

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume I

First Regular Session

December 4, 2002 – May 23, 2003

Pages 1-776

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
FIRST REGULAR SESSION
22nd Legislative Day
Tuesday, March 11, 2003

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

Prayer by The Reverend William D. Lyon, St. Matthew's Church, Lisbon Falls.

Pledge of Allegiance.

Doctor of the day, Michael Baumann, M.D., Falmouth.

The Journal of Thursday, March 6, 2003 was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 67)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 6, 2003

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Agriculture, Conservation and Forestry has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 176 An Act To Require the State To Hold Title to All Land and Easements Purchased with the Land for Maine's Future Fund

L.D. 300 An Act To Ban the Hunting of Animals in an Enclosed Area

L.D. 431 An Act To Increase Educational Certification for Humane Agents and Animal Control Officers

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Bruce Bryant

Senate Chair

S/ Rep. Linda Rogers McKee

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 68)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON TAXATION**

March 6, 2003

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 99 An Act to Repeal the Tax Incentive for Certain Shipbuilding Facilities

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Stephen Stanley

Senate Chair

S/Rep. David G. Lemoine

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 69)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON TRANSPORTATION**

March 6, 2003

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 172 An Act To Improve Safety on the Maine Turnpike

L.D. 462 An Act To Direct the Department of Transportation to Incorporate Regionalism into the Transit Bonus Payment Program

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Pamela H. Hatch

Senate Chair

S/Rep. Ronald E. Usher

House Chair

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create the Maine Economic Stabilization and Endowment Fund

(H.P. 961) (L.D. 1307)

Sponsored by Representative WOODBURY of Yarmouth.

Cosponsored by Representatives: DUDLEY of Portland, DUPLESSIE of Westbrook, EDER of Portland, MILLETT of Waterford, MILLS of Cornville, Senator: TURNER of Cumberland.

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 973) (L.D. 1319)

Sponsored by Representative BRANNIGAN of Portland. (GOVERNOR'S BILL)

Cosponsored by Senator CATHCART of Penobscot and Representative: ROSEN of Bucksport, Senator: TURNER of Cumberland.

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.
Sent for concurrence.

Bill "An Act To Require Water Tests Prior to the Sale of Homes"

(H.P. 959) (L.D. 1305)

Sponsored by Representative MOORE of Standish.

Cosponsored by Senator NASS of York and Representatives: AUSTIN of Gray, COWGER of Hallowell, JACOBSEN of Waterboro, McCORMICK of West Gardiner, MILLS of Cornville, Senator: GILMAN of Cumberland.

Bill "An Act To Establish Medical Gas and Vacuum System Installer Certification"

(H.P. 970) (L.D. 1316)

Sponsored by Representative DUPLESSIE of Westbrook.

Cosponsored by Senator BRYANT of Oxford and Representatives: HATCH of Skowhegan, NORTON of Bangor, PATRICK of Rumford, PELLON of Machias, SMITH of Van Buren, Senator: EDMONDS of Cumberland.

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent for concurrence.

Bill "An Act Regarding Energy Efficiency Standards"

(H.P. 975) (L.D. 1321)

Sponsored by Representative ADAMS of Portland.

Cosponsored by Senator HALL of Lincoln and Representatives: BERRY of Belmont, BLISS of South Portland, EDER of Portland, LUNDEEN of Mars Hill, RINES of Wiscasset, SHIELDS of Auburn.

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested.

On motion of Representative DUPREY of Medway, the Bill was **REFERRED** to the Committee on **UTILITIES AND ENERGY**, ordered printed and sent for concurrence.

Bill "An Act To Protect Victims of Domestic Violence and Sexual Assault"

(H.P. 938) (L.D. 1266)

Sponsored by Speaker COLWELL of Gardiner.

Cosponsored by Senator STRIMLING of Cumberland and Representatives: BLANCHETTE of Bangor, BUNKER of Kossuth Township, GERZOFKY of Brunswick, GROSE of Woolwich, SIMPSON of Auburn, SUSLOVIC of Portland, Senator: CARPENTER of York.

Bill "An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole"

(H.P. 977) (L.D. 1323)

Sponsored by Representative O'BRIEN of Augusta.

Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** suggested and ordered printed.

REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent for concurrence.

Bill "An Act To Support Maine's Educational Needs through a Public Education Partnership"

(H.P. 941) (L.D. 1269)

Sponsored by Representative CUMMINGS of Portland.

Cosponsored by Senator BRENNAN of Cumberland and Senator: STRIMLING of Cumberland.

