touching 213 at this time. We don't have good data to base our decisions on, so we don't really know the full impact. I do appreciate the sentiment that the goal of the proposal was revenue neutral. This certainly makes it more so, less imbalanced. At the end of the day though, this is a very significant change from current law. There will be savings from this provision because there are folks, when you look at the 12% that was put in place and drew the line from 2006 to 2012 with injuries with permanent impairment between 12% and 18% who will be eligible under current law for benefits, who will not be getting it. That is a huge savings. In fact, I think the reason that 18% was a number we could get to was that so many people, potentially, fall into that 15% range. That's where a lot of savings will be realized. I do think we need to get the data. One of the pieces of information that we really need to understand is how this change in the law is affecting the benefit structure under 213. I just want to make sure it's on the record that this is a key part of the information that we will be seeking and will need from the Comp Board so that we can understand if there are savings. We will actually be able to find out who is right. Are the savings much bigger than the employers anticipated or much less than what we anticipated on our side? Hopefully this information will form future decisions and I hope that we will be open to changes to 213 and future legislatures will to make sure there is a balance. If there are savings, there is no question that employers should get some benefit from that. If there are significant savings, we also should be looking to restoring some of the benefits to workers. If the savings are big, we've gone way too far. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd just like to say that, like the good Senator from Cumberland, Senator Bartlett said, this is an improvement to the bill. I think the Executive Director told us that at 15% there would be a savings. Here we are moving to 18%. Collecting data is a great thing. I'm all for that. The simple fact is that once we're at 18%, regardless of what the data says, we're

not going down from 18%. I've been on that committee for 10 years and we never raise the cost of Workers' Comp in the Labor Committee. Data is great, but if there is a savings or there is going to be a loss to workers it's not going to matter because we're not going to move from 18%.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, this is probably throwing a crumb to working men and women because it's not going to devastate 100% of them. It's going to just devastate about half of them; the most injured vulnerable people. In a previous testimony it said the PI went from 11.9% to 12% from 2006 to 2012. I say once again, what is the driving force at going to 18%? Fifteen percent goes cost neutral and then we're just driving it another 3%. I do think some of the things sound fairly decent, but still my heart is hardened for the most vulnerable injured workers in the state of Maine. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Rector to Adopt Senate Amendment "D" (S-564). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#485)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GOODALL, HASTINGS, HILL, HOBBS, JOHNSON, KATZ, LANGLEY, MARTIN, MCCORMICK, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: GERZOFSKY, JACKSON, MASON, PATRICK, PLOWMAN, THOMAS

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **RECTOR** of Knox to **ADOPT** Senate Amendment "D" (S-564), **PREVAILED**.

On motion by Senator **PATRICK** of Oxford, Senate Amendment "A" (S-553) **READ**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, supposedly the idea behind this was to restructure the system of compensation for workers who were injured on the job and find some savings. What this amendment does, like the bill, is restructures the system of compensative workers who are injured on the job. Unlike the bill, which proposes changes to the current laws governing Workers' Compensation, this amendment repeals the

