

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Thirteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME III**

**FIRST CONFIRMATION SESSION**

August 21, 1987  
Index

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987  
Index

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987  
Index

**SECOND REGULAR SESSION**

January 6, 1988 to March 24, 1988

RESOLVED: That, We, the Members of the Senate and House of Representatives join all the legislative staff to pause in a moment of understanding and prayer for our dear friend and trusted legislative official and to extend this token of sympathy and condolence to all who share this great loss and respectfully request that when the Legislature adjourns this date it do so in honor and lasting tribute to Brian Keith Blaisdell of Monmouth; and be it further

RESOLVED: That a duly attested copy of this joint resolution be prepared by the Secretary of State and transmitted forthwith to his dear wife Judith and his children, Karen, Jason, James and Merrick, with our deepest respect to his memory.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

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

On motion by Senator DOW of Kennebec, ADJOURNED, in memory of Brian Keith Blaisdell, until Thursday, March 24, 1988, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
51st Legislative Day  
Thursday, March 24, 1988

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

Prayer by Reverend Lewis Beckford, Washington Street United Methodist Church, Portland.

The Journal of Wednesday, March 23, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

The following Joint Order: (S.P. 968)

ORDERED, the House concurring, that "AN ACT to Establish a Presidential Primary in Maine," S.P. 123, L.D. 328, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Bill "An Act to Establish Operating Permits for Commercial Dairy Farms" (S.P. 971) (L.D. 2579)

Came from the Senate, referred to the Committee on Agriculture and Ordered Printed.

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 for Construction and Renovation of Public Safety Facilities" (S.P. 970) (L.D. 2578)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

RESOLVE, Authorizing the Sale of Certain Public Lands Located in the City of Portland (Emergency) (S.P. 969) (L.D. 2577)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

On motion of Representative Carroll of Gray, was referred to the Committee on State and Local government in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

Unanimous Ought Not To Pass

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act Concerning the Issuance of Subdivision Permits" (S.P. 938) (L.D. 2476)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on RESOLVE, to Create A Demonstration Project to Provide for Ladders of Advancement in the Nursing Profession (Emergency) (S.P. 877) (L.D. 2280)

Report of the Committee on Agriculture reporting "Leave to Withdraw" on Bill "An Act to Revise the

Laws Protecting the Farmers' Right to Farm" (S.P. 911) (L.D. 2377)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Establish a Community Mental Health Aftercare Program" (S.P. 823) (L.D. 2145)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Promote Community-Based Drug and Alcohol Abuse Prevention and Education Programs" (S.P. 931) (L.D. 2442)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

#### Ought to Pass in New Draft

Report of the Committee on State and Local Government on Bill "An Act to Create a State Capitol Commission" (S.P. 826) (L.D. 2148) reporting "Ought to Pass" in New Draft (S.P. 966) (L.D. 2563)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed and sent up for concurrence.

#### Non-Concurrent Matter

Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Laws" (H.P. 1856) (L.D. 2541) which was passed to be engrossed in the House on March 18, 1988.

Came from the Senate with the Bill and accompanying papers recommended to the Committee on Legal Affairs in non-concurrence.

The House voted to recede and concur.

#### COMMUNICATIONS

The following Communication:  
STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE  
04333

March 23, 1988

The Honorable John L. Martin  
Speaker of the House  
State House Station 2  
Augusta, Maine 04333  
Dear Speaker Martin:

I would like to extend to you and all the members of the House a cordial invitation to attend a reception at the Blaine House on Monday, March 28th from 11:00 am to 12:00 noon. The reception is to commemorate the enactment and signing of LD 2030, An Act to Establish a Commemorative Day for Margaret Chase Smith and Edmund S. Muskie.

Both Senator Muskie and Senator Smith have graciously accepted the invitation. Please join me to celebrate the great contributions of Maine's two Senior Statesmen.

Sincerely,  
S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

#### ORDERS

On motion of Representative TARDY of Palmyra, the following Joint Resolution: (H.P. 1889) (Cosponsors: Senators MATTHEWS of Kennebec, TWITCHELL of Oxford,

BLACK of Cumberland, Representatives ALIBERTI of Lewiston, MAHANY of Easton, NUTTING of Leeds, HUSSEY of Milo, SHERBURNE of Dexter, PARENT of Benton, BRAGG of Sidney, WHITCOMB of Waldo, and PINES of Limestone)

#### JOINT RESOLUTION IN TRIBUTE TO AGRICULTURE:

##### AMERICA'S HEARTBEAT ON AGRICULTURAL DAY

WHEREAS, "the people are the most important element in a nation; the spirits of the land and grain are next"; and

WHEREAS, the land ungrudgingly yields abundance and asks for nothing more in return than diligence; and

WHEREAS, one fifth of our national work force are farmers in the business of food and fiber production for world markets, accounting for 18% of the gross national product; and

WHEREAS, the Maine farmer provides \$400,000,000 in total farm income and is credited with a \$2,000,000,000 contribution to Maine's economy; and

WHEREAS, the Maine agrarian society makes a pivotal contribution to the cultural and social foundations of our rural way of life and in turn to the very heartbeat of America; now, therefore, be it

RESOLVED: That it is appropriate for the 113th Legislature of the great and sovereign State of Maine to pause in its deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State and to pledge its support and encouragement, and urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agricultural industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem to which those in this vital field are held.

Was read and adopted and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

On motion of Representative CARROLL of Gray, the following Joint Order: (H.P. 1890)

Ordered, that the Senate concurring, that H.P. 1855, L.D. 2538, Bill, "AN ACT to Recodify the Laws on Municipalities and Counties" and all its accompanying papers be recalled from the Governor's desk to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

#### REPORTS OF COMMITTEES

##### Unanimous Ought Not to Pass

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Additional Funds for the Maintenance and Repair of Montpelier in Thomaston" (H.P. 1500) (L.D. 2050) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

##### Unanimous Leave to Withdraw

Representative ERWIN from the Committee on Audit and Program Review on Bill "An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies" (H.P. 1518) (L.D. 2071) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act

to Enhance the Ability of the State to Respond to the Informational Needs of Maine Businesses" (H.P. 1658) (L.D. 2268) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds for Mapping of Sand and Gravel Aquifers" (H.P. 1558) (L.D. 2122) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

#### Ought to Pass in New Draft

Representative McHENRY from the Committee on Labor on Bill "An Act to Increase the Minimum Wage" (H.P. 1431) (L.D. 1948) reporting "Ought to Pass" in New Draft (H.P. 1887) (L.D. 2582)

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

#### Ought to Pass in New Draft/New Title

Representative BICKFORD from the Committee on State and Local Government on Bill "An Act to Allow Plowing of Private or Public Ways or Roads by Municipalities" (H.P. 1541) (L.D. 2096) reporting "Ought to Pass" in New Draft under New Title RESOLVE, Creating the Commission to Study the Subject of Private Ways and Private Roads (Emergency) (H.P. 1886) (L.D. 2580)

Report was read.

The SPEAKER: The Chair will rule that this matter is improperly before the body, the matter is now dead. Sent up for concurrence.

#### Ought to Pass in New Draft/New Title

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Allow Initiative Rights to Local Voters on Laws Pertaining Only to Their Municipality, Village Corporation or Quasi-Municipal Corporation" (H.P. 1568) (L.D. 2135) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Charter Changes in Quasi-Municipal Corporations or Districts" (H.P. 1888) (L.D. 2583)

Report was read and accepted, the New Draft read once and assigned for second reading later in today's session.

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-515) on Bill "An Act to Amend the Rules of Construction to Permit Use of Gender-Neutral Language in Maine Statutes" (H.P. 1449) (L.D. 1960)

Signed:

Senators: TUTTLE of York  
BALDACCI of Penobscot  
LACROIX of Oakland

Representatives: CARROLL of Gray  
ROTONDI of Athens  
ANTHONY of South Portland  
BOUTILIER of Lewiston

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senators: GOULD of Waldo  
Representatives: HUSSEY of Milo  
STROUT of Windham  
LOOK of Jonesboro  
WENTWORTH of Wells  
BICKFORD of Jay

Reports were read.

Representative Carroll of Gray moved that the House accept the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion and later today assigned.

