

MAINE STATE LEGISLATURE

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



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

LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME V

SECOND REGULAR SESSION
March 20, 1990 to April 14, 1990
Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS
December 7, 1988 to April 14, 1990

Tabled - April 9, 1990, by Senator CLARK of Cumberland.

Pending - motion of Senator BALDACCI of Penobscot to RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED.

(In Senate, April 7, 1990, PASSED TO BE ENGROSSED AS AMENDED; in concurrence.)

(In House, April 7, 1990, PASSED TO BE ENACTED).

(In Senate, April 9, 1990, RULES SUSPENDED for purpose of Reconsideration.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending motion of Senator BALDACCI of Penobscot to RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED.

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

COMMITTEE OF CONFERENCE REPORT - on Bill "An Act Concerning the State Minimum Wage"

H.P. 1646 L.D. 2279

Report: Unable to Agree

Tabled - April 9, 1990, by Senator Dutremble of York.

Pending - ACCEPTANCE

(In Senate, April 9, 1990, Committee of Conference Report, READ.)

(In House, April 7, 1990, Committee of Conference Report READ and ACCEPTED.)

On motion by Senator DUTREMBLE of York, Tabled 1 Legislative Day, pending ACCEPTANCE.

Off Record Remarks

On motion by Senator TWITCHELL of Oxford, ADJOURNED until Tuesday, April 10, 1990, at 10:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
47th Legislative Day
Tuesday, April 10, 1990

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

Prayer by Reverend Cecil Jones, Federated Church of Norridgewock.

The Journal of Monday, April 9, 1990, was read and approved.

Quorum call was held.

At this point, the Speaker appointed Representative McGowan of Canaan to act as Speaker pro tem.

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

PAPER FROM THE SENATE
Ought to Pass as Amended

Report of the Committee on Agriculture reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-556) on Resolve, to Establish the Commission to Study the Harness Racing Industry (EMERGENCY) (S.P. 781) (L.D. 2022)

Came from the Senate, with the Bill and accompanying papers indefinitely postponed.

Report was read and accepted, the Resolve read once.

Committee Amendment "A" (S-556) was read by the Clerk and adopted.

Under suspension of the rules, the Resolve was read the second time without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Resolve was passed to be engrossed as amended by Committee Amendment "A" (S-556) in non-concurrence and sent up for concurrence.

ORDERS

On motion of Speaker Martin of Eagle Lake, the following Joint Resolution: (H.P. 1825) (Cosponsors: Representative POULIOT of Lewiston, Senator DUTREMBLE of York and Representative PLOURDE of Biddeford)

JOINT RESOLUTION CONGRATULATING

THE ST. ANDRE HOME, INC. ON THE OCCASION
OF ITS FIFTIETH ANNIVERSARY

WHEREAS, St. Andre Home, Inc. is celebrating fifty years of continuous service to women, rendered in a spirit of compassion and dedication; and

WHEREAS, St. Andre Home was established through the vision and foresight of the Sisters - Servants of the Immaculate Heart of Mary, also known as the Good Shepherd Sisters of Quebec; and

WHEREAS, St. Andre Home originated out of faith and compassionate respect for life at all levels; and

WHEREAS, St. Andre Home provided care to thousands of young women experiencing unplanned pregnancies and women in crisis; and

WHEREAS, St. Andre Home first provided institutional and hospital services at 407 Pool Road in Biddeford from 1940 to 1974; and

WHEREAS, through an Act of the 106th Legislature of the State of Maine funds were appropriated for St. Andre Home to establish residential group homes in Biddeford, Lewiston and Bangor; and

WHEREAS, over the last half century St. Andre Home has facilitated the placement of more than 1,500

infants in warm, loving, adoptive families throughout the State of Maine; and

WHEREAS, St. Andre Home has profited greatly by the tireless dedication and unselfish devotion of hundreds of friends, coworkers, board members, church, government and civic agencies; now, therefore, be it

RESOLVED: That We, the Members of the 114th Legislature, now assembled in the Second Regular Session, hereby extend sincere congratulations to St. Andre Home, Inc. for outstanding humanitarian contributions since its inception on the occasion of its fiftieth anniversary and best wishes for continued success in all its endeavors over the next fifty years; and be it further

RESOLVED: That copies of this Joint Resolution, duly authenticated by the Secretary of State, be sent to Reverend Sister Theresa Couture, SCIM, Provincial Superior and Dr. Gregory C. Foltz, Executive Director of St. Andre Home, Inc.

Was read and adopted and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

In Memory of:

Weston R. Sherburne, of Dexter, our well-respected colleague, who was a member of the House of Representatives for 12 years, serving actively on the Agricultural Committee. He was a man well-known as a caring and dedicated citizen who took an active role in civic and fraternal organizations in Dexter and provided sound leadership to the State of Maine; (HLS 1293) by Representative WEBSTER of Cape Elizabeth. (Cosponsors: Senator EMERSON of Penobscot, Representative HIGGINS of Scarborough, Speaker MARTIN of Eagle Lake, Representative MARSANO of Belfast, Representative TARDY of Palmyra, Representative PARADIS of Old Town)

On motion of Representative Webster of Cape Elizabeth, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: Representative Wes Sherburne was a true friend of many people in this chamber, a working man who brought much to the Legislature of the citizens.

Wes and Maggie lived on the family dairy farm and they worked hard all their lives to make this farm prosper.

I want to tell you a brief story about my first visit to this farm in Dexter. It was in the summertime and the temperature was over 100 degrees. Wes and Maggie were very hospitable. After the visit, they invited me to go out and visit the barn where the cows were. You will recall that the temperature was exceedingly warm that day. Wes Sherburne took a certain amount of clever satisfaction from watching this woman from Cape Elizabeth pretend to enjoy his cows and the scent from these animals on this very warm summer day.

Wes was a man of honor, humor and dedication to his family, to his farm, his community and to the State of Maine and he will be missed by all of us.

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

Representative PARADIS: Mr. Speaker, Members of the House: A few words on Wes Sherburne who was a

good friend. Wes was a good farmer, Wes was a gentleman in every sense of the word.

George Washington, when he dismissed his officers who had gathered around him, charged them with being gentlemen and he explained to them that a gentleman was one who gave no offense to others through his word, through his deed or through his acts. This certainly could apply to Wes Sherburne. He was a good husband, he was a good father, he was a citizen who served his neighbors and his community. He served as a granger of high repute. He was a leader in his church and, as a member of his town council, he brought great leadership. On the floor of this House he earned considerable respect for his words when he spoke to us on farm issues and especially on those concerning the dairy industry.

As Representative Webster has mentioned, Wes was a hands-on farmer. The farm which he lived on had been in his family for five generations. He was a caretaker of that property and he knew that it could not be abused, that it had to be cared for, it had to be conserved or he would have nothing to pass on to his sons. In my visit to the farm, it was obvious that Wes was a caretaker. It would have taken, the way he planted his corn, an inch of rain per hour for ten hours to have disturbed one molecule or brought it into the Piscataquis.

He is to be complimented and he will be missed. I am certain that I will miss his counsel and his wisdom, he was a true son of Maine.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I would be very, very remiss in just allowing this tribute to my good friend Wes without adding something to it. A very, very soft-spoken man. Oftentimes, he adopted me as a member of that Agriculture Committee in such a way that try as I may, I cannot convey to you the inspiration that he was to me as a member of that committee. I can just go back and think of Wes in his very, very subtle way of being humorous, the Will Rogers type. People that appeared before our committee felt much more comfortable and willing to contribute just because of what Wes was. I really miss you Wes.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I only have two or three words to add to this fine tribute to a great gentleman and a former member of this body. In my mind, I think the good Representative from Dexter typified to me the kind of Maine character that is perhaps vanishing from our presence. It is very difficult for many of us in the younger generation to appreciate how difficult it was for people like Weston Sherburne in the time when they began their working careers. When you make the statement that Weston Sherburne was a hard worker, many of us, I think, would find that impossible to fully appreciate. Here is a man that started his career with one horse, one cow and a lot of courage. Many of us in the House who took time to sit and listen to Weston were treated with stories of how it was back when life wasn't quite as easy.