laws establishing the Maine Workers' Compensation Act of 1992. Under this amendment, beginning July 1, 2013 an employee injured while on the job would seek compensation for the employee's damages through the judicial system. This amendment directs the Workers' Compensation Board to develop a plan for the transition and transfer of jurisdiction to the Judicial Branch. Ladies and gentlemen of the Senate, for 100 years the system has worked and for 100 years the pendulum has swung back and forth to benefit employees, to benefit employers, and always, I think, to benefit insurance companies. I think this bill would actually save millions of dollars for employers, at least up front. I think this bill would actually be fair because the way we look at injured employees seems to be different from what at least I believe they should be looked at; someone who should be taken care of, retrained if possible, have their insurance and bills paid for, and compensated for their lost wages. There comes a time when one has to say, "Does the system we have work for both the employer and the employee?" I would say no, Mr. President. In fairness to those employees who have taken it on the chin tonight and have taken it on the chin for many years, even the reforms of 1992 they say it was to the advantage of the employees. Well it really wasn't, ladies and gentlemen of the Senate. It was more the advantage of lawyers, not the employees in the state of Maine, or the injured workers in the state of Maine. Prior to 1992 the wages that someone that was injured in the state of Maine would be two-thirds of your gross income with no limit. If a person made \$3,000, I'll just use that for a round figure not because I think anyone does but because it's a lot easier to figure, they would have got \$2,000. That's really high and that's just a figure of speech. In the reforms of 1992, we cut that down and we capped it. We capped that to at least last year, I think it was 619 or 629. I don't know the exact figure, but somewhere in that ballpark. That means that someone who is working and making \$1,500 or \$2,000 is going to actually be paid only about 50% of what he would be losing. In New Hampshire, six years ago they paid \$980 of lost income. In Massachusetts, New Hampshire, and Connecticut I think the figure that they pay is around \$1,100 or \$1,200 per week. Even under the bill here, the most someone who is a highly compensated employee, it could be a nurse, physicians' assistant, could be an electrician, could be a plumber, paper maker, or ship builder, would only get, we gave them a raise, \$700. Wow, is that justice for working men and women? We constantly have to have these battles with insurance companies, with the Comp Board, with management, and banging heads with labor. I don't think we need that any more, ladies and gentlemen. I'd really like to have the opportunity to give working men and women in the state of Maine the right to sue if they've been injured. That's what this bill does, ladies and gentlemen. I would love to have that opportunity for those injured workers. Thank you, Mr. President.

Senator **COURTNEY** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-553).

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, this is one of those be careful what you ask for because you might get it requests. My family lives in the state of Alabama where this system actually is the way it works. My cousin was very badly hurt working on the job. It took him

months to get his first appointment. It took him years to get through a court system. He carried all the insurance costs and all of his medical bills himself. My uncle was the judge that heard these cases. He could no more bring an injured worker in any quicker than any other case that was set aside as deeming importance, including removal of children from bad situations in their home, child support, and the criminal law. I cannot believe that you think that this system would be, in any way shape or form, a good substitute. There are workers in the United States who would long to have a system like this, where they do not wait in lines for the ability to have some kind of income and the medical care that they need. I would urge you to Indefinitely Postpone this because you're not doing any favors. When you put it into this system, I guarantee you, the one-third that goes to the attorneys and the fees that go to the attorneys and the court does not make that person whole. We're still talking two-thirds whole. I've got to tell you, we've given injured workers a 10% increase, which is better than most people got for raises. Seven hundred and fifty dollars of tax free income per week is not anything to sneeze at. I tell you what, to take us back to pre-1992 and to take us back to an archaic system which exists in other states doesn't do any good either. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I support this amendment because everything we're talking about here tonight is lowering the cost of Workers' Comp and getting rid of the friction. I guarantee that this amendment will get rid of the friction and cost in Workers' Comp. To the good Senator that spoke previously, I don't know where Alabama is on the ranking. If they are lower than us, we're heading there quickly. The people that are waiting in line in Alabama, I've got a whole bunch of people in Aroostook County waiting in line already. There is nothing great about our system as far as people waiting. The whole thing is designed to frustrate you, keep you hoping and wishing, trying to keep up with your payments, until finally you decide to settle for something that is not what you actually should be getting. There are all kinds of cases of people that have been waiting years to get settled. Most of the time it's not because they weren't willing to be settled, but because the insurance company stonewalled them until they could get down to a position where they didn't have anything left. Like we heard, they needed money for Christmas presents and things like that. That's what the system is that we have right now. I don't see us a whole lot different from Alabama. If we're not there yet, we're going to get there pretty quick.

Senator **PATRICK** of Oxford requested a Division.