#### CONSENT CALENDAR

##### First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1557) (L.D. 2121) Bill "An Act to Improve the Regulation of Pesticides" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-516)

(H.P. 1740) (L.D. 2386) Bill "An Act to Create a Uniform School Unit Budgeting Process" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-517)

(S.P. 951) (L.D. 2516) Bill "An Act Relating to the Provisions of the Charter of the Veazie Sewer District" (Emergency) Committee on Utilities reporting "Ought to Pass"

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

#### CONSENT CALENDAR

##### Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 1771) (L.D. 2424) Bill "An Act to Add a Hemophiliac to the Committee to Advise the Department of Human Services on AIDS" (C. "A" H-514)

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

#### SECOND READER

##### Later Today Assigned

Bill "An Act to Amend the Endangered Species Act" (H.P. 1875) (L.D. 2567)

Was reported by the Committee on Bills in the Second Reading and read a second time.

On motion of Representative Jacques of Waterville, tabled pending passage to be engrossed and later today assigned.

#### SECOND READER

##### As Amended

##### Later Today Assigned

Bill "An Act to Correct Inconsistencies in the Publication of Legal Notices" (S.P. 864) (L.D. 2252) (C. "A" S-350)

Was reported by the Committee on Bills in the Second Reading and read a second time.

On motion of Representative Marsano of Belfast, tabled pending passage to be engrossed and later today assigned.

SECOND READER

Later Today Assigned

Bill "An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years" (H.P. 1594) (L.D. 2180) (C. "A" H-510)

Was reported by the Committee on Bills in the Second Reading and read a second time.

On motion of Representative Lacroix of Oakland, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board (S.P. 832) (L.D. 2166) (S. "A" S-343; C. "A" S-340)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Conform the Hospital Care Financing System to Certain Federal Requirements Concerning the Civilian Health and Medical Program of the Uniformed Services (H.P. 1550) (L.D. 2110) (C. "A" H-491)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Emergency Measure

Tabled and Assigned

An Act to Promote Solid Waste Research (H.P. 1652) (L.D. 2260) (C. "A" H-492)

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

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and specially assigned for Friday, March 25, 1988.

PASSED TO BE ENACTED

Emergency Measure

An Act to Promote Harmony between Agriculture and Adjacent Development and to Protect the Public Health, Safety and General Welfare (H.P. 1842) (L.D. 2522) (H. "A" H-505 to H. "A" H-488)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

RESOLVE, to Name the New Bridge Between the Communities of Bucksport and Verona the "Dr. Edward Thegen Memorial Bridge" (H.P. 1669) (L.D. 2287) (H. "A" H-499)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Create a Single Point of Contact for the Operators of Commercial Vehicles (S.P. 796) (L.D. 2093) (H. "A" H-498 to C. "A" S-332)

An Act to Capture Sales Tax Revenues on Manufactured Housing Purchased Outside the State (S.P. 888) (L.D. 2300) (C. "A" S-344)

An Act to Correct Inequities in the Maine State Retirement System (S.P. 960) (L.D. 2548) (H. "A" H-507)

An Act to Provide a Sales Tax Exemption for Charitable Suppliers of Medical Equipment (H.P. 1451) (L.D. 1962) (C. "A" H-495)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Replace the Sales Tax with an Excise Tax on Jet Fuel Used by Turbine-Powered Aircraft Providing Commercial Air Service in Maine (H.P. 1470) (L.D. 1981) (C. "A" H-496)

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

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: Very briefly, I speak as the sponsor of this bill and on behalf of the Taxation Committee, just to make it clear on the Record, that the change being suggested in this legislation is to provide some stability both to this state and to the industry by eliminating the sales tax on jet fuel and replacing it with an excise tax. It will, for the most part, be revenue neutral for the state. Actually, the state will pick up a few thousand dollars more than it does currently under the existing system. But, it is the intent of the committee and the sponsors to make it clear that we in no way support any future action that may lower the excise tax that is being established through this act.

Subsequently, was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Revise the Laws Concerning Cost Sharing for Maintenance of Railroad Grade and Highway Bridge Crossings (H.P. 1750) (L.D. 2399)

An Act to Require Audit Review of the Bureau of Capitol Security in 1989 (H.P. 1811) (L.D. 2479)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Ensure Family Medical Leave in the State (H.P. 1851) (L.D. 2534) (S. "A" S-347)

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

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call.

This is the bill that mandates that employers of 25 persons or more are required to provide maternity leave of eight weeks to their employees. I have received a few phone calls on this particular bill and, in an attempt to explain what the bill does or what the bill did, I was not too successful in conveying that information. Some of the responses that I received indicated that the legislature is taking some of the freedom of the individuals away. If you recall, when we debated the energy bill, that was one of the items that swayed a lot of people that we were taking freedom away from Maine citizens as well as mandating that certain things be done. It is my opinion that this is exactly what this bill does.

I am told that the majority of the employers do this and, if that is the case, and I am sure it is, then we don't need this bill. On that basis, I am requesting a roll call and hope that you will vote to kill this bill.

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

Representative CLARK: Mr. Speaker, I would like to pose a question through the Chair.

I would like to know where the Representative from Biddeford, Representative Racine, gets his data that most employers already provide this?

The SPEAKER: Representative Clark of Brunswick has posed a question through the Chair to Representative Racine of Biddeford, who may respond if he so desires.

The Chair recognizes that Representative.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I don't recall the individual by name, I don't recall the day or the time it was told to me, I believe it was told to me by someone that is on the Committee on Labor.

Also, I was told by an individual that the reason that this bill was introduced was because someone called the Department of Human Resources and asked the question, if someone went out on maternity leave, is it possible for them to be fired? The response was, there is nothing in the law currently that would prohibit or prevent an employer from firing an employee because he or she took maternity leave.

I hope that answers the gentlewoman's question.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: As Chairman of the Labor Committee, I have received calls and I want to put at ease the minds of the people who think that, after that person who has taken four or five weeks leave of absence to attend to his wife or child who is sick and has a certificate from the doctor and returns back to work -- I have had employers tell me that, once they pass five weeks, they have to pay unemployment for that person whom they are going to be laying off, so therefore, it was affecting their unemployment. I checked it out with the bureau, and

in reality, if they do not take back that person, we presently have it in the law books that says they must pay unemployment to that employee who took that leave because he is not able and willing to work. Therefore, it has no effect on the unemployment insurance of the employer -- this is to put your mind at ease. If anything, it would be less of a burden to lay off. Most will take people who have never had a job prior to working for this person. Therefore, it would have no effect on their unemployment. If they keep the regular employee who has worked 12 months or more and do not hire him or her back, their unemployment insurance will be affected. It is really positive rather than negative.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to expand a little bit and bring up a point again that Representative McHenry brought up concerning the unemployment provisions under this bill. I think that is the real sleeping dog here in this family leave bill. We envision that, in many cases, under the eight week mandate that employers will hire replacement workers for those individuals out on family leave, this will undoubtedly have a very, very negative impact on the unemployment fund. We will have people that will be bouncing back and forth between employment and unemployment. Those people who are fired after eight weeks who have been working in a part-time capacity replacing a person on family leave will file for unemployment. That unemployment will be charged against the experience rating of the employer who has tried to make accommodations to their employee on family leave. It is a bad deal folks, it's a rats nest. We are getting into areas that we really haven't fully considered.

I hope you will vote against this bill on enactment and we can lay this issue to rest.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, I would like to pose a question through the Chair.

To the Representative from Skowhegan, could he explain to us how this unemployment compensation comes into this?

The SPEAKER: Representative Jalbert of Lisbon has posed a question through the Chair to Representative Hepburn of Skowhegan, who may respond if he so desires.

The Chair recognizes that Representative.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: When an individual works in insured employment and after accumulating a certain level of earnings over a certain period of time, they are able to file for unemployment. For that reason, unemployment and the unemployment compensation system is inherently intertwined with this bill. It will increase the costs. It is a drain on the unemployment insurance fund and that is the fund we have (even in recent days) been very concerned about maintaining and of building up. For that reason, if for no other, I would hope you would vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Apparently I did not speak clearly enough. I have checked with the Bureau of Unemployment and I brought it up to their attention, and lo and behold, I was correct in my assumption that if an employer has an employee who wishes to be with his child in Boston because they have cancer or what have you, under the present law, be allowed to

go and maybe the employer will not take that employee back. That is possible, presently.