He told a story to me once -- in fact I took a moment to write it down, I think I was talking about how dangerous it was to be in the woods industry. Wes said in just a matter of fact manner, "Yes, my father and my brother were both killed in the woods when I was working with them on different occasions." Then went on with his story. That is the way life was for the Weston Sherburne's of the world, matter of fact, difficult and yet, the Weston

Sherburne's began from a very humble, humble existence to rise in his community to great prominence and to come and serve the people of all of Maine in a capacity that many of us appreciated serving with him on the committee and in this House.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I only knew Wes Sherburne as a Representative. I came here last year and was assigned to this seat beside Wes. Wes was a very quiet man, he didn't often volunteer to make conversation, but Wes was the quieting effect on a new legislator such as I. Often when I would get excited about things going on in this chamber, it was Wes that would tell me to slow down, it was Wes that would tell me what was going on and it was always Wes that would give me the advice that so often was the correct cause of action to follow.

I didn't have a long time to know him. In many ways, he was very intransigent. I say that because of all the chairs in this aisle, his is the only one without casters. Most of us tried to get him to put casters on his chair but Wes said, no, it was good enough.

I will always remember Wes because Wes is now part of the fabric of my life just as he is part of each one of yours. When any able person leaves, we are the loser and yet we have all gained by it because we have lived and known him and he has influenced us and we are the better for it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: I also would like to speak as a freshman sitting beside Wes Sherburne. I am sure we was an excellent farmer, he reminded me so much of my grandfather who was a farmer that sometimes I almost called him Perce rather than Wes.

As a freshman, I never asked him a question on procedure that he couldn't answer. I would whisper to him, "What has the Speaker done now?" He would always answer, "Well, young fellow" -- I thought being 47 years old, I wondered really how old he was if he was calling me young fellow. I am proud to have sat beside him, I will always be indebted to him for the basic learning he gave me as a freshman.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Merrill.

Representative MERRILL: Mr. Speaker, Men and Women of the House: I would like to add just a little bit about Weston too. He was a very good friend of mine. He was always there to help me any time that I needed it and he had many abilities. One of them was fine whittling, if any of you had the chance to see that. He also had a very deep inner being that I think that probably his outward reflection showed on his ability. At one time, he was ill and he could write poetry. I would like to share this with you now.

I stopped by Maggie's yesterday and she gave me this little poem that he had written. Wes said, "I thank God tonight for my blessings, as I think of them one by one. I thank God first and always for the gift of His glorious Son; who went to the cross before me, who went to the cross in my stead, who went to the cross at Calvary with a crown of thorns on His head. He went to the cross uncomplaining, God have mercy, His only plea, for they know not what they are doing, pleading for sinners just like me. In going, He won our salvation, a salvation that sets us free. Why friends? Why did He do it? He did it

for you and for me. You have all heard this salvation story and you know it is wonderfully true. I would like to ask you one question, who first told this story to you? Did you hear it first in your childhood, at your mother's or father's knee or did you grow up into manhood uninformed, a sinner like me?" This was written by Wes in 1955. I feel at this particular time, Easter time, is a good time to share this.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Wes Sherburne was a very kind and gentle man. He was an individual who brought to this legislature a sense of compassion and understanding for those he represented, more so than many other legislators that I think I have seen over the years. He was someone who had, what I would describe, an undeveloped sense of humor but could be very quick-witted if you got the chance to know him and understood what he was saying.

First and foremost, he was always a gentleman, he was a man who didn't speak often but when he did speak he had something to say. Most of us, myself included, benefited when you took the time to listen. I remember the endless debates on the Maine Milk Commission and other issues that Wes was so involved in.

Those of us who have served in the Legislature in the past or will serve in the future, who are serving now, we all become part of a Legislative family and because of the time and the sacrifice and the hours we spend here, I think those of us, as we work together, it becomes part of our extended personal family. I think we take the loss of any of our members very, very seriously. I can't think of a person that I enjoyed more personally than Wes for a lot of the things that he counseled me towards over the years, some things that I wish I could tell you about but I can't. I am going to miss him greatly and I know members of our caucus as well as members of this Legislature will miss him.

Subsequently, was adopted and sent up for concurrence.

SECOND READER

As Amended

Later Today Assigned

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 927) (L.D. 2345) (C. "A" S-682)

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

On motion of Representative Michaud of East Millinocket, tabled pending passage to be engrossed and later today assigned.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

Resolve, to Reimburse Certain Municipalities on Account of Taxes Lost Due to Lands Being Classified Under the Tree Growth Tax Law (H.P. 1823) (L.D. 2496)

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. 119 voted in favor of the same and none against and accordingly the Resolve was finally

passed, signed by the Speaker pro tem and sent to the Senate.

At this point, Speaker Martin resumed the Chair and called the House to order.

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

(Off Record Remarks)

(At Ease to the Gong)

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:

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1990-91" (EMERGENCY) (H.P. 1771) (L.D. 2441) (C. "A" H-1028)

TABLED - April 9, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Engrossed.

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

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

Bill "An Act to Authorize the Maine State Lottery to Enter into an Agreement with Other States to Join the Multi-State Lottery Association, Known as LottoAmerica, for the Purpose of Operating a Joint Lottery" (H.P. 1711) (L.D. 2362)

-In House, Majority "Ought Not to Pass" Report of the Committee on Legal Affairs was read and accepted on March 27, 1990.

- In Senate, Minority "Ought to Pass" as amended Report of the Committee on Legal Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-972) and Senate Amendments "B" (S-629) and "D" (S-632) in non-concurrence.

TABLED - April 9, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Further Consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and later today assigned.

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

An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991 (EMERGENCY) (H.P. 1776) (L.D. 2444) (C. "A" H-1064)

TABLED - April 9, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Moholland of Princeton, under suspension of the rules, the House reconsidered its action whereby L.D. 2444 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1064) was adopted.

The same Representative offered House Amendment "A" (H-1103) to Committee Amendment "A" (H-1064) and moved its adoption.

House Amendment "A" (H-1103) to Committee Amendment "A" (H-1064) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Members of the House: This amendment just delays the effective date of the authorization language for the Department of Motor Vehicle Building to avoid constitutional concerns. It makes this section effective in 90 days after adjournment.

Subsequently, Committee Amendment "A" (H-1064) as amended by House Amendment "A" (H-1103) 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.

(At Ease)

The House was called to order by the Speaker.

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

Bill "An Act to Establish the Maine Medical Malpractice Act" (S.P. 289) (L.D. 762)

- In House, Bill and accompanying papers were indefinitely postponed on April 7, 1990.

-In Senate, Insisted on its former action whereby the Bill and accompanying papers were recommitted to the Committee on Judiciary in non-concurrence.

TABLED - April 9, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Further consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-628) - Minority (4) "Ought Not to Pass" - Committee on Labor reporting on Bill "An Act to Promote Economic Development" (S.P. 907) (L.D. 2306)

TABLED - April 9, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative RUHLIN of Brewer to indefinitely postpone bill and accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: The motion in front of you, I hope you defeat. The bill is only a guarantee, a

guarantee of jobs for people in the state. The facts of the bill are (1) any employer who has people who were recently laid off, who is as qualified as somebody on the street, the employer if he had used economic subsidy through tax money, that he will have to look at these people first to give them the fair shake.

The bill was worked and it was worked hard in the Labor Committee, you might hear that different. It came out with a divided report which was unfortunate because I believe a report on this bill is real important, especially the way the nature of businesses in our state seem to be heading.