On motion by Senator **PLOWMAN** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. While I found myself agreeing with many of the remarks of the Senator from Penobscot, I disagree very strongly with one. That is that this bill gives injured workers a raise. What the bill does is increase the

maximum rate. People that are injured going forward, their maximum Comp rate will be a little bit higher. It is still two-thirds of their pre-injury earnings. That's the maximum. All we are saying is that if you make \$1,050 or you make \$1,200 instead of going down to \$630 you go to \$670. It's important to recognize that this cap only applies to those who are not getting the full two-thirds of their earnings. It's important to understand there is no raise for anybody. It's just hurting people a tiny bit less. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Indefinitely Postpone Senate Amendment "A" (S-553). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#486)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GOODALL, HASTINGS, HILL, HOBBS, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: GERZOFISKY, JACKSON, PATRICK

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **COURTNEY** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-553), **PREVAILED**.

PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-941) AND SENATE AMENDMENT "D" (S-564), thereto, in NON-CONCURRENCE.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

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:

ENACTORS

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

Acts

An Act To Encourage Responsible Teen Driving
S.P. 684 L.D. 1912
(H "A" H-953 to C "A" S-551)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

An Act Regarding the Issuance of Licenses by the Gambling Control Board and To Establish a Competitive Bidding Process for Future Operation of Slot Machines and Table Games in the State

H.P. 1400 L.D. 1897
(H "B" H-942; S "A" S-562
to C "A" H-919)

On motion by Senator **PLOWMAN** of Penobscot, placed on the **SPECIAL STUDY TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Restore Maine's Secondary Roads
S.P. 421 L.D. 1367
(S "A" S-561 to C "A" S-452)

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. I rise in opposition to this bill for the simple reason that it is diverting money that would otherwise be going to energy efficiencies and the Efficiency Trust in order to restore the roads. I think that was previously considered in this Legislature, that if we were going to have money coming in from corridors and such that a portion of that money would go to energy efficiency. I think we should not be upsetting the apple cart here today. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, we can either fix our roads or not, it's up to you. We can divert the money and we can spend it on other things or we can fix our roads. It's your choice. This is a good bill. It would send some money that came from the Highway Fund back to the Highway Fund. We can siphon it off one more time.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, at the risk of offending the Roadfairy, I think it is a bit premature. We may want to take some of this money and put it into the highway. I'm sure we will. We may want to do 50%, which sounds like a reasonable number. This amendment goes 90% and it's very very early to make those kinds of decisions. I'm not sure we want to put ourselves in that position. I would urge us to put this on hold for a bit. There will be plenty of time next year to look at this and make those kinds of, maybe more well informed, decisions before we now jump right to 90% and 10% when there are a whole bunch of other things that you all may want to consider in the 126th. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd just like to reiterate a couple of facts concerning this bill, L.D. 1367. We talked about this utility corridor coming down through Maine and the possible income from it. It seems as though, over a period of years, we've tried to endeavor to find a means of funding for our secondary roads. Recently it has come to our attention that there is going to be some kind of utility corridor coming through and using the right of way of Interstate 95 and that there will be a lease agreement, presumably. This is all very hypothetical, but thinking ahead we thought that we would try to secure a portion of that rental agreement for the property down through this utility corridor. It may be premature, but you've got to start somewhere. We were thinking ahead. I've been told just recently that this may, in fact, happen sooner than we think. It may be premature this year, but I think eventually it's going to happen. It's another revenue source to maintain Maine's infrastructure. I think it's very important for us to acknowledge the fact that it is going down through a highway that is maintained by Maine DOT for the most part. Utilizing this right of way for a utility corridor and utilizing the funds that could be generated from this utility corridor to maintain Maine's infrastructure, I think, is vitally important. I know this discussion is kind of lighthearted, but this is an extremely important issue and I think we should take it very seriously. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. This is a serious issue. It's important to understand that we're talking about energy corridors. We are talking about corridors to bring utilities, and potentially electricity transmission, to the state. When the Corridor Commission met it originally came up with the