Under the law that we are passing, if it is under eight weeks or by mutual agreement of over eight weeks, the employer will take that employee back. But, the person that he or she may have hired to replace that person will be let go once that employee returns. Once that employee returns, the other employee who is part-time will then be able to qualify for unemployment. But either way, ladies and gentlemen, if the employer does not take the regular employee back, he is going to be charged for unemployment because we have a law that says if you have to be by the side of one of your relatives due to sickness or -- we already have that in law -- that is a reasonable reason for you not to be available for work but that does not force your employer to take you back. So, you are going to pay unemployment either way. I say, if anything, it is better for the employer to take back the regular employee and let the part-time employee go because that part-time employee more than likely does not have a base for which to draw unemployment. So, therefore your rating will not be affected. But if that employee has been working for other employers before, yes, it is going to be affected but not more than if you hadn't hired your regular employee. It would not affect the rating at all.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: There is one other item that I forgot to mention that has been related to me in these conversations. Hiring a part-time employee for a period of eight weeks is very, very difficult. It is more difficult if it is a position that requires a certain amount of training before the employee would be qualified to perform those tasks. In some cases, if you cannot hire a temporary employee, it means that the duties and responsibilities performed by that individual has to be absorbed by other employees which is creating an additional workload that has to be shared by other employees. Most employees have enough work of their own without absorbing an additional workload.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 220

YEA - Aliberti, Allen, Baker, Begley, Bost, Bott, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Dellert, Diamond, Dore, Dutremble, L.; Erwin, P.; Farnum, Glidden, Gwadosky, Hale, Handy, Hichborn, Hickey, Higgins, Hoglund, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Kimball, Lacroix, Lapointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mills, Mitchell, Moholland, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Priest, Rand, Reeves, Rice, Richard, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Sheltra, Simpson, Strout, D.; Swazey, Tammaro, Tardy, Taylor, Thistle, Tracy, Vose, Walker, Willey, Zirkilton, The Speaker.

NAY - Anderson, Bickford, Bragg, Brown, Callahan, Curran, Davis, Dexter, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Harper, Hepburn, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Murphy, E.; Nicholson, Norton, Parent, Perry, Pouliot, Racine, Reed, Ridley, Salsbury, Seavey, Sherburne, Smith, Soucy, Stanley, Stevens,

A.; Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb.

ABSENT - Anthony, Armstrong, Bailey, Boutilier, Duffy, Gurney, Hillock, McPherson, Michaud, Pines, Small, Stevens, P.; Warren.

Yes, 90; No, 47; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

90 having voted in the affirmative, 47 in the negative, with 13 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide for Identification and Application of School Bus Purchase Reimbursement Funds (H.P. 1858) (L.D. 2543)

An Act to Assist Agricultural Employers in Complying with Federal Hazard Communication Rules (H.P. 1859) (L.D. 2545)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Later Today Assigned

An Act to Continue State Benefits to Retired Teachers who have Joined a New Insurance Plan upon Retirement (H.P. 1862) (L.D. 2547)

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

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and later today assigned.

The SPEAKER: At this time, the Chair would like to put into the Record the fact that last evening because of miscommunication, there were people from the Committee on Human Resources who missed two or three roll calls because that committee was meeting. The Chair had not been apprised of it so for the Record, the Chair would indicate that Representatives Manning, Simpson, Rolde, Boutilier, Lapointe, Clark, Taylor, Dellert, Farnham and Crowley were at the hearing on ASPIRE, so as a result, they were not absent from the session.

At this point, the Speaker appointed the following members to escort the Agricultural Queens and the President of the Maine Future Farmers to the rostrum:

Amy Spaulding of Troy, State Grange Queen, escorted by Representative Tardy of Palmyra.

Kim Bard of St. David, Maine Potato Queen, escorted by Representative McHenry of Madawaska.

Dawn Moody of Union, Maine Blueberry Queen, escorted by Representative Allen of Washington.

Robin Hatch of Thomaston, Maine Sea Goddess, escorted by Representative Mayo of Thomaston.

Cheryl Larrabee of Knox, Maine Farm Bureau Queen, escorted by Representative Whitcomb of Waldo.

Frank Winslow of Mapleton, President, Maine Future Farmers of America, escorted by Representative Lisnik of Presque Isle.

AMY SPAULDING: Hi. I would like to thank you for taking time out of your busy schedule to recognize agriculture and its promoters. I would like to tell you that the Grange is the oldest agriculture organization in the state. Agriculture has always been the Grange's primary concern. The Grange enables improvements in all areas of



agriculture by working together as a united organization interested in the benefit and improvement of our state.

Again, I would like to thank you for having us here today. (applause)

KIM BARD: The potato industry in Maine is an integral and important part in contributing to Maine's economy. It is Maine's number one agricultural product and has been very important all over the country as well. The industry is mainly located in Maine's largest county, Aroostook County, which has given it the prestige and respect that it deserves.

The farmers have had some problems in the past couple of years. However, the past few years have been improving very much and, hopefully, will continue to improve.

The Maine Potato Board has also been a great contributor since it has been developing new methods of marketing and advertising which has definitely helped the state economically. Hopefully it will continue improving and be a great contributor to Maine's economy. After all, Maine potatoes are definitely great and the whole country likes them. They eat them any way they can. (applause)

DAWN MOODY: Good morning. I wanted to talk today about the new blueberry growers pest which is the blueberry sandworm. Obviously, I don't have enough time. I would like to say that the sandworm damaged 10 percent of the blueberry crops in 1987. So far, the only pesticide which can cure this is diolox and has not been able to come in to Maine. I would like to say that there has been a lot of controversy over this and people are not sure who caused the sandworm and what caused it or what the blueberry growers are going to do. I am sure that by this time next year, the problem will be all over.

I would also like to say for all the blueberry growers in Maine, blueberries are essential and that Maine is still the blueberry capitol of the world. (applause)

ROBIN HATCH: Good morning. Rockland, Maine, home of the Maine Lobster Festival, is known as the lobster capitol of the world. Rockland and the whole Knox County area has one of the largest, if not the largest, lobster catches in the world. The annual lobster catch in Maine averages around 20 million pounds.

Lobster is also the highest valued seafood product in Maine bringing in almost \$50 million each year which accounts for over 40 percent of the total revenues for the state seafood industry.

Approximately 70 fishing harbors and 50 seafood processing plants are included in Maine's 3,000 miles of coastline. Maine's coastal communities are home to 6,000 full-time fishermen and 2,000 employees of seafood processing plants. Many other people work or lobster part-time. Over all, there are 8,000 licensed lobstermen's in Maine who work with an estimated 2 million lobster traps. These lobstermen harvest 85 to 90 percent of all legal sized lobsters each year. Since 1960, the annual lobster landings have decreased by 23 percent but the average number of traps has increased. These are just two of the factors which have many people worried about how much longer the lobster supply will last. Serious attempts are being made at lobster conservation through both experiments and regulations. Some of these experiments include V-notching female lobsters and closed seasons in different areas such as Monhegan Island. Other conservation ideas include raising the legal minimum size of lobsters and limiting the number of traps allowed for fishermen. These different conservation techniques must be put

to use effectively if lobsters are to continue to be such a large factor in Maine's economy. (applause)

CHERYL LARRABEE: The Farm Bureau is one of the strongest formed organizations around that equally supports agricultural farmers within the State of Maine. It is a development that aims to serve the farmers and to serve the people as well. Farming is one of the most important of the industries that provides and supports our state's economy. It is as equally as important both to the farmers and the people. I don't see how there can be any question about the importance of the agriculture industry to our state's economy whether it is Farm Bureau or any other related organization, they all work for the people who support them. Thank you. (applause)

FRANK WINSLOW: Do you realize that within 35 years the world population will double? That is right. In 35 years, there will be 5 billion additional mouths to feed in this world. With these additional mouths to feed, we will need to produce more food.

Mr. Speaker, Honorable Representatives and guests, I am pleased to bring greetings to you this morning from the FFA and to inform you that the American Agriculture and the FFA will meet this additional responsibility and lead the way to increasing the world food supply.

The FFA has made several changes in the past few years, we have encouraged our members to implement new technologies and to go into careers of science and business. I urge you to be flexible and to be willing to make changes just as the FFA has if we are going to prepare ourselves for this increased population.

Subsequently, the Agricultural Queens and the President of the Maine Future Farmers were escorted from the Hall of the House, amid applause, the audience rising.

The House was called to order by the Speaker.