Bill "An Act To Amend the Maine State Grant Program"

(H.P. 950) (L.D. 1296)

Sponsored by Representative THOMAS of Orono.

Cosponsored by Senator CATHCART of Penobscot and Representatives: DAVIS of Falmouth, FISCHER of Presque Isle. Submitted by the Finance Authority of Maine pursuant to Joint Rule 204.

Bill "An Act To Expand Access to Higher Education"

(H.P. 956) (L.D. 1302)

Sponsored by Representative RINES of Wiscasset.

Cosponsored by Senator HALL of Lincoln and Representatives: BERRY of Belmont, BLISS of South Portland, MARLEY of Portland, McLAUGHLIN of Cape Elizabeth.

Bill "An Act To Provide for Full State Funding for Special Education Costs"

(H.P. 957) (L.D. 1303)

Sponsored by Representative LEMOINE of Old Orchard Beach.

Cosponsored by Senator STANLEY of Penobscot and Representative: LERMAN of Augusta.

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

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

Sent for concurrence.

Bill "An Act To Fully Fund Local Education with Sales Tax Revenues"

(H.P. 953) (L.D. 1299)

Sponsored by Representative GOODWIN of Pembroke.

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested.

On motion of Representative CUMMINGS of Portland, the Bill was **REFERRED** to the Committee on **TAXATION**, ordered printed and sent for concurrence.

Bill "An Act To Require Notice of Deficient Care Provided in Long-term Care Facilities"

(H.P. 936) (L.D. 1264)

Sponsored by Representative DUDLEY of Portland.

Cosponsored by Senator MAYO of Sagadahoc and Representatives: CRAVEN of Lewiston, LAVERRIERE-BOUCHER of Biddeford, LEWIN of Eliot, SIMPSON of Auburn, WALCOTT of Lewiston, Senators: BRENNAN of Cumberland, STRIMLING of Cumberland.

Resolve, To Establish the Maine Public Health Commission

(H.P. 955) (L.D. 1301)

Sponsored by Representative COWGER of Hallowell.

Cosponsored by Senator BRENNAN of Cumberland and Representatives: CRAVEN of Lewiston, DUGAY of Cherryfield, FAIRCLOTH of Bangor, KANE of Saco, KOFFMAN of Bar Harbor, LAVERRIERE-BOUCHER of Biddeford, NORBERT of Portland, SIMPSON of Auburn.

Bill "An Act To Establish Accountability in Out-of-home Abuse and Neglect Investigations"

(H.P. 968) (L.D. 1314)

Sponsored by Representative KANE of Saco.

Cosponsored by Senator BRENNAN of Cumberland and Representatives: BULL of Freeport, CRAVEN of Lewiston, EARLE of Damariscotta, LAVERRIERE-BOUCHER of Biddeford, WALCOTT of Lewiston.

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent for concurrence.

Bill "An Act To Implement the Maine Assistance Program for Lawyers"

(H.P. 934) (L.D. 1262)

Sponsored by Representative NORBERT of Portland.

Cosponsored by Senator PENDLETON of Cumberland and Representatives: BRANNIGAN of Portland, MILLS of Farmington, MILLS of Cornville, SMITH of Van Buren, WATSON of Bath.

Bill "An Act To Allow a Judge to Grant Visitation Rights to a Parent of a Child in Foster Care"

(H.P. 937) (L.D. 1265)

Sponsored by Representative THOMAS of Orono.

Cosponsored by Representatives: DUDLEY of Portland, DUNLAP of Old Town, FISCHER of Presque Isle, LAVERRIERE-BOUCHER of Biddeford, MARLEY of Portland, RINES of Wiscasset.

Bill "An Act To Amend the Laws Governing Improvident Transfers of Title"

(H.P. 947) (L.D. 1275)

Sponsored by Representative NORBERT of Portland.

Cosponsored by Senator GILMAN of Cumberland and Representatives: CLOUGH of Scarborough, SIMPSON of Auburn, Senator: PENDLETON of Cumberland.

Bill "An Act To Penalize a Person Who is Habitually Late Making Child Support Payments"

(H.P. 952) (L.D. 1298)

Sponsored by Representative McNEIL of Rockland.

Cosponsored by Senator DAMON of Hancock and Representatives: COLLINS of Wells, LEDWIN of Holden, MARLEY of Portland, MILLS of Cornville, PARADIS of Frenchville, SIMPSON of Auburn, Senators: HATCH of Somerset, SAVAGE of Knox.