allocations. There was recognition that one of the biggest concerns we have, this is an area where I agree with the Chief Executive, is that we need to address energy costs in the state of Maine. We felt that an important step was to say that if we are having an energy corridor, a utility corridor, that is being used to transport electrons through the state, some of the benefit from that should go towards energy to help Maine businesses and Maine people lower their energy costs. We know that is a huge barrier to folks, those who may own businesses in particular, and we wanted to make sure that a significant amount of the resources were being used to further that end. We really wanted to think big. What do we do when this money comes in? Let's make sure that, yes, part of it is going towards transportation, but also that part of it is going towards a long term vision of lowering energy costs for Maine people. I don't see this current law as a diversion from the Highway Fund. We're talking about if a corridor is eventually worked out, which is quite a ways down the road, we're talking a minimum of three years before this actual allocation would matter, and that would be future money coming in and saying how much of the proceeds should be divvied up. We came up with the bi-partisan agreement at the time. It may be that by the time the money actually comes into the state our priorities will have changed. I think we should wait until that time and not take this preemptive step of diverting potential money out of Efficiency and putting it into the Highway Fund exclusively. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'll try to make this the last time I get up. There is more to this bill than just the energy corridor. The Department of Transportation has partnered with local communities time after time after time over the last generation; 40 years. We've helped local communities fix roads in their towns and it's worked every time. Every time we get roads fixed and we get them fixed cheaper than we can do them at the State level because our communities are able to do it for less. There is \$7 million in this bill to use to partner with local communities to fix local roads; roads that may be posted, that a business may need to get lifted so they can have a year-round road. This money will help fix it. This puts it in statute. We've had it in policy before and every time we get hard up for money the policy goes away. The program goes away. We don't help those local communities any more. If we're going to use the condition of our roads, if we're going to buy right-a-ways and lease them and use the Highway money to purchase things and then lease those things out and bring the money back and spend it for other things, are we not just using the condition of our roads to raise money? Will we ever fix our roads? Why would we want to? This gives us a method to raise taxes and everybody will be happy about it. We never get our roads fixed. Why would we want to? This is a great method to raise money. I'd like to fix our roads. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#487)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

An Act To Improve Environmental Oversight and Streamline Permitting for Metallic Mineral Mining in Maine

H.P. 1371 L.D. 1853

(C "A" H-940)

On motion by Senator **ALFOND** of Cumberland, supported by a Division of 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 (#488)

YEAS: Senators: BRANNIGAN, COLLINS, COURTNEY, FARNHAM, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JOHNSON, SCHNEIDER, SULLIVAN, WOODBURY

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 32: Allowances for Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1418 L.D. 1914

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1419 L.D. 1915

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-955)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-955)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-955) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

COMMUNICATIONS

The Following Communication: H.C. 363

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

April 13, 2012

The Honorable Joseph G. Carleton, Jr.
Secretary of the Senate
125th Maine Legislature
Augusta, Maine 04333

Dear Secretary Carleton:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Lower the Price of Electricity for Maine Consumers" (S.P. 648) (L.D. 1863).

Representative WILLETTE of Mapleton
Representative FITTS of Pittsfield
Representative MARTIN of Eagle Lake

Sincerely,

S/Heather J.R. Priest
Clerk of the House

READ and **ORDERED PLACED ON FILE**.

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

REPORTS OF COMMITTEES

Senate

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Lower the Price of Electricity for Maine Consumers"

S.P. 648 L.D. 1863

Had the same under consideration, and asks leave to report:

That they are **Unable to Agree**

On the Part of the Senate:

Senator THIBODEAU of Waldo
Senator WHITTEMORE of Somerset
Senator JACKSON of Aroostook

On the Part of the House:

Representative WILLETTE of Mapleton
Representative FITTS of Pittsfield
Representative MARTIN of Eagle Lake

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

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

The following proceedings were conducted after 12:01a.m., Saturday, April 14, 2012.