I hope you give the bill some consideration. Looking at the amendment, I notice it has been one of the hardest lobbied bills by the Chamber of Commerce. I think some of the facts you have to look at is who this bill applies to, who it affects and who it benefits. It is a protection for the working people of Maine whether he be union or non-union. It is an accountability from the businesses to the people of Maine, businesses that have used the tax monies. The bill is being tossed around in the hall with all kinds of innuendos and all kinds of things attached which simply aren't true. Myself and other members on the report have done our best to get the facts out on the issue. I guess we will leave it up to you once you read the committee report.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: We spoke about this bill yesterday and I want to be very brief today. I just want you to remember, as I said to you yesterday, this bill is aimed at a target for which there was no proven existence. I must respectfully disagree with the position that it protects jobs. I think that if it were to be applied, it would in effect defeat its purpose as Representative Ruhlin said so eloquently on the floor yesterday. We might very well have a graduate of an ASPIRE Program who would be qualified for a position and be denied it by the effects of this bill. It is very cumbersome to enforce and has some fairly draconian penalties that would be invoked on an employer who might have inadvertently violated the bill. It ought not to become law and I urge your support for the pending motion.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will defeat the pending motion that is on the floor at this time. All this bill says to a business is, if you want to use our tax dollars, there are certain guidelines that you have to follow. It does not say -- it just means there is a 50 mile radius that companies in my area use. It is certainly not limiting them. We are not the Salvation Army or the Red Cross, we want to stimulate economic development but we do not want to do it at the expense of the taxpayers. This is taxpayer dollars that we are talking about. Every single company in this state whether it be federal tax dollars or state, the federal government has certain guidelines and things that they have to comply with. This bill only says that you must follow certain guidelines. Those guidelines must be met to protect employees in the State of Maine that are employed in the State of Maine, that does not mean they come from the State of Maine. If you are going to use our tax dollars, then you have to comply with it. If they don't want to comply with these guidelines, they don't have to apply for the bucks, keep the dollars in the State of Maine to try to stimulate economic development in the State of

Maine. I would urge you very strongly to vote against the pending motion on the floor.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: As you realize, the State of Maine does provide help to most all industries. This bill only applies to industries who have 100 or more employees. The prime purpose for providing monies to industry is to create jobs, to protect jobs. The intent of this bill is only to protect jobs, nothing else, protect jobs of employers who have 100 or more employees. It says, if you have laid off employees in the past three years, you have applied for a loan or a grant or any type of money from the state or local government, you shall, if you do create jobs, put a notice in the paper stating that you are creating jobs. If those employees apply for the job, then you should give them consideration. You do not have to provide them any more training than you would anyone else. If you have to provide them with more training than somebody else, then you don't have to hire them. If they do not apply for the job, you don't have to go out and search for them. If they don't apply for the job, they just don't qualify. I don't see any problem at all. It is to help employees who are presently employed by Maine employers, nothing more.

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

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

I would direct the question to the Representative from Jay. What is the penalty if a company violates the proposed law and who decides?

The SPEAKER: Representative Adams from Portland has posed a question through the Chair to Representative Pineau of Jay who may respond if he so desires.

The Chair recognizes that Representative.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: If in fact this law was enacted and a business was found out of compliance with the law, in violation, the penalty is that the business has to give that employee a crack at doing the job that we was bypassed on. That answers one.

The Attorney General rules or not if there is a complaint, a court is the one who decides it. It is not decided on, does it come to the legislature, does it go in a back room somewhere? It is not the Maine Labor Relations Board, it is the court that decides it. The reason we put it through the Attorney General when we worked the bill in the committee was we thought that would be a good screening. That way it would really narrow down the scope so that all kinds of employees wouldn't be going to their businesses and arbitrarily saying, hey, you did this wrong, you can't do this. We figured that would be the screening process, the funneling so only those good cases would be the ones looked at.

Mr. Speaker, I ask for a division.

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

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I won't take the chambers time this afternoon for very long. I just want to point out one thing, that in the 1990's and beyond, our workers in this state are going to need additional job training skills. That is one of the things that this legislature has tried very hard to do, to recognize that need and make those programs available for additional training.

I think this particular piece of legislation, as written and presented before this chamber, does in

fact fly in the face of what we have been trying to do. If you take a worker and train him, he is not presently employed, employed by that employer, he becomes ineligible unless he proves he is well beyond the capabilities of the existing employee. In other words, if I have a company and if I want to expand, I have to take my present employee, as long as he can be equally trained anew and have him compete against somebody who has gone through the STAR Program, the ASPIRE Program or something else, we are trying to uplift the aspirations of people.

This bill, as presented before this chamber, I say will dash those aspirations.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I was, and still am, a great supporter of ASPIRE and the STAR Program. The people who are trained under this program should not be replacing people who are already employed by the employer. I believe that the person who is already employed by that employer should remain on that job and, if he or she needs additional training, they should get it. Why should we train people and displace other people into a market? It isn't right.

Mr. Speaker, I ask for the yeas and nays.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I guess I am one of those people who don't believe in labor, I am the cosponsor of the bill as well as the President of the Senate and the Speaker of the House. I cosponsored this bill mainly because of what has been going on in the state and the only reason I cosponsored it was to protect the worker himself. When we put this bill in, the main objective was to help the worker to see that he could get back to work for the people he was working for. The only thing we are asking is, if you receive any kind of subsidy from the state whatsoever, that you ought to look at the worker who worked for you first. This is the worker who worked for you probably 10, 15, 20 years. What is wrong with bringing this guy back to work for you if he can do the work? That is what we are looking for. If the worker worked for you and he can do the job and he can be retrained and put back to work, there is nothing wrong with taking care of the guy that worked for you over the years. Why not take care of the guy that works in the State of Maine? There is nothing wrong with that. When you vote, I hope you do vote to override the motion pending here today and give us a chance to vote for this bill.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address a few remarks from my good colleague from Brewer, Representative Ruhlin.

As far as replacing and making positions available or not making positions available by utilizing the retraining program, that is totally untrue. The purpose of this bill, as I read it and as many of you have heard from the cosponsor, is to give the opportunity to existing employees to advance in the company that they have spent years working for. While they advance, this opens up a position for a person that has gone through a retraining program to give them marketable skills. That is how STAR and all of the other ASPIRE programs work so that they have skills to enter the work force. This bill is not meant to deny them that. I hope that you will vote against the motion on the floor.

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 Ruhlin that the Bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 241

YEA - Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Begley, Bell, Boutillier, Brewer, Butland, Carroll, J.; Coles, Constantine, Crowley, Curran, Dellert, Dexter, DePietro, Donald, Duffy, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Hepburn, Hickey, Higgins, Hussey, Hutchins, Jackson, Jacques, Jalbert, Kilkelly, Lawrence, Lebowitz, Libby, Look, Lord, MacBride, Manning, Marsano, Marsh, McCormick, McPherson, Merrill, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, E.; Parent, Pendleton, Pines, Plourde, Reed, Richards, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Tardy, Telow, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Conley, Cote, Daggett, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hognlund, Holt, Joseph, Ketover, LaPointe, Lisnik, Luther, Macomber, Mahany, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Pouliot, Priest, Rand, Richard, Rolde, Rydell, Swazey, Tammara, Tracy, The Speaker.

ABSENT - Larrivee, Marston, Simpson, Townsend.

Yes, 86; No, 60; Absent, 4; Vacant, 1; Paired, 0; Excused, 0.

86 having voted in the affirmative, 60 in the negative, with 4 being absent and 1 vacant, the motion did prevail. Sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 927) (L.D. 2345) (C. "A" S-682) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Michaud of East Millinocket, the House reconsidered its action whereby Committee Amendment "A" (S-682) was adopted.

The same Representative offered House Amendment "A" (H-1104) to Committee Amendment "A" (S-682) and moved its adoption.

House Amendment "A" (H-1104) to Committee Amendment "A" (S-682) was read by the Clerk and adopted.

Representative Priest of Brunswick offered House Amendment "B" (H-1106) to Committee Amendment "A" (S-682) and moved its adoption.

House Amendment "B" (H-1106) to Committee Amendment "A" (S-682) was read by the Clerk.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: The purpose of this amendment is

to ensure that realtors are not included in the definition of mobile home dealers. The way that the bill was written included realtors in the definition of mobile home dealers, that was not the committee's intent, it was an error in the way it was written. Therefore, we want to correct that error so that realtors are not included within this definition. To that point, it carries out the unanimous wish of the Legal Affairs Committee and I urge you to adopt it.

Subsequently, House Amendment "B" (H-1106) to Committee Amendment "A" (S-682) was adopted.

Representative Jacques of Waterville offered House Amendment "C" (H-1107) to Committee Amendment "A" (S-682) and moved its adoption.

House Amendment "C" (H-1107) to Committee Amendment "A" (S-682) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Men and Women of the House: I just came in from the Judiciary hearing, I have not seen this amendment until this moment but I do understand that this is a substantive amendment, that it is just not a technical amendment. I don't know if it is or not. I would like to have some explanation of this and discussion before we proceed with it.

Subsequently, House Amendment "C" (H-1107) to Committee Amendment "A" (S-682) was adopted.

Representative Paradis of Augusta offered House Amendment "D" (H-1108) to Committee Amendment "A" (S-682) and moved its adoption.

House Amendment "D" (H-1108) to Committee Amendment "A" (S-682) was read by the Clerk and adopted.

On motion of Representative Higgins of Scarborough, the House reconsidered its action whereby House Amendment "C" (H-1107) was adopted.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I came in late as well and I didn't hear an explanation to House Amendment "C" and I would hope that someone might provide that to us.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, may I pose a question through the Chair?