Bill "An Act Relating to the Use and Disposal of Personal Information by Certain Commercial, Governmental and Other Entities"

(H.P. 960) (L.D. 1306)

Sponsored by Representative GOODWIN of Pembroke.

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

REFERRED to the Committee on **JUDICIARY** and ordered printed.

Sent for concurrence.

Bill "An Act To Clarify the Filing of Municipal Personal Property Tax Liens"

(H.P. 965) (L.D. 1311)

Sponsored by Representative NORBERT of Portland.

Cosponsored by Senator PENDLETON of Cumberland and Representatives: BLANCHETTE of Bangor, LERMAN of Augusta, MAKAS of Lewiston, SAMPSON of Auburn.

Committee on **JUDICIARY** suggested.

On motion of Representative GERZOFKY of Brunswick, **TABLED** pending **REFERENCE** and later today assigned.

Bill "An Act To Change the Retirement Eligibility Qualifications for Certain Military Firefighters and Police Officers"

(H.P. 969) (L.D. 1315)

Sponsored by Representative BLANCHETTE of Bangor.

Cosponsored by Senator EDMONDS of Cumberland and Representatives: DUPLESSIE of Westbrook, HATCH of Skowhegan, NORTON of Bangor, PATRICK of Rumford, SMITH of Van Buren.

Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

(H.P. 972) (L.D. 1318)

Sponsored by Representative SMITH of Van Buren.

Cosponsored by Senator MARTIN of Aroostook and Representatives: HATCH of Skowhegan, HUTTON of Bowdoinham, JACKSON of Fort Kent, PATRICK of Rumford, Senators: BRYANT of Oxford, EDMONDS of Cumberland, HATCH of Somerset, STANLEY of Penobscot.

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

REFERRED to the Committee on **LABOR** and ordered printed.

Sent for concurrence.

Bill "An Act To Raise the Revenues of Agency Liquor Stores by 5% from the Sale of Liquor"

(H.P. 939) (L.D. 1267)

Sponsored by Representative DUPREY of Medway.

Cosponsored by Senator STRIMLING of Cumberland and Representative: DUNLAP of Old Town, Senator: STANLEY of Penobscot.

Bill "An Act To Ensure Fairness in Elections"

(H.P. 940) (L.D. 1268)

Sponsored by Representative KETTERER of Madison.

Cosponsored by Representatives: CANAVAN of Waterville, DUNLAP of Old Town, HATCH of Skowhegan, McGLOCKLIN of Embden, SUSLOVIC of Portland, Senator: SAWYER of Penobscot.

Bill "An Act To Specify the Political Party of Contributors of Qualifying Contributions and To Require a Candidate Funded under the Maine Clean Election Act To Receive a Certain Level of Support in Order To Receive Public Funding in the Future"

(H.P. 944) (L.D. 1272)

Sponsored by Representative PERRY of Bangor.

Cosponsored by Representatives: DUNLAP of Old Town, THOMAS of Orono, Senators: DAVIS of Piscataquis, GAGNON of Kennebec, SAWYER of Penobscot.

Bill "An Act To Extend Term Limits"

(H.P. 945) (L.D. 1273)

Sponsored by Representative PINGREE of North Haven.

Cosponsored by Senator GAGNON of Kennebec and Representatives: BLANCHETTE of Bangor, CANAVAN of

Waterville, CLARK of Millinocket, FISCHER of Presque Isle, MILLS of Cornville, RICHARDSON of Brunswick, Senators: HATCH of Somerset, MAYO of Sagadahoc.

Bill "An Act To Promote Maine's Brewing Industry"

(H.P. 946) (L.D. 1274)

Sponsored by Representative DUDLEY of Portland.

Cosponsored by Senator STRIMLING of Cumberland and Representatives: BULL of Freeport, KOFFMAN of Bar Harbor, MAILHOT of Lewiston, SIMPSON of Auburn, SUSLOVIC of Portland.

Bill "An Act Regarding the Presence of a Candidate at a Polling Place on Election Day"

(H.P. 954) (L.D. 1300)

Sponsored by Representative HUTTON of Bowdoinham.

Cosponsored by Representative RICHARDSON of Skowhegan.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Restrict the Appearance of Referenda on Ballots at General Elections

(H.P. 962) (L.D. 1308)

Sponsored by Representative HOTHAM of Dixfield.

Cosponsored by Senator LEMONT of York and Representatives: CANAVAN of Waterville, CLARK of Millinocket, MAKAS of Lewiston, MILLS of Cornville, SUKEFORTH of Union, Senator: MAYO of Sagadahoc.