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:

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 32: Allowances for Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1418 L.D. 1914

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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:

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) Services, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1419 L.D. 1915
(C "A" H-955)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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 Review and Restructure the Workers' Compensation System

H.P. 1417 L.D. 1913
(H "A" H-941; S "D" S-564)

On motion by Senator **ALFOND** of Cumberland, supported by a Division of 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 (#489)

YEAS: Senators: BARTLETT, COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, THIBODEAU, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BRANNIGAN, CRAVEN,
DILL, GERZOFISKY, GOODALL, HILL, HOBBS,
JACKSON, JOHNSON, PATRICK, SULLIVAN,
THOMAS

Senate at Ease.

Senate called to order by the President.

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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

ORDERS

Joint Order

On motion by Senator **COURTNEY** of York, the following Joint Order:

S.P. 685

Ordered, the House concurring, that in accordance with emergency authority granted under the Maine Revised Statutes Annotated, Title 3, Section 2, the Second Regular Session of the 125th Legislature shall be extended for five legislative days.

READ. Pursuant to Maine Revised Statutes Annotated, Title 3, Section 2, a division was had. 33 Members of the Senate having voted in the affirmative, and 2 Senators having voted in the negative, and 33 being more than two-thirds of those present and voting, the Joint Order was **PASSED**.

Ordered sent down forthwith for concurrence.

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

ORDERS

Joint Order

On motion by Senator **COURTNEY** of York, the following Joint Order:

S.P. 686

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, May 15, 2012 at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

Senator **BARTLETT** of Cumberland moved the Senate remove from the **TABLE** the following:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Implement Recommendations of the Committee To Review Issues Dealing with Regulatory Takings"
H.P. 1334 L.D. 1810

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-921)** (8 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-922)** (5 members)

Tabled - April 13, 2012, by Senator **COURTNEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 11, 2012, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-922).**)

(In Senate, April 13, 2012, Reports **READ.**)

Senate at Ease.

Senate called to order by the President.

Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

On motion by Senator **COURTNEY** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. I made this motion to remove this item from the table really for a pretty simple reason. Coming into today, and this week actually, we were advised that there would not be an option for carrying any bills over until May with the exception of the budgetary issues and that all bills, except for the budget and items on the Appropriations Table, would be dealt with in their entirety before the end of the day. We then spent the last two days here, very long days, with extensive down-time, with caucus time, with a lot of discussion around this particular bill and when it would be moved and whether it would be moved, whether there were votes, and to determine where it was at. We've now reached the end and, to our surprise, an adjournment order shows up that we are adjourning and we're not going to take up this bill. If we weren't going to take up the bill we probably could have been out of here at noon today, dealing with the other issues on the table. We stuck around all day, lots of meetings and other caucuses, trying to address this issue. We even went past midnight, which means we are spending thousands of dollars to keep us here past midnight so that this bill could be talked about. Now we're adjourning and kicking the can down the road to May 15th. I think this is fundamentally wrong, that we've tied up this much time, this much focus on this bill. If there is an agreement that there isn't support for it as of today, then it should be dealt with accordingly. It shouldn't simply be moved down the road. I can tell you that had I known that there was going to be an effort to keep this one, and only this one bill, we may have made different motions and made different decisions on earlier bills to try to get them held as well for further discussion. I'm not sure why I worked so hard yesterday and today on another bill that we just Enacted. I felt like it had to happen immediately because we had to have an amendment drafted, we had to get up here, and decisions were made. People made compromises based on the fact that we were playing by the same set of rules. Other bills that I care a lot about I made compromises under the gun based on the understanding that all bills would be transacted today and everybody else was under the same time constraints. Low and behold, we get here and somebody else's priority gets held over. The things that I cared about we had to deal with and I had to make compromises based on that. This is the kind of thing that happens in Washington D.C. all the time and frustrates our constituents to no end. Votes are held open for hours on end. The goal post keeps getting moved and the days keep getting moved, just trying to figure out, one way or the other, how to shoehorn a bill through. I just don't get why we're standing here, going home, with this one bill on the table. This is something we talked about earlier in the week. This wasn't a case where both parties were negotiating and coming to an impasse. We've been ready for this bill and it hasn't come up. I've made this motion because I'm frustrated. I don't get why we stayed here. I don't get why we're costing taxpayers' money and now we're going to spend more time and money to try to deal with this on May 15th. For that reason, I would urge you to support my motion to remove this bill from the table so that we can act on it. Thank you, Mr. President.