#### ORDERS OF THE DAY UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds (H.P. 1638) (L.D. 2237) (C. "A" H-476)

TABLED - March 22, 1988 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

The Chair laid before the House the second item of Unfinished Business:

RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (Emergency) (H.P. 130) (L.D. 159)

TABLED - March 22, 1988 by Representative CARTER of Winslow.

PENDING - Adoption of House Amendment "A" (H-485) to Committee Amendment "A" (H-481)

On motion of Representative Carter of Winslow, retabled pending adoption of House Amendment "A" to Committee Amendment "A" and later today assigned.

The Chair laid before the House the third item of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" in New Draft (H.P. 1877) (L.D. 2571) - Minority (6) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Make the Language of the Constitution Gender Neutral (H.P. 1432) (L.D. 1949)

TABLED - March 23, 1988 (Till Later Today) by Representative CARROLL of Gray.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" in New Draft Report.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: The New Draft of L.D. 1949 is a proposed amendment to the Constitution which does away with gender biased language throughout. The original bill called for the Chief Justice of the Supreme Court to make those changes. Staff and the committee all agreed that we could do that just as quickly and probably more efficiently in less time and we have done that. L.D. 2571 shows you the 105 to 120 changes that were made in the body of the Constitution of the State of Maine, removing all the gender biased language that existed.

To set the record straight and to clarify the record, we are tinkering (if you can say that) with the Constitution but we have done that in its history about 157 times with amendments. There is no cost, short of what you see now as a House Amendment on your desk, to implement this change.

The amendment speaks only of referenda issues. Any bill that calls for a constitutional amendment, any bond issue, anything that goes out to the people to vote, has to have that fiscal note on it, the actual cost. When you put all the referendum issues together that we will be dealing with in November, it will be about \$3,000. It does not in any way, shape or manner extend rights, grant new rights or anything else to people, men, women, children, blacks, whites, gays or anyone else. It doesn't change the meaning of the Constitution, it clarifies the Constitution. It makes it more readable.

When it gets to succession of powers or to the Governor or to the Speaker or the President, it refers to he, he and he. If you refer to the House of Representatives and the Senate, it refers to he and his. We have clarified that so, if you are referring to the Governor instead of his role, it is the Governor's role, it is the Secretary of State's role. It makes it much more clear for those who are reading it.

At the public hearing that went on for a couple of hours, the only real true opposition was from former Governor Cross who believed that we were going to be tinkering with this document. As I said before, we are not really tinkering with it at all, we are making it (I think) much more readable. This is not a backdoor approach. There were a few other people who had some comments against the Constitution but it was more against the Constitution in general rather than this bill.

I would like to read to you one of a great number of letters that I received on this issue in support of this change. This one struck me much more than the others because it is from a high school student, not active, not a voter, but a concerned high school student. She says, "Although I am not old enough to vote, I have a deep interest in the bill sponsored by Representative John Diamond. I know of many other

people who also support this bill. If you would like me to have them write to you also, I would be happy to do this. My Denomination for example, the United Methodist Church, which has more than 30,000 adult members in Maine, is, as a matter of official policy, converting all its documents including its new hymnal into inclusive language." It goes on asking for support. I didn't ask her to have other people write to me, my file was thick enough as it was.

I would ask you to support the Majority Report today and let the citizens of the State of Maine have a chance to vote on this issue in November.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker and Members of the House: I ask you to vote against the Majority of one report in order to pass the Minority Report. This was a question on my questionnaire. I sent out 5,100 questionnaires with 500 answers returned and 74 percent said, "No, haven't you anything better to do up there?" Two sent me long dictionary descriptions of what the word "man" means used in this context. I would not be against future language being gender neutral but I cannot vote for changing the Constitution.

When the vote is taken, I request a roll call.

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

Representative FOSTER: Mr. Speaker, Men and Women of the House: When I was first asked to cosponsor this piece of legislation, I thought to myself, why? This certainly has not affected me in my role in life. But I grew up in a different generation where words did have other meanings and we were told they did. This generation and the generations that follow us have learned that, when you write something you mean it, you don't say one thing and then verbally say, but that means something else. We were always told that. The dictionary has changed and teachers and those in the field are learning that words make the difference. That is what this whole bill is about. Our generation grew up with a different set of words and meanings. This generation should not.

I end by saying this to you, that "there is no he in me, there is no she in he" and let the voters decide on this very important issue for the children of this great State of Maine.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Carroll of Gray that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, I wish to pair my vote with Representative Anthony of South Portland. If he were present and voting, he would be voting yes; if I were voting, I would be voting no.

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

Representative CLARK: Mr. Speaker, I wish to pair my vote with Representative Stevens of Bangor. If she were present and voting, she would be voting yea, if I were voting, I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Carroll of Gray that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 221

YEA - Aliberti, Allen, Baker, Bost, Bott, Boutilier, Callahan, Carroll, Cashman, Chonko, Clark, M.; Coles, Cote, Crowley, Curran, Daggett, Davis, Diamond, Dore, Dutremble, L.; Erwin, P.; Farnum, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hale, Handy, Hanley, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hoglund, Holloway, Holt, Jacques, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lisnik, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Rand, Reed, Reeves, Rice, Richard, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Simpson, Smith, Stanley, Stevens, A.; Strout, D.; Tammaro, Tardy, Taylor, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Weymouth, Willey, The Speaker.

NAY - Anderson, Begley, Bickford, Bragg, Brown, Carter, Dellert, Dexter, Farren, Glidden, Harper, Jalbert, Lebowitz, Look, Lord, MacBride, Nicholson, Parent, Ridley, Sherburne, Soucy, Strout, B.; Swazey, Wentworth, Whitcomb.

ABSENT - Armstrong, Bailey, Conley, Duffy, Gurney, Jackson, Joseph, McPherson, Pines, Small, Warren, Zirkilton.

PAIRED - Anthony, Clark, H.; Hussey, Stevens, P..  
Yes, 109; No, 25; Absent, 12; Vacant, 1;  
Paired, 4; Excused, 0.

109 having voted in the affirmative, 25 in the negative, with 12 being absent, 1 vacant, and 4 having paired, the Majority "Ought to Pass" Report was accepted and the New Draft read once.

Under suspension of the rules, the Bill was read a second time.

Representative Carroll of Gray offered House Amendment "A" (H-521) and moved its adoption.

House Amendment "A" (H-521) was read by the Clerk and adopted.

Subsequently, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Freeze Further Increases in the Minimum Lobster Size" (H.P. 1881) (L.D. 2573)  
(Committee on Marine Resources suggested.)

TABLED - March 23, 1988 by Representative MITCHELL of Freeport.

PENDING - Reference.

On motion of Representative Diamond of Bangor, retabled pending reference and specially assigned for Friday, March 25, 1988.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act Relating to Exceptions to Prevent Escapes and Other Offenses under the Interception of Wire and Oral Communications Law" (H.P. 1846) (L.D. 2528)

TABLED - March 23, 1988 by Representative PARADIS of Augusta.

PENDING - Passage to be Engrossed.

On motion of Representative Paradis of Augusta, retabled pending passage to be engrossed and later today assigned.

The Chair laid before the House the following item: Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-515) on Bill "An Act to Amend the Rules of Construction to Permit Use of Gender-Neutral Language in Maine Statutes" (H.P. 1449) (L.D. 1960) which was tabled earlier today and later today assigned pending the motion of Representative Carroll of Gray that the House accept the Majority "Ought to Pass" Report.

Subsequently, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-515) was read by the Clerk and adopted.

Under suspension of the rules, the Bill read a second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate with the exception of An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds (H.P. 1638) (L.D. 2237) (C. "A" H-476).

On motion of Representative Carter of Winslow, the House reconsidered its action whereby An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds (H.P. 1638) (L.D. 2237) (C. "A" H-476) was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Friday, March 25, 1988.

(Off Record Remarks)

At this point, the Speaker appointed Representative Michaud of East Millinocket to act as Speaker pro tem for the remainder of today's session and for Friday, March 25, 1988.

On motion of Representative McGowan of Canaan, Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker pro tem.

The following items appearing on Supplement No. 1 were taken up of order by unanimous consent:

SENATE PAPERS

Ought to Pass in New Draft

Report of the Committee on State and Local Government on Bill "An Act to Make Certain Personnel Records Maintained by the Bureau of Human Resources Available to the Bureau of Employee Relations" (Emergency) (S.P. 726) (L.D. 1985) reporting "Ought to Pass" in New Draft (S.P. 972) (L.D. 2581)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft read once and assigned for second reading Friday, March 25, 1988.