Bill "An Act To Improve the Clean Election Option for Gubernatorial Candidates"

(H.P. 964) (L.D. 1310)

Sponsored by Representative CUMMINGS of Portland.

Cosponsored by President DAGGETT of Kennebec and Representatives: ANNIS of Dover-Foxcroft, CANAVAN of Waterville, CLARK of Millinocket, Speaker COLWELL of Gardiner, DUPLESSIE of Westbrook, PATRICK of Rumford, SIMPSON of Auburn, Senator: MAYO of Sagadahoc.

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent for concurrence.

Resolve, To Prohibit the Discharge of Certain Wastewater into Casco Bay

(H.P. 943) (L.D. 1271)

Sponsored by Representative ADAMS of Portland.

Cosponsored by Senator MARTIN of Aroostook and Representatives: BLISS of South Portland, BULL of Freeport, EDER of Portland, HUTTON of Bowdoinham, KOFFMAN of Bar Harbor, PERCY of Phippsburg, SAVIELLO of Wilton, Senator: MAYO of Sagadahoc.

Bill "An Act To Amend the Sand Dune Laws"

(H.P. 948) (L.D. 1276)

Sponsored by Representative LEMOINE of Old Orchard Beach.

Cosponsored by Representative KANE of Saco.

Bill "An Act To Amend the Subdivision Laws"

(H.P. 951) (L.D. 1297)

Sponsored by Representative SAVIELLO of Wilton.

Cosponsored by Representatives: ANNIS of Dover-Foxcroft, SUSLOVIC of Portland, TOBIN of Windham, TWOMEY of Biddeford, Senator: SAWYER of Penobscot.

Bill "An Act To Protect Public Health by Reducing Human Exposure to Arsenic"

(H.P. 963) (L.D. 1309)

Sponsored by Representative COWGER of Hallowell.

Cosponsored by Senator BRENNAN of Cumberland and Representatives: CURLEY of Scarborough, DUGAY of Cherryfield, HUTTON of Bowdoinham, KANE of Saco, KOFFMAN of Bar Harbor, McKEE of Wayne, MOORE of Standish, SAVIELLO of Wilton.

Committee on **NATURAL RESOURCES** suggested and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent for concurrence.

Bill "An Act To Provide a Municipal Process for an Initiative To Impose a Property Tax Cap"

(H.P. 958) (L.D. 1304)

Sponsored by Representative LEMOINE of Old Orchard Beach.

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent for concurrence.

Bill "An Act To Increase the Viability of the Dairy Farming Industry"

(H.P. 942) (L.D. 1270)

Sponsored by Representative TWOMEY of Biddeford.

Cosponsored by Senator HATCH of Somerset and Representatives: ASH of Belfast, GOODWIN of Pembroke, HATCH of Skowhegan, LUNDEEN of Mars Hill, SAVIELLO of Wilton, SMITH of Monmouth, SMITH of Van Buren, THOMPSON of China.

Bill "An Act To Permit a Limited Local Option Sales Tax"

(H.P. 967) (L.D. 1313)

Sponsored by Representative MILLS of Cornville.

Cosponsored by Senator DAMON of Hancock and Representatives: BLANCHETTE of Bangor, CUMMINGS of Portland, DUDLEY of Portland, KOFFMAN of Bar Harbor, LEMOINE of Old Orchard Beach, SUSLOVIC of Portland, Senators: BRENNAN of Cumberland, SAWYER of Penobscot.

Bill "An Act To Extend Tax Increment Financing Zones To Include the Development of Large-scale Affordable Housing"

(H.P. 974) (L.D. 1320)

Sponsored by Representative EDER of Portland.

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

REFERRED to the Committee on **TAXATION** and ordered printed.

Sent for concurrence.

Resolve, To Promote Construction of Off-road Bike and Walking Paths along the Busiest Commuting Corridors of the State

(H.P. 935) (L.D. 1263)

Sponsored by Representative WOODBURY of Yarmouth.

Cosponsored by Representatives: COWGER of Hallowell, EDER of Portland, FAIRCLOTH of Bangor, MARLEY of Portland, MILLS of Cornville.

Bill "An Act To Make Supplemental Highway Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 976) (L.D. 1322)

Sponsored by Representative USHER of Westbrook. (GOVERNOR'S BILL)

Cosponsored by Senator HATCH of Somerset and Representative: McKENNEY of Cumberland, Senator: SAVAGE of Knox.

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government and Highway Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 978) (L.D. 1324)

Sponsored by Representative USHER of Westbrook. (GOVERNOR'S BILL)

Cosponsored by Senator HATCH of Somerset and Representative: McKENNEY of Cumberland, Senator: SAVAGE of Knox.