I wonder if Representative Jacques could please explain what this amendment is that he is putting on to the Errors and Inconsistencies Bill.

The SPEAKER: Representative MacBride of Presque Isle has posed a question through the Chair to Representative Jacques of Waterville who may respond if he so desires.

The Chair recognizes that Representative.

Representative JACQUES: Mr. Speaker, Men and Women of the House: What this amendment does is put back into the law a little part of Maine's history that was called Misery Gore that was somehow taken out of Maine State Statute's last year and I think with very little consideration toward Maine history and Maine tradition. I have to believe that it was a mistake when we did it because it is so blatant and unbelievable to me that we would do that. When I found out about it, it was too late. Somehow or other, it had gotten by. The people up there were outraged because no one ever gave them any consideration. I had to believe it was a mistake, it was an error, and I am trying to rectify that error and put some of Maine history and Maine tradition back.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: I still don't know if this is a substantive amendment or not. I have worked with the Judiciary Committee for quite a number of years on the Errors and Inconsistencies Bill and we do try very hard to make sure that when this bill goes through it does not have substantive amendments to it. In other words, we are not writing a law, we are only trying to correct the law. I don't know if this is a substantive change or not, if the committee really intended to repeal this section concerning Misery/Sapling Gore or whether it did not. I wonder if there was someone else on the committee who was involved in this that could please explain this to me?

Mr. Speaker, I request a division.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, I would like to pose a question to Representative Jacques or anyone on the committee that had dealt with this issue that got scraped off our history books. I was wondering what committee had dealt with this and what bill it got scraped off?

The SPEAKER: Representative Hanley of Paris has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, I would like to pose a question.

If this is wiping off something that was passed last year, would that not be a substantive change?

The SPEAKER: Representative Wentworth of Wells has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Presque Isle, Representative MacBride.

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

I would like to ask Representative Jacques if this is a substantive amendment?

The SPEAKER: Representative MacBride of Presque Isle has posed a question through the Chair to Representative Jacques of Waterville who may respond if he so desires.

The Chair recognizes that Representative.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I don't believe it is since the committee that dealt with it has not got up to defend their action up until this time. I still believe it was a mistake to do away with over 200 years of history in the State of Maine and no one gave the people involved in Misery Gore any amount of consideration. That is my problem. I am trying to rectify a mistake but, Mr. Speaker, I withdraw my amendment.

Subsequently, House Amendment "C" (H-1107) was withdrawn.

Subsequently, Committee Amendment "A" (S-682) as amended by House Amendments "A" (H-1104), "B" (H-1106) and "D" (H-1108) thereto was adopted.

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

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

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Communication:
Maine State Senate
Augusta, Maine 04333

April 10, 1990

The Honorable John L. Martin
Speaker of the House
114th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following upon the recommendation of the Joint Standing Committee on Labor:

Pamela Chute of Brewer for appointment as an Alternate Neutral Member of the Maine Labor Relations Board.

Pamela Chute is replacing Peter Dawson.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

**Refer to the Committee on
Energy and Natural Resources**

Report of the Committee on State and Local Government on Bill "An Act to Reduce Costs to County and Municipal Government by Delaying the Implementation Dates of Certain State Mandates" (S.P. 1004) (L.D. 2492) reporting that it be referred to the Committee on Energy and Natural Resources.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Energy and Natural Resources.

Report was read and accepted and the bill referred to the Committee on Energy and Natural Resources in concurrence.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE
Non-Concurrent Matter**

Bill "An Act to Reduce the Use of Toxic Substances in the Workplace and Minimize the Generation of Hazardous Waste" (H.P. 1583) (L.D. 2192) (C. "A" H-1082) which was passed to be enacted in the House on April 7, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1082) as amended by Senate Amendment "A" (S-687) thereto in non-concurrence.

The House voted to adhere.

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

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

The following Communication:
Maine State Senate
Augusta, Maine 04333

April 10, 1990
Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it Indefinitely Postponed Resolve, to Establish the Commission to Study the Harness Racing Industry (Emergency) (S.P. 781) (L.D. 2022).

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate
Was read and ordered placed on file.

Non-Concurrent Matter

Bill "An Act to Establish the Department of Child and Family Services" (EMERGENCY) (H.P. 1199) (L.D. 1666) (H. "A" H-1008 to C. "C" H-820) which was passed to be enacted in the House on April 5, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "A" (H-1008) and Senate Amendment "B" (S-672) thereto in non-concurrence.

On motion of the Representative from Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1990 (EMERGENCY) (H.P. 1826) (L.D. 2499) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

Pursuant to Joint Rule 13

From the Committee on Judiciary on Bill "An Act to Authorize the Atlantic Sea Run Salmon Commission to Take the Edwards Dam by Right of Eminent Domain" (EMERGENCY) (H.P. 1700) (L.D. 2349) (Received by the Clerk of the House on April 10, 1990, pursuant to Joint Rule 13)

Was read and placed in the Legislative Files and sent up for concurrence.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative CARTER of Winslow, the following Order:

House Order Propounding a Question to the Justices of the Supreme Judicial Court

Whereas, it appears to the House of Representatives of the 114th Legislature that the following is an important question of law and that this is a solemn occasion; and

Whereas, the Constitution of Maine, Article VI, Section 3, provides for the Justices of the Supreme Judicial Court to render their opinion on this question; and

Whereas, there is now before the 114th Legislature for its consideration House Paper 1776, Legislative Document 2444, "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991," as amended by Committee Amendment "A," and by House Amendment "A" thereto, which bill is pending enactment in the House of Representatives; and

Whereas, the Constitution of Maine, Article IX, Section 19, provides that: "All revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, and to fuels used for propulsion of such vehicles shall be expended solely for cost of administration...and expense for state enforcement of traffic laws and shall not be diverted for any purpose..."; and

Whereas, Legislative Document 2444, as amended, would authorize the expenditures of funds from the Highway Fund in connection with the lease-purchase of a building for use by the Department of the Secretary of State, Division of Motor Vehicles; and

Whereas, the constitutionality of the use of highway funds for the lease-purchase of that building has been called into question as a possible violation of the Constitution of Maine, Article IX, Section 19; and

Whereas, it is important that the Legislature have an answer to the important and serious question raised in this Order; now, therefore, be it

Ordered, in accordance with the provisions of the Constitution of Maine, that the House of Representatives respectfully request the Justices of the Supreme Judicial Court to give to the House of Representatives their opinion on the following question of law.

Does the restriction contained in the Constitution of Maine, Article IX, Section 19, on the use of "revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, and to fuels used for propulsion of such vehicles" to the "cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges,...and expense for state enforcement of traffic laws" preclude the use of these revenues for the lease-purchase of a building for the use of the Department of the Secretary of State, Division of Motor Vehicles, as provided for in Legislative Document 2444, as amended?

Was read.

On motion of Representative Martin of Eagle Lake, Pursuant to House Rule 40, tabled pending passage and specially assigned for Wednesday, April 11, 1990.

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

**FINALLY PASSED
Emergency Measure**

Resolve, Creating a Commission on Adult Sentencing (H.P. 1801) (L.D. 2471) (H. "A" H-1099; S. "A" S-654)

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. 102 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 Establish the Office of Substance Abuse (S.P. 909) (L.D. 2312) (H. "B" H-1102 to C. "A" S-639)

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

The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you would vote

against this. What I would like to do is see this bill come out in non-concurrence so we could then ask for a Committee of Conference. I do believe that there has been a lot of false information that has been going on in the halls, people calling one organization, lying, others calling -- it is so confusing, the things that are happening out there. I would very much like to see this bill split up so we could deal with dedication or the bill itself. I do not want to see the office, the portion of the bill that deals with the office, killed. I want very much to see that office in place but I do not believe that undedicating these funds through this bill is something that we should be doing. I would urge you to support me.

I ask for a roll call on this.

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 Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I think we have spent a long time talking about this bill and a lot of the parts of this bill. I would urge you to vote for enactment of this bill.

Earlier, I read information from the Regional Councils and from the Substance Abuse Program providers. I would just like to read one more which comes from the Maine Council on Alcohol and Drug Abuse Prevention and Treatment. This is an advisory committee to Maine State Government. It says, "Regarding L.D. 2312, we are firmly in favor of a strong centralized agency in the Governor's Office to administer, supervise and coordinate substance abuse programs and funding as described in L.D. 2312. This is our first priority even if it means undedication of the premium fund."