#### Non-Concurrent Matter

Bill "An Act to Revise the Energy Building Standards Act" (S.P. 93) (L.D. 247) on which the Bill and accompanying papers were indefinitely postponed in the House on March 21, 1988.

Came from the Senate with the Majority "Ought to Pass" in New Draft Report of the Committee on Energy and Natural Resources read and accepted and the New Draft (S.P. 958) (L.D. 2539) passed to be engrossed as amended by Senate Amendment "B" (S-352) in non-concurrence.

On motion of Representative Diamond of Bangor, tabled pending further consideration and specially assigned for Friday, March 25, 1988.

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Resolves were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

##### State and Local Government

RESOLVE, Authorizing the Sale of Certain Public Lands Located in the City of Bangor (H.P. 1891) (L.D. 2584) (Presented by Representative STANLEY of Cumberland)

RESOLVE, Authorizing the Sale of Certain Public Lands Located in the City of Augusta (H.P. 1892) (L.D. 2585) (Presented by Representative STANLEY of Cumberland)

Ordered Printed.

Sent up for Concurrence.

#### REPORTS OF COMMITTEES

##### Unanimous Ought Not to Pass

Representative PRIEST from the Committee on Legal Affairs on RESOLVE, to Permit Christie L. Hayes and Richard E. Shorey, Jr. to Sue the State for Compensation for Personal Injuries Resulting From Negligence on the Part of the Department of Transportation (H.P. 1757) (L.D. 2406) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

##### Unanimous Leave to Withdraw

Representative STROUT from the Committee on Transportation on RESOLVE, to Create a Link from the Old Orchard Beach Ball Park Area to the Interstate 95 Spur (H.P. 1754) (L.D. 2403) reporting "Leave to Withdraw"

Representative HEPBURN from the Committee on Labor on Bill "An Act to Create the Technology Retraining Investment Fund" (H.P. 1789) (L.D. 2450) reporting "Leave to Withdraw"

Representative RUHLIN from the Committee on Labor on Bill "An Act to Promote Safety in the Workplace" (H.P. 1529) (L.D. 2083) reporting "Leave to Withdraw"

Representative HALE from the Committee on Labor on Bill "An Act to Protect Workers from Unreasonable Exposure to Toxic Substances in the Workplace" (H.P. 1521) (L.D. 2074) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

#### CONSENT CALENDAR

##### First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 790) (L.D. 2078) Bill "An Act to Expand the Membership and Clarify the Role of the Commission on Intergovernmental Relations" (Emergency) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-354)

On motion of Representative Carroll of Gray, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for Second Reading Friday, March 25, 1988.

(S.P. 926) (L.D. 2437) Bill "An Act to Provide a Special Exemption to Bangor Pre-Release Center Employees for Service Retirement Benefits" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(S.P. 728) (L.D. 1987) Bill "An Act Relating to Sentences with Intensive Supervision" Joint Select Committee on Corrections reporting "Ought to Pass" as amended by Committee Amendment "A" (S-353)

(S.P. 910) (L.D. 2376) Bill "An Act to Provide for Allocations of the State Ceiling on Private Activity Bonds" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 1777) (L.D. 2430) Bill "An Act to Fund and Implement a Collective Bargaining Agreement with Certain Vocational-Technical Institute System Employees Represented by the Maine Teachers Association" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-525)

(H.P. 1707) (L.D. 2344) Bill "An Act to Continue Professional Forestry Supervision of Biomass Fuel Wood Harvesting Operations" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-526)

(H.P. 1772) (L.D. 2425) Bill "An Act Concerning Safety Hazards on Maine Lakes" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-527)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, March 25, 1988, under the listing of Second Day.

#### PASSED TO BE ENGROSSED

##### As Amended

Bill "An Act Concerning Charter Changes in Quasi-Municipal Corporations or Districts" (H.P. 1888) (L.D. 2583)

Was reported by the Committee on Bills in the Second Reading and read a second time.

Representative Brown of Gorham offered House Amendment "A" (H-524) and moved its adoption.

House Amendment "A" (H-524) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-524) and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker pro tem.

The following items appearing on Supplement No. 2 were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1796) (L.D. 2460) Bill "An Act to Make Supplemental Allocations to the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1988 and June 30, 1989" (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass"

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Paper passed to be engrossed and sent up for concurrence.

ORDERS OF THE DAY

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1890)

Bill "An Act to Recodify the Laws on Municipalities and Counties" (H.P. 1855) (L.D. 2538)  
- In House. Passed to be Enacted on March 22, 1988.  
- In Senate. Passed to be Enacted on March 22, 1988.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 2538 was passed to be enacted.

On motion of the same Representative, tabled pending passage to be enacted and specially assigned for Friday, March 25, 1988.

The Chair laid before the House the following matter: Bill "An Act to Amend the Endangered Species Act" (H.P. 1875) (L.D. 2567) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Jacques of Waterville, retabled pending passage to be engrossed and specially assigned for Friday, March 25, 1988.

The Chair laid before the House the following matter: Bill "An Act to Correct Inconsistencies in the Publication of Legal Notices" (S.P. 864) (L.D. 2252) (C. "A" S-350) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Marsano of Belfast, the House reconsidered its action whereby Committee Amendment "A" (S-350) was adopted.

The same Representative offered House Amendment "A" (H-522) to Committee Amendment "A" (S-350) and moved its adoption.

House Amendment "A" (H-522) to Committee Amendment "A" (S-350) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years" (H.P. 1594) (L.D. 2180) (C. "A" H-510) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACROIX: Mr. Speaker, Men and Women of the House: I move indefinite postponement of this bill and all its accompanying papers.

First, I would like to thank all of you who supported me on this last night. I really appreciated your vote.

Next, I want to apologize for the really incredible pressure that you have all been under today with the lobbying that has been going on. I really would like to ask you to support me on this motion.

I won't go into all the things that I said last night but they still all pertain. I would like to correct a few of the things that have been said today.

It is my understanding that some of the things that are being said in the corridors today is that the staff in the Department of Audit is incompetent and is not doing the job properly. It was said that people within these positions had to take an entry level exam and then are just promoted up the ranks and, therefore, do not have to qualify for those jobs. That is not the case. The case is, and it happens throughout state government, that you do take an entry level exam. You have to qualify either by a degree or the experience, training, knowledge and skills that you gain within the field that you are working in and those are used to substitute for a degree or a certificate.

In the case of people who are given promotions, there has to be an experience and training rating that is done by the supervisors and by the Bureau of Human Resources. It is not a way of being promoted up through the ranks. Every employee that is promoted has to pass a probationary period and, during that probationary period, if the employee cannot function in the job, that employee either has the probationary period extended, that employee can be dismissed or that employee can be promoted back to the position from which they came.

I want none of you to think that in any way, shape or manner that I am trying to promote or keep incompetent people in state government. That is not my intention. But the system is already in place to take care of those instances. If there is a worker within state government that is incompetent, I assure you that the managers of those departments have the authority to remove those people from those jobs. It is not something that is done easily, that I will grant, there has to be due process. You have to prove that employee is incompetent but that is a manager's job, it is not the job of the legislature to change the rules. It is not our job to do a manager's job. If the qualifications of the jobs within the Department of Audit are not right, we also have the process by which that can be determined. We have a Bureau of Human Resources that has, as one of its prime directives, the right to look at the classification of jobs and if the State Auditor has a problem with those people of the classifications within his department, he should take it up through proper channels. I don't think it is right or the way to do it by trying to legislate things like that within state government.

I am not going to belabor the point, you have all heard the pros and cons but I would ask you to support my motion and vote with me on this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: My learned colleague from Oakland has, once again, given you the reasons why you should not vote for this bill. I would ask you tonight to vote to defeat her motion to indefinitely postpone.

The bill before you adds a career ladder, some credibility to advancement into the Department of Audit. You can only be promoted if you meet certain standards, you heard the Representative from Oakland say that. You can only be promoted if you serve a probationary period. All we are asking with this bill is that in order to be promoted, people meet certain minimum standards of qualifications.