The President requested the Sergeant-At-Arms escort the Senator from York, Senator **COURTNEY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you Mr. President. I rise in opposition to the pending motion. I'd like to respond to the comments of my colleague from Cumberland. First of all, with respect to the notion that this issue is causing us to be here for another legislative day, I would point out that this issue did not even come up until the last few minutes. We have been conducting a great deal of business this evening, and throughout the day, as is typical of the end of the session. Furthermore, with respect to the suggestion that this bill, it seemed to be a suggestion to me, was going to require a committee hearing and work session and that sort of thing because that is what we have not done. The only committee that is going to have to meet for work sessions is the Appropriations Committee. There have been a number of members on a number of issues who would have liked to take advantage of the time between now and when we come back to hold hearings and work sessions and the like. There is a cost associated with that and the presiding officers determined that we did not want to take that route and that is why we have worked so hard to make sure that the committees could be finished with their business so that we would be in a position to leave and then come back when the Appropriations Committee has completed its work. This is not the only issue that we'll be considering when we come back. We'll have the budget. We'll have the Appropriations Table, a number of important issues on the Appropriations Table. We'll have bonds. The notion that including among the issues that we would deal with when we come back would be an effort to find bi-partisan consensus on what many of us considers to be a crucial issue is puzzling to me. Clearly, if there is no interest in finding consensus between now and May then it won't happen. I don't see the harm, knowing that it's not going to require committee costs, that stakeholders and interested Senators can work together to explore bi-partisan consensus. I would point out that it has been a trademark of this Legislature, that we have defied the odds when it comes to budgets, when it comes to regulatory reform, and issue after issue that was predicted to end in partisan gridlock has not because we've been willing to talk, willing to reach across the aisle, willing to engage each other, treat each other as human beings, and see if we can work it out. Maybe we can. Maybe we can't. It's hard to see the down side. As for the charge which I heard that this is like Washington, where votes are held open for hours on end, I don't know anybody would be talking about, to suggest that that is the case in this Body. Votes are kept open routinely for members of both sides of the aisle. Routinely. Not to affect the outcome of a vote, but to allow a Senator to reach their seat. I don't know of an example that any

Senator can point to in this Body where that has happened. I think it's unfortunate that as we break tonight for the important work that lies ahead in the Appropriations Committee and for all of us in fashioning a budget and coming to an agreement, I hope, on bonds, which I think is something that people on both sides of the aisle feel is very important, that the discussions can also include, hopefully, building consensus and reaching some bi-partisanship around this very important issue. I would urge Senators to join with me in opposing the pending motion. Thank you.

Senate at Ease.

Senate called to order by President Pro Tem
JONATHAN T.E. COURTNEY of York County.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Washington, Senator **RAYE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from York, Senator **COURTNEY** to his seat on the floor.