I urge you to support this bill on enactment.

The SPEAKER: The pending question before the House is passage to be enacted.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Larrivee of Gorham. If she were present and voting, she would be voting yea and I would be voting nay.

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

Representative GWADOSKY: Mr. Speaker, I request permission to pair my vote with Representative Ketover of Portland. If she were present and voting she would be voting nay, I would be voting yea.

The SPEAKER: 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. 242

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Begley, Bell, Boutilier, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, M.; Coles, Constantine, Cote, Crowley, Curran, Daggett, Dellert, DePietro, Donald, Dutremble, L.; Erwin, P.; Farren, Graham, Greenlaw, Handy, Heeschen, Hepburn, Hichborn, Higgins, Hogle, Jacques, Jalbert, Joseph, Lawrence, Lebowitz, Lisnik, Macomber, Mahany, Manning, McCormick, McGowan, McSweeney, Michaud,

Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Reed, Richards, Ridley, Rolde, Rotondi, Seavey, Sheltra, Small, Stevens, P.; Swazey, Tardy, Telow, Webster, M.; Wentworth, The Speaker.

NAY - Aikman, Allen, Bailey, Brewer, Butland, Carroll, J.; Clark, H.; Dexter, Dore, Duffy, Farnsworth, Farnum, Foss, Foster, Garland, Gould, R. A.; Gurney, Hale, Hanley, Hastings, Hickey, Holt, Hussey, Hutchins, Jackson, Kilkelly, LaPointe, Libby, Look, Luther, MacBride, Marsano, Marsh, Martin, H.; McHenry, McKeen, McPherson, Melendy, Merrill, Mills, Moholland, Murphy, Norton, O'Gara, Parent, Pederson, Rand, Richard, Ruhlin, Rydell, Skoglund, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tamaro, Tracy, Tupper, Walker, Whitcomb.

ABSENT - Conley, Marston, Simpson, Townsend.

PAIRED - Gwadosky, Ketover, Larrivee, Mayo.

Yes, 80; No, 62; Absent, 4; Vacant, 1; Paired, 4; Excused, 0.

80 having voted in the affirmative, 62 in the negative, with 4 being absent, 4 having paired and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Fund and Implement a Collective Bargaining Agreement with the Maine State Troopers Association" (EMERGENCY) (H.P. 1804) (L.D. 2475) reporting "Ought to Pass"

Report was read and accepted, the Bill read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1990-91" (EMERGENCY) (H.P. 1771) (L.D. 2441) (C. "A" H-1028) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Cashman of Old Town, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1028) was adopted.

The same Representative offered House Amendment "A" (H-1110) to Committee Amendment "A" (H-1028) and moved its adoption.

House Amendment "A" (H-1110) to Committee Amendment "A" (H-1028) 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.

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Establish the Department of Child and Family Services" (EMERGENCY) (H.P. 1199) (L.D. 1666) (H. "A" H-1008 to C. "C" H-820) which was passed to be enacted in the House on April 5, 1990; Came from the Senate passed to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "A" (H-1008) and Senate Amendment "B" (S-672) thereto in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Representative Joseph of Waterville, the House voted to recede.

Senate Amendment "B" (S-672) to Committee Amendment "C" (H-820) was read by the Clerk.

On motion of Representative Joseph of Waterville, Senate Amendment "B" (S-672) to Committee Amendment "C" (H-820) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-1109) to Committee Amendment "C" (H-820) and moved its adoption.

Representative Joseph of Waterville withdrew her motion.

On further motion of the same Representative, House Amendment "A" (H-1008) to Committee Amendment "C" (H-820) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-1109) to Committee Amendment "C" (H-820) and moved its adoption.

House Amendment "B" (H-1109) to Committee Amendment "C" (H-820) was read by the Clerk.

At this point, the Speaker appointed Representative Michaud of East Millinocket to act as Speaker pro tem.

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

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Today is indeed an important and historic day for the children and families of Maine. L.D. 1666, which was the bill to establish a Department of Children and Families now amended by House Amendment 1109, "An Act to Plan to Establish a Department of Children and Families" sets forth new hope and direction for Maine children and families. This bill establishes a transition process and a time table that is intended to lead to the operation of a Department of Children and Families on July 1, 1991.

Public policy and budgets may now begin to look with vision for a brighter future for troubled Maine families and children. Maine's elected leaders can now say, we have taken one giant step in the process of improving our system of caring for our children.

Political leaders have worked together to fashion a credible agreement for children, a compromise that will lead to restructuring existing services at no significant cost increase. This agreement preserves the transition process which we have agreed to in the earlier amendment.

In the end, in order to reach this agreement, we had to make some essentially technical concessions. We needed to develop a new funding source. However, let it be understood and let it be stated that the major components of a Department of Children and Families is in tact.

Men and women on both sides of the aisle have listened to the views of each other. Members and leaders of the executive and legislative branches have worked out their differences after weeks of meetings among legislators, appointing officials and the Governor. Today, elected leaders and appointed officials can embrace legislation that will better nurture children, better support families and better serve our Maine community of needy citizens.

I personally applaud the patient perseverance and enduring commitment of many of our Representatives who have sponsored or who have helped to finalize this legislation. First, I wish to recognize the low-key but unwavering support for L.D. 1666 by my colleague, the Representative from Winslow, Representative Carter. This man has a keen perception of the problems faced by children. He stands tall when he says that to truly help children, we must deal with the root causes of this problem.

The Speaker, as a sponsor of L.D. 1666, speaks to the point that our state's caring for children must have a clear vision to help guide families during the 1990's. He has assured that this legislation provides that state services to children will be focused, holistic and practical.

Several other members of the Maine House deserve and share in this achievement. First of all and most importantly, all of the members of the Joint Standing Committee of State and Local Government. The Representative from Yarmouth, Representative Foss, as always, well-informed, to note just a few members of this body.

In order that there is no doubt about this legislature's good will for children, I will now enumerate essential points of this compromise and this agreement for children.

First, this amendment provides a better defined transition process, a more detailed timetable to offer an improved structure and forum for substantive deliberations regarding the establishment of a cabinet level agency of children and families.

This amendment establishes an interim commissioner of children and families within the executive branch to assist with the development of a plan to implement a cabinet level agency of children and families.

The purpose of the cabinet level agency must be to enhance the human development of families and children in this state, to ameliorate family dysfunction and child disabilities and to be a unified and integrated operating agency to coordinate and consolidate the effective delivery of services to children and families.

Through this amendment and this Act, the legislative intent is that establishing an interim commissioner and this transition process will lead to implementation of a Department of Families and Children on July 1, 1991 as proposed in the original bill, subject to future approval or disapproval by the legislature and by the Governor. This amendment clarifies the deliberations during the transition process, will address how to design the best organization of state activities to most appropriately meet the needs of children and families.

This amendment provides that a proposed plan of implementation and any necessary legislation be presented to this legislature and to the Governor by February 1, 1991. It explicitly states these

proposals may be approved or disapproved subject to final approval or disapproval, transfer of existing activities to a cabinet level agency must be considered. The public community level agencies, state employees and providers have substantial opportunity for input to preparation and implementation of the plan. Members of the advisory committee on children and families are appointed by the Governor and by the President of the Senate and Speaker of the House of Representatives. The advisory committee is independent, compensation and expenses are authorized. Most importantly, in order to focus preparation of the plan and future administrative service practices, legislative intent is stated in several principles to guide, and design future operation of a cabinet level agency.

The legislation will be enacted as an emergency so that state government may begin immediately to design the coordination and consolidation of effective services and to explore and apply for federal demonstration grants. The applications for these grant funds are due May 11th. These are several key features of this historic visionary bill. The bill authorizes a process to plan to establish a Department of Children, a department that unifies, consolidates and better coordinates state services to children and families, a department that emphasizes that only specialized responses to problems do not meet the complex multi-problem realities faced by families of the 1990's.

I compliment the dedicated diplomacy on this legislation of Senator Bustin, Senator Berube, Senator Gill and Senate President Charles Pray.