We certify and we ask the state employees to be certified to meet certain standards in order to work for the state. We demand a great deal from our teachers now and ask them to be certified -- all we are saying is that these people now who are working in the Department of Audit meet some certain basic, supervisory skills, meet the minimum standards required to supervise auditors for the State of Maine. That is all we are asking.

We are giving them three years to certify in any one of three different areas and we are giving them approximately seven chances to pass an examination in that three year period of time. I don't think that is asking a whole lot of anybody who has worked for the state, whether it be two years or 22 years.

There is money already available in the Department of Audit to help those people in their training, to pay for that training. The state is going that one extra step to assist them so they can pass the exams. I think if you look at the two amendments that are before you, you will see that there are some reasonable compromises to be reached in this bill.

I would, therefore, ask you tonight to defeat the motion to indefinitely postpone and accept the 12 to 1 committee report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I am not going to repeat some of the things that our Chairman has said because he said them very well.

I just want to remind you that we are only giving these long-time workers a chance to improve their skills and seven tries to do it.

I sincerely feel that we will be doing these long-time workers a great disservice if we do not pass this bill.

I ask that you vote against the pending motion and I would request a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I would be remiss if I did not extend the same courtesy to my supporters of last night as my good friend from Oakland, Representative Lacroix, extended to hers. I did appreciate, those of us on the one vote majority, who voted with me.

I have tried very hard today to keep my sense of humor going and I think both Elaine and I have done a good job at that. This is an important issue to Representative Lacroix and it is an important issue to me. We will all go on from this debate and work together as we should.

I do want to bring out a few points before we vote on this bill. First of all, there was misconception last night and I am probably responsible for not setting that straight. You do

not need a degree (let me repeat that, you do not need a degree) in order to sit for any one of the three exams that are required in this legislation. You do not need a degree to pass any one of those exams required in this legislation. In fact, if you do not have a degree and have worked in that Department, there is probably a good chance that you can meet those standards and can pass the test and keep your job, even without a bachelor's degree.

I have a good friend that I went to college with, she went to college studying plants and soil sciences and I went to college for accounting. She is a CPA, I am not. You do not need a degree in order to meet the qualifications under this bill.

I would like to point out and read a letter in an audit that was reviewed and conducted by Pete Mowatt Company, an international accounting firm, that reviewed the Department of Audit. I would like to read an excerpt from this report with your permission. "As part of our procedures, we have reviewed several departmental audits performed by the Department of Audit. We noted that one audit report that was issued without the Director of Audit's signing off on the work papers and we were told that the audit was not complete to the satisfaction of the Director of Audit. The individual responsible for the day to day supervision of the audit was reassigned before the audit was complete. The audit was finished by someone without the required experience and, as a result, was done improperly. The audit report was issued without the department correcting the audit deficiencies. By doing so, the department risks adverse publicity that the audit might have failed to uncover errors or irregularities that might have existed and might come to light through other means. Every possible effort must be made to ensure that audits are properly staffed and supervised and that sufficient, competent, evidential matters have been gathered to support the auditor's report."

I would also like to beg your indulgence and read from the testimony of the State Auditor at the public hearing on this bill. "For my first few weeks on the job, several audit reports were typed and given to me to sign. My signature on the audit reports means that I am attesting that the work performed as evidenced by the work papers agrees with the statements in the audit report. Before signing these reports, I went to the files and obtained the work papers prepared by the employees. It immediately became apparent that something was wrong as the work papers did not support the audit report that I was being asked to sign. In other words, the statement's in the audit report were not backed up by the work papers. After further checking, I found that this was not an isolated problem and that substandard and inferior audits were the norm. Deficiencies were numerous and including the following: a complete lack of audit planning and supervision, no evaluation of errors, no determination of material transaction, haphazard review of reports in field work, no attempt to determine if related party transactions such as family measures/business associations were occurring. No research for and disclosure of contingent liabilities, commitments, and similar items among other things."

Representative Lacroix pointed out that there was another way to solve this problem and she did point out that there was no easy way and I would agree. It is a very painful resolution to this problem by dismissing employees.

I prefer a productive resolution to this problem and that productive resolution to this problem would be to require minimum standards so that individuals

in those positions can get themselves educated and meet those standards and continue in their present employment. I prefer a productive resolution as opposed to a painful resolution to this problem.

Again, I thank you for your indulgence and would urge you to vote against the pending motion.

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

Representative ALIBERTI: Mr. Speaker, I would like to pose a question through the Chair.

Is there is a grand person reference as a part of this legislation today at this time?

The SPEAKER PRO TEM: The Representative from Lewiston, Representative Aliberti, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACROIX: Mr. Speaker, Men and Women of the House: The answer is no.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I do support the indefinite postponement of this bill. The reason I do is the State Auditor who is the supervisor of these people has the right to discipline these employees, has the right to fire them if he wishes. If he claims that these people do not know their job, he has the right to offer training and all these rights presently.

It is sort of like in the Labor Committee -- we have safety laws and employers telling us that the employees are not following the safety regulations -- well, the employers have the right to fire those employees. I think to have to legislate into law the criteria, after those people are on the job, is a bad policy. I would think that the supervisors in this state do have that power and if they don't, they should.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, I would like to pose a couple of questions through the Chair.

How long have these auditors been working and how many are we talking about?

The SPEAKER PRO TEM: The Representative from Rumford, Representative Erwin, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I will do my best to answer that question. I think we are talking about 7 to 12 people in those positions at this point in time. How many of those are not capable of doing their job, I guess, is a question that would come on their evaluation or their yearly review. We are not saying they are not capable of doing the job, what we are saying is that we want them to meet some type of a minimum standard for job qualifications.

I want to set the record straight while I have the floor. we are not talking about CPA's. Now that exam, from what I can understand, is impossible. It is very difficult and people have a difficult time

with it. That is the toughest of the three exams that we are asking people to look at. There are two other certifications that people can go for which are somewhat less strenuous for them to pass.

I believe they are capable people, I believe some of them have been in their position for a good number of years. They have been doing the job and I just think that this would be a positive step for them and a positive step for new people coming in as an incentive to work for the state.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I have another question, if they pass one of these three exams, and I am sure if they are having the problems they are having now, they could not pass the CPA exam because people go back time and time again to take the parts over again, it is a very, very difficult two day exam. If they pass one of the other two tests, will this make them more capable of performing the job that they were hired to do?

The SPEAKER PRO TEM: Representative Erwin of Rumford has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question is yes.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would submit to you that just one exam will not do it, they will need much more training than just taking one exam. I think they should undergo perhaps some educational courses provided by the state. I really do not believe that one examination is going to put them on the top of the heap.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I just want to rise to just try to clear up a few things that are nagging in the back of my mind that I hope are clear for everybody. I would remind the House that this is a 12 to 1 Majority Report from the Committee on State Government.

Yes, the CPA exam is very difficult to pass. I know, I have taken it and I needed a microscope to read my scores, they were so low. But we are not asking these people to pass just the CPA exam, they have two other options, a certified internal auditors exam or the professional accountants exam and they are a lot easier to pass than the CPA exam. Yes, it is true that someone who passes the test is not at the top of the heap but someone who passes that test has those basic requirements it takes to be a certified public accountant or a public accountant or a certified internal auditor.

When I worked for the CPA firm I worked for, I haven't met those criteria so everything that I do is reviewed by a CPA and I feel a lot more comfortable about what I do because it has that review and that is what we are asking for here.

I would urge this House to vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: With all due respect to the 12 to 1 report and to the committee who gave that report, as we look for solutions outside of this



legislation, I would urge you to indefinitely postpone this piece of legislation.

Last night during the discussion, I looked into the annual report (that you all have on your desk) and noticed that the review of the Department of Audit would occur on June 30, 1988. However, that is inaccurate. In my research today, as I wanted to find out when the Audit and Program Review was going to be reviewing the Department of Audit, I found that it will not begin until October of 1988. At that time, the Department of Audit must submit justification reports to the Audit Committee for the subcommittee which would be dealing with the Department of Audit. I believe as we try to solve this problem without legislation to deal with the issue, perhaps an issue that was not discussed in the committee, is to defeat this legislation and take this problem to the Audit and Program Review Committee, which is an issue that we deal with in all other departments and agencies, and then settle it there. I believe that the Audit and Program Review's review could issue an administrative recommendation to deal with the issue, which sounds like an in-house supervisory, management problem. This sounds like a problem of management dealing with employee problems. From what I know, this does not sound like a problem of persons who do shoddy work. It sounds like a problem such as we have seen in the Child Welfare Department of the Department of Human Services where caseworkers became supervisors and were not supervised well themselves.