Senate called to order by the President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would just like to say that I will not try to impugn anyone or anything like that, but I know that I have an e-mail that I've kept on another matter in this Body. I was called an obstructionist. I may very well be an obstructionist, but the simple fact is that we just passed a Workers' Comp bill that I think is very bad for the workers in the state of Maine, my opinion only. I think it was very rushed at the end and we were told that it was something that couldn't be carried over and it had to be dealt with today. I did not vote for it and I railed against it. I know that people who voted for it only voted for it because it was said that it had to be done today. I think there was a very good chance if something like this was held over until May we maybe could have come up with a stronger bill, something that I and many others would have supported, that would have been better for the people in the state of Maine. We didn't have that opportunity, so I'm frustrated and disappointed with the fact that now there is something that somebody else thinks is very important that is going to get held over until May. That's why I'm supporting the motion. I don't think it's fair. I know that that is only my opinion and my opinion hasn't meant much, but I certainly wanted the opportunity to get up and say that that is the reason why I'm supporting the motion.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you Mr. President. Is the motion to remove from the table a debatable motion? I'll wait for the ruling, thank you.

THE PRESIDENT: The Chair would advise, upon conferring with the Secretary, that a motion to remove from the table is not debatable. The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Bartlett, to remove L.D. 1810 from the table. A roll call has been ordered. The Chair recognizes the Senator from Cumberland, Senator Dill.

Senator **DILL:** Thank you Mr. President. Given your ruling, I would move that we strike the comments that were made by yourself.

THE PRESIDENT: The Chair would advise that the motion of the Senator is Out of Order. A roll call has been ordered. Is the Senate ready for the question? The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** I request hearing the citation, please.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** I request a roll call.

Senator **PLOWMAN:** Point of order, Mr. President. Is the Senator asking for a Ruling from the Chair?

Senator **SCHNEIDER:** I'm asking for the citation to be read.

THE PRESIDENT: The Secretary will present the citation.

THE SECRETARY: The citation is found in section 82 of Mason's 2010 edition. Section 82, subsection 2, "The following motions are not debatable: adjourn, call of the House, call for Orders of the Day." There is a list of them and under subsection Q, "Take from the table". That is one of the motions which is not debatable according to Mason's.

THE PRESIDENT: A roll call has been ordered on the motion of the Senator from Cumberland, Senator Bartlett, to remove L.D. 1810 from the table.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#490)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

ABSENT: Senator: SHERMAN

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by the Senator from Cumberland, Senator Bartlett to remove from the **TABLE, FAILED.**

Senator **SCHNEIDER** of Penobscot requested unanimous consent to address the Senate on the Record.

Senate at Ease.

Senate called to order by the President.

Senator **COURTNEY** of York moved to **ADJOURN**, pursuant to the Joint Order, to Tuesday, May 15, 2012, at 10:00 in the morning.

Senator **SCHNEIDER**: Mr. President. May I have the floor?

THE PRESIDENT: The motion is to adjourn.

Senator **SCHNEIDER**: Mr. President. I asked to be recognized.

THE PRESIDENT: The Senator is out of order.

Senator **SCHNEIDER**: Would you please read Robert's Rules. Once a member has been recognized, whether it's on record or not, you cannot deny that member the right to speak. That's Robert's Rules. Please check the Robert's Rules.

THE PRESIDENT: For what purpose does the Senator from Penobscot, Senator Plowman rise?

Senator **PLOWMAN**: The motion to adjourn is not debatable.

Senator **SCHNEIDER**: I was recognized prior to that motion, Mr. President, and I object vigorously.

Senator **PLOWMAN**: When the Senator was recognized was there a motion on the floor, anything out for debate?

THE PRESIDENT: The Senator will defer.

Senator **PLOWMAN**: Mason's Rules says that a Senate member may not address the Body unless there is a motion before the Body.

THE PRESIDENT: The Senator will defer. The Chair would advise that the Senator from Penobscot, Senator Schneider, had asked unanimous consent to speak on the record but the Chair had not responded to that request. A motion is on the floor to adjourn. An adjournment motion is not debatable. The Chair understands that the Senator from York, Senator Courtney, moves the Senate stands Adjourned until Tuesday, May 15, 2012, at 10 o'clock in morning.

Senator Schneider of Penobscot's request for a Roll Call Failed.

On motion by Senator **COURTNEY** of York, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 15, 2012, at 10:00 in the morning.