In conclusion, I wish to thank the Governor for his tentativeness to this issue. He chose to stand back during the early exploration of this legislation, yet he listened to both sides of the debate. Through this process, we reached a consensus, despite the reluctance of some of the administration's appointed officials. We understand that the Governor has pledged his cooperation through the transition to plan for the establishment of a Department of Children and Families. Creation of this department is creation of a policy for children and families in our state government. Thank you Mr. Speaker, thank you men and women of the House.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I will be very brief. I just wanted to acknowledge the fact that in part of this amendment part of the contribution to funding of this initiative is by a contribution from the permanent Children's Trust Fund. We have obviously debated that issue many times. I just wanted to, as one individual who has strongly supported the Children's Trust Fund and what it does and what it represents, follow in support of this amendment even with that contribution being made from the permanent trust. I think the visibility and the awareness of children's issues and the emphasis on children services that the Children's Trust Fund has been a part of or will be accentuated by this department. I think all of those who have been strong supporters of the Children's Trust Fund and its work can feel confident that this contribution will be looked upon as very positive and will hopefully create a department that all of us can be proud of.

Subsequently, House Amendment "B" (H-1109) to Committee Amendment "C" (H-820) was adopted.

Committee Amendment "C" as amended by House Amendment "B" thereto was adopted.

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

(At Ease)

At this point, the Speaker resumed the Chair and called the House to order.

The Chair laid before the House the following matter: Bill "An Act to Establish the Maine Medical Malpractice Act" (S.P. 289) (L.D. 762) - In House, Bill and accompanying papers were indefinitely postponed on April 7, 1990 - In Senate, Insisted on its former action whereby the Bill and accompanying papers were recommitted to the Committee on Judiciary in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

Representative Gwadosky of Fairfield moved that the House Adhere.

Representative MacBride of Presque Isle moved the House recede and concur and further requested a roll call vote.

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 MacBride of Presque Isle that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 243

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Boutillier, Brewer, Butland, Cahill, M.; Carroll, J.; Cashman, Cathcart, Clark, H.; Clark, M.; Crowley, Curran, Dellert, Dexter, DePietro, Donald, Duffy, Farnum, Farren, Foss, Garland, Greenlaw, Hastings, Hepburn, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsh, McCormick, McPherson, Merrill, Norton, Nutting, O'Gara, Paradis, E.; Parent, Pendleton, Pines, Pouliot, Reed, Richards, Ridley, Rolde, Seavey, Small, Stevens, A.; Stevenson, Strout, B.; Tamaro, Telow, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Allen, Anthony, Bell, Burke, Carter, Chonko, Coles, Conley, Constantine, Cote, Daggett, Dore, Erwin, P.; Farnsworth, Foster, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Heeschen, Hichborn, Hickey, Hogle, Holt, Hussey, Jacques, Joseph, Kilkelly, LaPointe, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Priest, Rand, Rotondi, Ruhlin, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tardy, Tracy, Tupper, Walker, The Speaker.

ABSENT - Carroll, D.; Dutremble, L.; Handy, Hanley, Higgins, Jackson, Jalbert, Ketover, Larrivee, Marston, Mills, Moholland, Richard, Rydell, Townsend.

Yes, 61; No, 74; Absent, 15; Vacant, 1; Paired, 0; Excused, 0.

61 having voted in the affirmative, 74 in the negative, with 15 being absent, and 1 vacant, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere. By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 9 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE
Non-Concurrent Matter**

Bill "An Act to Establish a Five-year Medical Liability Demonstration Project" (S.P. 782) (L.D. 2023) on which the Bill and accompanying papers were indefinitely postponed in the House on April 6, 1990.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-683) in non-concurrence.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House recede and concur and request a roll call.

I do want to explain to you tonight just what this bill before you does and just what it does not do.

First however, I do want to explain to you the course of the medical malpractice bills during this 114th Legislature. We have been considering medical malpractice in this legislature for a number of years because of the high costs of malpractice insurance and because the number of physicians in the state have been declining. We have had three studies done on this subject in the recent years. The last one was done in this legislature and commissioned by this legislature with a report that was due in June of 1989 at a cost of something like \$30,000 I believe.

We had about ten or twelve medical malpractice and tort bills submitted to this legislature last year. The Judiciary Committee had a very busy session last year and, so thinking that this session would not be as busy which was certainly an erroneous decision on our part, we carried all the bills over to this year. We had the public hearings on them in December and then, as most of you are well aware, the Judiciary Committee became very busy with many, many bills.

Although we had discussions on these medical malpractice bills, for one reason or another, we did not seriously get to consider these bill until about two weeks ago. Our goal in committee was to try to find a package of bills that would cut the cost of malpractice insurance and would keep our physicians practicing. We spent a lot of time discussing programs and innovative procedures that we might use. We had a couple of meetings with the Banking and Insurance Committee because we had hoped to incorporate an insurance plan within our package. We had an actuary come in to talk to us about reserves, premiums and so forth.

Senator Gauvreau finally presented the Committee with a bill, a five year medical liability demonstration project.

Representative Hastings wrote a forward looking program called Rural Medical Access Program.

We also had the tort reform bills. You must know too that members of the Maine Bar Association, the trial lawyers, representatives of the doctors, the insurance people, in addition to many others, sat

with us lobbying and disagreeing with whatever we did. We charged the lobbyists to get together and reach agreement. In some areas, they did agree, but not in others, chiefly in the area of tort reform.

The words tort reform are frightening to many people. I must admit that they make me a little uneasy too for I come from a whole family of lawyers. I grew up seeing the issues really from their point of view. My son-in-law is a trial attorney with a large practice, he does not want any tort reform and he does not want any caps or any change in the collateral source rule. So, it is always a little uneasy feeling when I do support tort reform in some areas. I think he really is great and he and I have a very good understanding on these issues.

I do support some forms of tort reform. I do support caps and a change in the collateral source rule because I do care so much about the access to health care and physicians to care for our children and our grandchildren.

At our public hearing on our bills in December, we had a good deal of testimony. I would like to read to you sections from the testimony that came from someone whom a good many of you in this House know very well. Bonnie Post, who is the Executive Director of the Maine Ambulatory Care Coalition. She said, "My name is Bonnie Post and I am Executive Director of the Maine Ambulatory Care Coalition. The coalition represents community health centers which are scattered throughout Maine's most isolated areas. They are located from Kezar Falls to Lubec and from Bingham to Eagle Lake, all except Medicaid and Medicare.

The great majority of the centers employ physicians on a full-time basis paying malpractice insurance for both the physician and the health center itself. As noted in this weekend's Boston Globe, our nation is facing a crisis in rural health care and one of the greatest problems is that of attracting physicians to rural communities. Salaries and work load are two major issues. The high cost of malpractice insurance impacts on both. We know of centers who are interested in providing obstetrical services but the additional malpractice premium for family practice physicians delivering babies makes it economically impossible. We recognize fully that this is not an easy issue. Parties place the blame in different areas whether it be insurers who have made bad investment decisions, a few physicians who have made mistakes, lawyers who want to make too much money, regulators who don't have sufficient staff and perhaps even a few jury's who make unreasonably high awards.

The only issue of concern is that we have to break the vicious cycle of increasing costs of medical malpractice premiums resulting in our reducibility to deliver services. We are convinced that the only way to break this cycle is to place a reasonable cap on damages in medical malpractices. It is the only way to bring some certainty to the outside limits of claims and for some stability on malpractice insurance rates. It is a difficult choice but one which has to be made if we are to maintain access to health care for all of Maine's citizens."

I do also want to quote from a report, the report that we had commissioned last year. The Deprez Report as it is commonly called and it was available on June 6th. It says, "Based on secondary data and a physician survey conducted as part of this study, Maine has experienced and will continue to experience a decline of approximately 4 percent per year in physicians who provide obstetrical services. This

decline is occurring primarily among family physicians and mostly in urban areas of the state. In the future, however, rural areas are expected to experience the same trends. The principal factors reported by physicians as responsible for this decline are the price of medical malpractice insurance and fear of a malpractice suit. More family physicians are likely to drop obstetrics, leaving a serious access problem for Medicaid."

That really sets the stage for the problem that we have and what we really are trying to do. In this report which we have today, we are recommending a cap of \$250,000 on non-economic damages. That means on pain, suffering, the loss of consortium. That does not include economic damages. You still get your lost wages, you still get all your medical expenses, all of your economic damages.

We are recommending a change in the collateral source rule in that expenses or any other payment that would be given would be considered by the judge after the verdict has been reached. We are making a change in the discovery rule to speed and smooth the process of litigation. We have two plans, one is an access to medical care in underserved areas, the other is a demonstration project, a five-year demonstration project. So, we are presenting to you a package of five issues for you to consider and hopefully approve today in order to provide access to medical care in the State of Maine.