We have been dealing with this issue for three or four years and I would urge you to indefinitely postpone this bill and this particular issue will be dealt with in the normal course of the review of the Department of Audit in the Audit and Program Review Committee.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Lacroix of Oakland that L.D. 2180 and all accompanying papers be indefinitely postponed.

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

Representative POULIOT: Mr. Speaker, I wish to pair my vote with Representative Cashman of Old Town. If he were present and voting, he would be voting nay; I would be voting yea.

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

Representative DIAMOND: Mr. Speaker, I wish to pair my vote with Representative Baker of Portland. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Lacroix of Oakland that L.D. 2180 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 222

YEA - Aliberti, Begley, Clark, H.; Conley, Cote, Daggett, Dexter, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Hale, Hichborn, Hickey, Hoglund, Holloway, Holt, Jackson, Jacques, Jalbert, Joseph, Lacroix, Lapointe, Mahany, McHenry, McSweeney, Melendy, Murphy, E.; Nadeau, G. R.; Norton, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Racine, Rand, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, A.; Stevens, P.; Tammaro, Telow, Tracy, Walker, Warren.

NAY - Allen, Anderson, Anthony, Bailey, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carroll, Carter, Clark, M.; Crowley, Curran, Davis, Dellert, Dore, Farnum, Farren, Foster, Glidden, Greenlaw,

Gwadosky, Handy, Hepburn, Higgins, Hussey, Kilkelly, Lawrence, Lebowitz, Look, Lord, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McPherson, Mills, Mitchell, Moholland, Murphy, T.; Nadeau, G. G.; Nicholson, Nutting, O'Gara, Paradis, E.; Perry, Pines, Priest, Reed, Reeves, Richard, Rolde, Ruhlin, Salsbury, Sherburne, Small, Stanley, Strout, B.; Swazey, Taylor, Thistle, Tupper, Vose, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Armstrong, Brown, Chonko, Coles, Foss, Garland, Gurney, Hanley, Harper, Hillock, Ketover, Kimball, Lisnik, MacBride, McGowan, Michaud, Rice, Ridley, Seavey, Strout, D.; Tardy, The Speaker.

PAIRED - Baker, Cashman, Diamond, Pouliot.  
Yes, 51; No, 73; Absent, 22; Vacant, 1; Paired, 4; Excused, 0.

51 having voted in the affirmative, 73 in the negative, with 22 being absent, 1 vacant and 4 having paired, the motion did not prevail.

Representative Lacroix of Oakland offered House Amendment "B" (H-520) and moved its adoption.

House Amendment "B" (H-520) was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, I move the indefinite postponement of House Amendment "B."

Mr. Speaker, Men and Women of the House: This well-intentioned amendment to this bill really scuttles the whole process. It dead-ends the people who are there, it dead-ends a career ladder that could be potentially there for those people who are now working for the Department of Audit. I think there is a better solution and a better answer with another amendment that could be before us eventually and I would ask you to support the motion to indefinitely postpone.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACROIX: Mr. Speaker, Men and Women of the House: House Amendment "B" lets the legislation that we just passed crank in in the three years that the bill calls for with a couple of exceptions. It adds that the State Auditor also has to possess one of those degrees. The amendment further grandfather the people in the positions, which is something this legislature routinely does when we change the rules that state government has been operating under. The only person it doesn't grandfather is the State Auditor. I think that is something that should be looked at.

I believe if the State Auditor is going to have people working that have those certificates that the State Auditor should be a CPA. I would like to say for those of you that don't know, our present State Auditor is a CPA, so he is not affected by this bill.

I would urge you to support my motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I would urge you to support the good gentleman from Gray, Representative Carroll, on his motion to indefinitely postpone this amendment.

I understand that another amendment is going to be offered. Though I am not wild about it, in the spirit of compromise and fair play and good sportsmanship, I will support it.

The amendment that is before you I do not support because it basically renders the bill useless, in my opinion. It does not do anything to address the problem and I hope this House will not adopt it. I urge you to support the motion to indefinitely postpone.



The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: In the simplest sort of terms, let's not grandfather in mediocrity. The people that are currently employed in positions that would be affected by this have ample opportunity to improve themselves and meet the standards that we are talking about setting. Passing an exam, particularly the professional auditors exam, is not a monstrously difficult task.

What this basic bill does is try to improve the quality of state government. To put in an indefinite, total, without any limit at the end of it, a grandfathering of the people that have those positions now, is to remove any incentive from them to in any way improve their skills. It runs directly contrary to good management style and I believe should be indefinitely postponed.

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

Representative ALIBERTI: Mr. Speaker. Men and Women of the House: If mediocrity, as my good friend from South Portland just identified as a negative quality at this time, if mediocrity that he referred to is loyalty to a department over a number of years, then I say yea, yea, yea, for mediocrity.

I am sure that there were job descriptions at the time that these people applied for those jobs. I am also sure they qualified for those job descriptions. If the State Auditor would like to revamp his department, he can take the advice of Representative Joseph or he can request new positions to satisfy the excellence that he purports to achieve.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Conley.

Representative CONLEY: Mr. Speaker, Men and Women of the House: I had no intention of speaking on this bill or this amendment in particular until my good friend from South Portland raised the issue of grandfathering in mediocrity. Let us not forget that these people who were hired into these positions were qualified people to begin with.

I have a confession to make to this House, one which may come up at some point in time in the future any way, but this is as good a time as any to let it be known. I used to work for state government up here as an attorney representing management. What I did was basically represent the Governor's Office when they wished to terminate people who weren't doing their jobs effectively. What we called being able to get rid of somebody who wasn't doing their job effectively, that time was "good cause." You had to go in and make your case to an arbitrator to show that somebody wasn't doing their job. I will let you know that mediocrity -- the labor person would win on that particular test.

What this amendment would prohibit from happening is taking "good cause" and substituting a test for it. I don't think that is very fair. We are talking not just about seven or twelve people as the good chairman from the committee has referred to, there are actually about 41 auditors altogether who are going to be affected by this bill and by this amendment who would be grandfathered by it. Let's keep the standard "just cause", let's keep the stuff in the collective bargaining arena and not be using a test to figure out who is qualified to work in these positions.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I would ask you to vote against

this amendment and please do not take away from these people who are working in the Department now the right to increase their skills.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I just want to correct my good friend from Portland, Representative Conley. I confirmed this with the State Auditor who is standing behind the glass. I asked how many people are affected by this bill and I got seven, (from behind the glass) not 41. Remember, it is supervisory, Auditor III positions and above, not field auditors, not people working in the field like me when I go out to work on an audit or a tax return. We are talking about people who supervise the people in the field.

Again, I would urge this House to vote for the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Men and Women of the House: I worked in one of these positions a few years ago that was grandfathered. At the end of five years, without benefit of test or fair evaluation, I was terminated from my position as associate commissioner. I haven't seen things under that system improve. If I am a member of this House in the future, I will be coming after the unclassified positions that exist so that people can't play a kind of roulette with people's lives.

I believe that management, and having been part of it, I did have to evaluate and remove from office one or two people who I deemed could not be helped. If you believe in people, and I don't think anyone in here would admit to anything else, if you believe in a system, then I believe that the system has to work. I believe it has to work in management and I believe it has to work on the side of those who are producing the services. I believe those services generally are well served. I believe that this is a management decision and I choose not to be part of anything that would remove people from jobs to which they were hired.

Echoing the words of my seatmate on my left, Representative Conley, echoing other words from other people who have spoken on this issue, I believe state government is not going to improve itself by having people come into office, down through the ranks. I am prepared in the future to try and get no position unclassified that doesn't meet the old acid test of classification, (I won't go into that definition) below that of deputy commissioner. I believe you will see straight stories given to these committees and not the omission of so many facts that I believe we hear here today.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Carroll of Gray, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Anthony of South Portland requested a roll call vote.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

Representative Mayo of Thomaston was granted permission to address the House a third time.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I would urge this House to vote for the pending motion. As I have told you, there is an amendment that is coming along that does take care of those individuals in the Auditor III position. I don't like that amendment, I don't like grandfathering, but as I said, in the spirit of fair play and good sportsmanship, I will support that.

It leaves only three people affected by this bill as the five people above those slots, two of them already have attained a certificate necessary to qualify. I feel that is a good compromise. I would ask this House not to change the whole intent of this law by putting on this grandfathering clause. In my opinion, it will ruin the bill to a point where I would almost regret having introduced it. I would ask this House to vote for the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I have been reluctant to get up and speak on this but I think the good Representative from Winthrop, Representative Norton, hit the nail right on the head. I worked as a state employee for 30 years. I have seen what it is to work up through the ranks. Where will this stop? Where will this stop? This is just another step to put the foot in the door to get rid of this one and that one. This is a management problem and nothing else.

I used to see people who were not qualified and they were removed from their position. Let's not step into the management of the state employees and all of the other ramifications in the state. I say again, I am afraid the more I hear talk about this, this is just a beginning, next you will have the same thing among the school teachers and on the local level.

I say again, I am completely afraid of it. It has got some merits but I believe this is just a beginning and I think we should possibly stop it right now.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: This bill is not a shot at any state worker who now works for the state, who has worked for the state, or who ever will work for the state. Let there be no mistake about it, it is not the intention of this Chair or the majority of that committee to put people out of work. That is not what we are here for. What we are here for is to improve state government and to build some type of a career ladder for state employees to give them some incentive to improve themselves to aspire to a higher level of individual attainment.

I get just a little bit flawed when I hear everybody talking about how we are out to get the poor state worker. We are not talking about 41 individuals in this state, we are talking about seven, seven and that is all. Seven supervisors.

When you say on the local level -- where will it stop, we demanded in this state for a number of years that we certify school teachers. Why? Because we wanted to make sure that your children, my children, had the best possible school teacher out there. We wanted them to have minimum standards so that we could get the best for our kids. That is what we are asking for now in the Department of Audit, that the state gets the biggest bang for its buck, that we give those people who are now in the Audit Department a chance to climb a career ladder that gives them individual growth, that gives them professional growth. I frankly don't see a thing wrong with that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: Very briefly before we vote, I would like to disagree in a very amicable way with the Chairman of the State and Local Government Committee about career ladders. Having been a state employee as the good gentleman from Portland has been and the good gentleman from Winthrop has been, a career ladder is when you put out career notices, job opportunity notices, and you permit people to apply for them on a voluntary basis. If they meet the minimum qualifications, then they are tested. This isn't. This is management's way of making sure that either you do it exactly their way with a new set of standards or you are fired. That is what I don't think is fair with this at all. That is why I support this amendment and why I couldn't support the bill without this amendment.

There may be seven or 41 or whatever number but there are seven families or 41 families that are going to be affected ultimately by this bill if we don't have the amendment. I don't think that is fair play at all. There are going to be some families that are going to be dislocated and they are going to suffer because of that.

I would urge you to adopt this amendment, vote against the motion to indefinitely postpone, so we can have the fairest amendment, House Amendment "B."

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Seven out of 41, my fellow legislators, is almost 11 percent.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Carroll of Gray that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 223

YEA - Allen, Anderson, Anthony, Bailey, Bickford, Bost, Boutilier, Bragg, Callahan, Carroll, Clark, M.; Crowley, Dellert, Diamond, Dore, Farnum, Foster, Glidden, Greenlaw, Gwadosky, Handy, Hepburn, Hickey, Higgins, Hussey, Kilkelly, Lawrence, Lebowitz, Look, Lord, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McPherson, Michaud, Mills, Mitchell, Nadeau, G. G.; Nicholson, Nutting, Paradis, E.; Perry, Pines, Priest, Reed, Rolde, Ruhlin, Salisbury, Seavey, Sherburne, Small, Soucy, Stanley, Strout, B.; Taylor, Thistle, Tupper, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Begley, Bott, Carter, Clark, H.; Conley, Cote, Curran, Daggett, Dexter, Duffy, Dutremble, L.; Erwin, P.; Farren, Gould, R. A.; Hale, Hichborn, Hoglund, Holloway, Holt, Jackson, Jacques, Jalbert, Joseph, Lacroix, Lapointe, Mahany, McHenry, McSweeney, Melendy, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. R.; Norton, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pouliot, Racine, Rand, Reeves, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Stevens, A.; Stevens, P.; Swazey, Tammaro, Telow, Tracy, Vose, Walker, Warren.

ABSENT - Armstrong, Baker, Brown, Cashman, Chonko, Coles, Davis, Foss, Garland, Gurney, Hanley, Harper, Hillock, Ketover, Kimball, Lisnik, MacBride, McGowan, O'Gara, Rice, Richard, Ridley, Strout, D.; Tardy, Webster, M.; The Speaker.

Yes, 65; No, 59; Absent, 26; Vacant, 1; Paired, 0; Excused, 0.

65 having voted in the affirmative, 59 in the negative, with 26 absent and 1 vacant, the motion did prevail.

Representative Gwadosky of Fairfield offered House Amendment "A" (H-519) and moved its adoption.

House Amendment "A" (H-519) was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Clearly, I think the debate on this bill has demonstrated the concern the members of this House have for the quality of audits that are taking place within the Department of Audit. I think if there has been some benefit to the debate, it has been perhaps that we have all had a greater understanding and perhaps a greater appreciation for the need for extra training of supervisors, not only within the Department of Audit, but the need throughout state government for better training of supervisors. Historically in the past, we have seen members who are state employees rise to the top in supervisory capacity with no training to be a manager or to be a supervisor. The State Government Committee, during the last couple of years, has recognized that and through the creation of the Bureau of Human Resources have created a mechanism now where, hopefully in the future, there will be more opportunities for training of middle managers and middle supervisors.

This amendment which I am offering is in hopes to be a compromise between the somewhat divergent view points between qualifications on one side and the need to protect the interests of state employees on the other.

We heard the original bill dealt with approximately 12 positions, seven people. The reason for that distinction being that some of those people are already PA's, some of those positions are vacant, that is why we weren't dealing originally with 12 positions.

The purpose of this amendment is to create a career ladder within the Department of Audit and it would work in the following way. Currently, the bill would apply to the Deputy Auditor, the Director of Departmental, the Director of Municipal, a couple of assistant directors and then all of the Audit III positions. The purpose of this amendment is to exclude the Audit III positions from this bill.

In other words, this bill would apply those qualifications of being a CPA, PA, or CIA certified only for the Director of Departmental, Director of Municipal, the two assistant directors and the Deputy Director. I think it makes some sense because of the fact that those people are in greater administrative, greater oversight responsibilities. It would leave free those people who are currently in Audit III.

I offer this as somewhat of a compromise. I had an opportunity to discuss this with the bill's sponsor and with the State Auditor and would appreciate your support.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I, too, believe in the spirit of compromise and I will indicate that when it comes time to vote.

Is there a fiscal note on this bill now?

The SPEAKER PRO TEM: Yes, there is a fiscal note. It is on Committee Amendment "A."

The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I am only sorry that we didn't have an opportunity to vote on this amendment first. It is a reasonable compromise and it should be supported in my view.

Subsequently, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker pro tem.

The Chair laid before the House the following matter: An Act to Continue State Benefits to Retired Teachers who have Joined a New Insurance Plan upon Retirement (H.P. 1862) (L.D. 2547) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Friday, March 25, 1988.

The Chair laid before the House the following matter: RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (Emergency) (H.P. 130) (L.D. 159) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "A" (H-485) to Committee Amendment "A" (H-481).

On motion of Representative Carter of Winslow, retabled pending adoption of House Amendment "A" (H-485) to Committee Amendment "A" (H-481) and specially assigned for Friday, March 25, 1988.

By unanimous consent, all matters having been acted upon requiring Senate concurrent were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act Relating to Exceptions to Prevent Escapes and Other Offenses under the Interception of Wire and Oral Communications Law" (H.P. 1846) (L.D. 2528) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Paradis of Augusta, retabled pending passage to be engrossed and specially assigned for Friday, March 25, 1988.

Representative Conley of Portland was granted unanimous consent to address the House:

Representative CONLEY: Mr. Speaker, this morning when we took L.D. 2571, the gender neutral bill, I was present and thought I had voted yea. It was not recorded as such and wish to be recorded as yea on that particular item.

(Off Record Remarks)

On motion of Representative Soucy of Kittery, Adjourned until Friday, March 25, 1988, at eleven o'clock in the morning.