I do want to also at this time read to you another letter that we had as testimony at our hearing. This one comes from Jack Dexter who is the President of the Maine Chamber of Commerce and he says, "Six months ago, both Houses of the Legislature with only one negative vote, passed the most comprehensive health care bill in the history of Maine. We are forecasting full family health insurance premiums of \$6,000 by 1991 and \$7,500 to \$9,000 by 1995. Even if future premium increases were reduced to only 15 percent annually, this is terrifying when we realize that median household buying income in 1988 was only \$23,000. We were fast approaching a situation where health care would be available only to the rich who could afford to pay for it and the poor who are covered by Medicaid." He went on to say that there were a number of reasons for the skyrocketing insurance including AIDS and our aging population which was beyond our control. He says, "However, a few of these are addressable, one is medical malpractice tort reform. You have the opportunity today to begin the process of medical malpractice tort reform and of taking another step toward ensuring adequate health care for all Mainers. Insurance premiums for malpractice insurance for health practitioners in Maine account for about \$50 million of our health care costs. Even more significantly, defensive medicine" and we did spend a lot of time in committee talking about defensive medicine, "that is tests and procedures performed solely to ensure an adequate defense in case of suit, are estimated by some to be five times the premium. That would result in an additional \$250 million in unnecessary expenditures."

Nation's Business reports in its September issue that some studies indicate 25 percent of all procedures by doctors are performed for defensive reasons. He concludes, "The choice you will make is quite clear, you can enact medical malpractice tort reforms thereby addressing one of the few controllable health care expenses and support the broadbased efforts to preserve an affordable health care system or you can decline to enact reform. If you choose the latter course, a few Maine citizens

will win big settlements, while many Maine people lose their health coverage."

I do want to say that in any bill that we do pass in this legislature, usually there are advantages and disadvantages. There are people who are hurt and there are people who gain. I don't think any of us want to see anyone hurt, but I think at stake here is health care for all of the citizens of the state, for our children, our grandchildren.

I hope you will support the recede and concur motion.

Representative Gwadosky of Fairfield moved that the House recede.

Representative Boutilier of Lewiston requested a division on the motion to recede.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, may I have information from the Chair?

I would like information concerning the motion to recede.

The SPEAKER: The Chair would advise the Representative that she can look in the rule book as to what the motion to recede means.

Representative MACBRIDE: Mr. Speaker, does recede and concur supercede recede?

The SPEAKER: The Chair would answer in the negative.

The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House recede. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative MacBride of Presque Isle requested a roll call vote.

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 Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I won't take much of your time. It is obvious we have before us a choice today. We have the other body having amended L.D. 2023 and we have the amendment which I do feel is a quality amendment. We have all heard the readings by Representative MacBride and I don't want to go over those same grounds but we need to pass something in the form of tort reform in this session and this is the vehicle we have before us to do that. We all know that the environment has become much more litigious in the past few years and defensive medicine has been on the rise. High insurance rates have clearly added some problems with access for physicians, not only in rural areas but also in urban areas. There are several provisions in this bill that I think will go a long way to provide some greater access in those rural areas as well as areas such as Lewiston, Portland and Bangor.

I would urge you to pass this bill and send it to the Governor for signature.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I certainly didn't mean to

cause any more confusion than there perhaps already is on a complicated bill like this. My motion to recede this evening was to allow members of my caucus an opportunity to present an amendment. We need to be able to recede before we can offer any amendments. If there are those members who happen to find the Senate Amendment objectionable or unpalatable at this point in time, we need to be able to move to recede before they would be in a position to offer that amendment.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I know after listening today that I would be told, if there is malpractice per se to probably stand up and speak on this matter at this point in time. The matter before you though is the issue of receding. As the good Representative from Lewiston, Representative Boutilier does mention, you have a choice here tonight. The choice is yet to be debated fully on this floor.

It has been debated by the other body and it has come over to us, as you well know, with the vote that probably you have heard out in the corridor. You have just received another amendment from the other body or that mirrors a bill from the other body which has already been defeated in the other body. Now you are being asked to.....

The SPEAKER: The Chair would advise the member that he should refrain from talking about the action of the other body and talk only about the matters in this body.

Representative HASTINGS: Thank you, Mr. Speaker. Tonight you have before you the bill which we started to debate which is the larger issue of malpractice, the demonstration project and the correlation of all these issues before you, that is that you have a choice to decide what is the common good. Now I stand before you, not as the Representative from Fryeburg, not even as a Representative of the eight towns of District 48, but of the Representative of the State of Maine.

I would like you to listen quickly to a couple of things, one is that we the people of Maine, and that is who we are, we the people of Maine, in order to establish justice, ensure tranquility, promote our common welfare — those are eloquent words. Again, we hold these truths to be self-evident that they are endowed by the creator with certain inalienable rights that among these are life, liberty and the pursuit of happiness.

I tell you that today we are dealing with a bill which is the common good. I have been frustrated for several weeks on this matter as I have listened to those of my profession implore that this bill and all of its amendments not be heard by you. I will tell you that when I heard of Medicaid or rather that health insurance costs are rising to the tune of \$9,000 by 1996 for a family plan in this state that I could not in good conscience to my constituents sit back and do nothing.

You have a choice, the choice is yours. The key to this bill is a compromise which is not liked by all people. It is certainly not liked by the bar of this state. For 50 percent of all dollars spent for malpractice goes to lawyers, 50 percent ladies and gentlemen. If that could be changed alone, it would make a tremendous change in the cost of malpractice costs and insurance premiums to doctors in this state, but it has not been changed. This bill does not totally change that in any way and I do not presume that it is so far-reaching as all of that.

This bill, however, has three demonstrable events that will help us secure our future in health care.

I myself have come to the conclusion that health care is a national issue. How it is to be solved is something that has to be worked out through consensus on a national level. That is not before us. We have to survive until that national consensus is arranged. The State of Maine is seeing it by ever rising costs of health care to our citizens to the degree that many cannot get that health care.

This bill that you are asking to recede on with the Senate Amendment is a step in the direction of holding down those costs and making those costs that are saved available to our underserved areas for those doctors who deliver babies, who take Medicaid patients and who spend over half of their time serving underserved areas, not rural areas, underserved areas, areas around metropolitan areas such as Lewiston/Auburn, areas around Belfast, all of Waldo County, practically everything north of Bangor. These doctors will be aided by this bill. Why? Because this bill, ladies and gentlemen, is the first step that has been taken for a long time for doctors to commit themselves to put their dollars where their mouth is.

There is no question that the rule of caps, that the rule of collateral source as changed by this bill will save dollars in premium costs to doctors. No question. There are those who will stand up and argue that this is unfair to have these things in place. There will be certain instances where you can look back and say, true, unfair, but you have to begin somewhere to look to the common good of all of the citizens, we the people of the State of Maine. What has been crafted here? What is crafted is basically the concept that the savings that would be done from these two portions of the bill, caps and collateral source, one-half of those savings with a guarantee that it be at least a half a million dollars (\$500,000) up to a million dollars, will be reallocated from among the premiums paid by all doctors in the State of Maine to those doctors serving in underserved areas who deliver babies and accept and service Medicaid patients. This helps practically every constituent or every area that we represent in one town or another north of Lewiston.

It is amazing, if you look at the map, it is a collage of underserved areas. Doctors are leaving this state as far as the delivery of babies at an amazing rate. We had a young woman come in -- she sounded like an excellent OB/GYN from the Lincoln County area, I believe this was in February or March. She spoke to us about how she had moved here from Philadelphia, she had been here for three years, she liked it here, her costs for insurance were \$42,000. She made as an OB/GYN before taxes \$51,000. She has now left that position. There is now, I am told, one doctor in Lincoln County delivering babies. In Fort Kent, I was told there were 99 babies born last year, 96 were delivered by one doctor. These are statistics that were told to us at the hearings that we had.

The concept, however, is simple -- rather than dip into the public tax funds, doctors themselves shall pay their premiums in and the premiums will be reallocated so that a minimum of \$500,000 and up to one half of the savings will be reallocated and applied against the premiums of those doctors working in underserved areas. This will mean, according to DHS and the doctors that presently are serving in these areas, from one-quarter to one-half of their malpractice insurance will be credited and as if paid through this program. I can't guarantee you that that will make doctors move into these areas, it may. It is a big enticement, it certainly is a major

enticement for doctors who are already in the area to stay there.

That package, if you will, ties caps, collateral source, two technical bills if you will, with the rural Medical Health Access Program. The balance is a demonstration project. Right now, we are paying an enormous amount of money for defensive medicine. It is our intent to gather data over the next five years with an intent to see if we can control defensive medicine through drafting parameters and protocols for doctors in the specialties of anesthesiology, emergency room physicians and OB/GYN's, it is a movement towards trying to hold down health costs.

Lastly, every malpractice case, as you know, goes before a screening panel. In that process, there is a great deal of discovery which currently is confidential by statute. Thus, when somebody moves on to trial, if they proceed after the screening panel to make a legal claim by lawsuit, often we are told by Judge McCarthy, who hears a great deal of these matters, there is duplicative discovery at additional costs to those people who have to pay for it, the plaintiff, the person who is hurt, and the doctor's malpractice insurance. This limits it or attempts to limit it to one bite of the apple. I know it is not perfect but it is an attempt.

Ladies and gentlemen, tonight you are kind of steering a ship called health care. It is on a collision course with a reef. We are in constant health care crisis. Believe it or not, if you want to pay \$9,000 in five years, then you may, but most of our citizens cannot afford that. Most of our businesses cannot afford it. The unions have been fighting over this very issue to the detriment of business and union members already. That is what the AT&T strike was all about. Acrimony is going to continue to rise because health care costs are continuing to rise. We have to do something in the State of Maine, thus, I, as a Representative, am willing to charge, contrary to those who in my same profession would say it is adverse to my interests. Tonight we have to move, if only a little bit the ship as it travels, to change its course. It doesn't do 180 degrees by this bill but it does change it a little bit. You have a choice. I am sure your constituents are interested in your choices. I urge you tonight not to fault me for the time I take at this late hour. I urge you instead to consider your conscience and decide what would be the best for your people, your constituents, all of them. Thank you.

The SPEAKER: The pending question before the House is not the amendment, not the bill. The Chair did allow the Representative to go on at some length but the only motion before this body at this time is the motion to recede. This body is to debate only whether or not the motion to recede is to be approved or denied. The pending motion is to recede.

The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I would urge all of you to vote against the pending motion so that we can go on to move recede and concur and work on the action of the other body.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House recede. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 244

YEA - Adams, Allen, Anthony, Bell, Burke, Cahill, M.; Carroll, D.; Carter, Chonko, Coles, Conley, Constantine, Cote, Daggett, Dore, Erwin, P.; Farnsworth, Graham, Gwadosky, Hale, Handy, Heeschen,

Hickey, Hoglund, Holt, Jacques, Joseph, Kilkelly, LaPointe, Lawrence, Lisnik, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Priest, Rand, Ridley, Rolde, Rotondi, Rydell, Simpson, Stevens, P.; Swazey, Tardy, Tracy, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Boutilier, Brewer, Butland, Carroll, J.; Cashman, Cathcart, Clark, H.; Clark, M.; Crowley, Curran, Dellert, Dexter, DePietro, Donald, Duffey, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gurney, Hastings, Hepburn, Hichborn, Higgins, Hussey, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsano, Marsh, McCormick, McPherson, Merrill, Moholland, Murphy, Norton, Nutting, O'Gara, Paradis, E.; Parent, Pendleton, Pines, Pouliot, Reed, Richards, Ruhlman, Seavey, Sheltra, Skoglund, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tamaro, Telow, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dutremble, L.; Gould, R. A.; Hanley, Jackson, Jalbert, Ketover, Larrivee, Luther, Marston, Richard, Townsend.

Yes, 65; No, 74; Absent, 11; Vacant, 1; Paired, 0; Excused, 0.

65 having voted in the affirmative, 74 in the negative, with 11 being absent and 1 vacant, the motion to recede did not prevail.

The SPEAKER: The pending question before the House is the motion of Representative MacBride of Presque Isle that the House recede and concur.

The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, I request whether or not Senate Amendment "A" is properly before the body?

(At Ease)

The House was called to order by the Speaker.

The SPEAKER: The original bill is L.D. 2023, Bill, "An Act to Establish a Five-year Medical Liability Demonstration Project." According to the Statement of Fact, the Bill authorizes a five-year medical liability demonstration project within five areas, the result of the project to be reported to the Legislature in 1995.

Senate Amendment "A", according to the Statement of Fact, revises the discovery of medical malpractice, prelitigation, screening panel proceedings and subsequent court action. The amendment sets a limit of \$250,000 on non-economic damages in medical malpractice liability. The Bill sets a cap to be adjusted by the Consumer Price Index. The amendment includes an offset in the reduction of personal injury for collateral sources. The amendment reduces the amount payable by the plaintiff to collateral sources. The amendment establishes a rural medical access program to increase access to physicians who deliver babies in underserved areas of the state and it also establishes a five-year medical malpractice.

The Chair would rule that Senate Amendment "A", not only does it not conform to the title of the bill that it has been attached to by the other body, it is not germane with the content of the bill. Therefore, the Chair would rule that the amendment is not germane.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

The SPEAKER: The Chair would like to advise all members of the history of the Medical Malpractice so there will not be any misinformation used by the lobbyists who have found themselves in the hall for the past four days.

These bills have been before this body for almost two years. Three medical malpractice bills were carried by this body and, at the request of the entire committee by unanimous vote, requests were made for extensions. Extensions were granted under the rules by the presiding officers to January 1 to January 31. Subsequently another request this time was granted to 3/1. Another request from the committee granted to 3/9, another request from Judiciary, unanimous, granted to 3/16. Another request from committee, unanimous, granted to 3/22. Subsequently another request and verbal extension was granted by the presiding officers through the 28th. Subsequently through Saturday, March 31st and again through April 4. Frankly, that is enough time to have dealt with the business of malpractice.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 10 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Allow the Harness Racing Commission More Flexibility" (H.P. 1828) (L.D. 2500) (Presented by Representative TARDY of Palmyra) (Cosponsored by Representative HIGGINS of Scarborough, Senator COLLINS of Aroostook and Representative ALIBERTI of Lewiston) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(Committee on Agriculture had been suggested)

Under suspension of the rules, without reference to any committee, the Bill read twice.

Representative Whitcomb of Waldo offered House Amendment "A" (H-1113) and moved its adoption.

House Amendment "A" (H-1113) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: This amendment adds to the bill a repeal date of January 1, 1992. Thank you.

Subsequently, House Amendment "A" (H-113) was adopted.

Under suspension of the rules, the Bill was passed to be engrossed as amended by House Amendment "A" (H-1113) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Representative Webster of Cape Elizabeth,

Adjourned until Wednesday, April 11, 1990, at ten o'clock in the morning in memory of Weston R. Sherburne of Dexter.

STATE OF MAINE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
April 10, 1990

Senate called to Order by the President.

Prayer by the Honorable Muriel Holloway of Lincoln.
HONORABLE MURIEL HOLLOWAY: Good morning. Shall we bow our heads in prayer?

Dear Father in Heaven, we thank You for this day and the opportunity to serve the people of Maine in the Senate Chamber. Please guide us as we deliberate the issues and the problems that confront us. These things we ask in Your name. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Establish the Office of Substance Abuse"

S.P. 909 L.D. 2312
(C "A" S-639)

In Senate, April 5, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-639).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-639) AS AMENDED BY HOUSE AMENDMENT "B" (H-1102) thereto, in NON-CONCURRENCE.

Senator BERUBE of Androscoggin moved to RECEDE and CONCUR.

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

Senator BUSTIN: I would have preferred a recede motion because I want to put an amendment on and ask the will of the Body to do that.

THE PRESIDENT: The Chair would advise the Senator that the motion to recede is in order.

Senator BUSTIN of Kennebec moved the Senate RECEDE from PASSAGE TO BE ENGROSSED AS AMENDED.

Senator BERUBE of Androscoggin requested a Division.

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

Senator BUSTIN: The reason I want a recede motion is simply so that I may put on an amendment. I understand that traditionally we have extended that courtesy to members of this Body. I would attempt to put on an amendment. Thank you and I would appreciate that privilege. I would ask you to vote for the recede motion. Thank you.

Senate at Ease

Senate called to order by the President.

At the request of Senator BERUBE of Androscoggin, a Division was had. 15 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator BUSTIN of Kennebec, to RECEDE from PASSAGE TO BE ENGROSSED AS AMENDED, PREVAILED.

On further motion by same Senator, the Senate RECEDED from ADOPTION of Committee Amendment "A" (S-639).