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

REFERRED to the Committee on **TRANSPORTATION** and ordered printed.

Sent for concurrence.

Bill "An Act To Ensure and Encourage the Generation of Electricity from Renewable Resources"

(H.P. 966) (L.D. 1312)

Sponsored by Speaker COLWELL of Gardiner.

Cosponsored by Senator WESTON of Waldo and Representatives: BLISS of South Portland, COWGER of Hallowell, FLETCHER of Winslow, KOFFMAN of Bar Harbor, MILLS of Cornville, Senators: BLAIS of Kennebec, HALL of Lincoln, KNEELAND of Aroostook.

Bill "An Act To Strengthen Maine's 'Do Not Call' List" (EMERGENCY)

(H.P. 971) (L.D. 1317)

Sponsored by Representative SULLIVAN of Biddeford.

Cosponsored by Representative HATCH of Skowhegan, Senator BROMLEY of Cumberland and Representatives: AUSTIN of Gray, BERUBE of Lisbon, BREAULT of Buxton, CROSTHWAITE of Ellsworth, DUPREY of Medway, JACOBSEN of Waterboro, PELLON of Machias, SMITH of Monmouth.

Committee on **UTILITIES AND ENERGY** suggested and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent for concurrence.

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

ORDERS

On motion of Representative JACKSON of Fort Kent, the following Joint Resolution: (H.P. 949) (Cosponsored by Senator

STANLEY of Penobscot and Representatives: CARR of Lincoln, FLETCHER of Winslow, HATCH of Skowhegan, PATRICK of Rumford, SMITH of Van Buren, TREADWELL of Carmel, WATSON of Bath, Senator: EDMONDS of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REQUIRE THE UNITED STATES DEPARTMENT OF LABOR TO EXAMINE ITS METHODOLOGY FOR CALCULATING RATES IN THE WOODS WAGE SURVEY, TO ESTABLISH HEAVY EQUIPMENT OPERATIONAL RATES AND TO REMOVE BARRIERS TO THE HEALTH AND SAFETY OF PERSONS HARVESTING FOREST PRODUCTS

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

WHEREAS, the United States Department of Labor H-2 Bonded Labor Program is still used to employ loggers by timber harvesting companies that operate in the forests of Maine; and

WHEREAS, a 1999 United States Department of Labor-sponsored study of the H-2 program and the Maine logging industry recommended a number of changes in the H-2 program; and

WHEREAS, piece and equipment rates established annually for the H-2 program essentially represent piece and equipment rates not only for Canadian bonds but also United States loggers who work in Maine timber harvesting operations; and

WHEREAS, the timber harvesting segment of the Maine forest products industry is characterized by greater use of mechanized equipment to harvest the trees in the Maine woods and the rates of operational reimbursement for that equipment have not changed in 30 years; and

WHEREAS, the 1999 bonded labor study found that "changes to the annual Woods Wage Survey and the establishment of heavy equipment reimbursement rates will make the H-2 program more efficient in ensuring its goals"; and

WHEREAS, the varying and conflicting definitions of, criteria for and application of independent contractor status by federal agencies also represent a significant challenge to the forest products industry and other industries; and

WHEREAS, these varying and conflicting definitions and applications of independent contractor status make it difficult for members of the forest products industry and other industries to efficiently operate their businesses in compliance with these laws, which are intended to define and characterize the employer-employee relationship; and

WHEREAS, some of these varying and conflicting definitions and applications of independent contractor status, particularly Section 530 of the federal Revenue Act of 1978, as amended, encourage and enable some industry members to use these laws to gain a competitive advantage over those industry members struggling to obey both the letter and the spirit of these laws; and

WHEREAS, these varying and conflicting definitions and applications of independent contractor status have made it difficult, if not impossible, for federal agencies to successfully prosecute individuals and businesses who willfully violate the letter and spirit of these laws; now, therefore, be it

RESOLVED: That We, your Memorialists, for the continued viability of the timber harvesting industry in Maine, respectfully recommend, urge and request the Members of the Maine Congressional Delegation to:

1. Submit and support legislation requiring the United States Department of Labor to establish reimbursement rates for heavy equipment operation under the H-2 program;

2. Urge the United States Department of Labor to conduct a thorough examination of the current methodology for calculating the various rates reflected in the annual Woods Wage Survey for the H-2 program, particularly the methodology for calculating hourly wage rates, and specifically urge the department to examine the methodology for its Woods Wage Survey for accuracy, rigor and types of workers included in the survey's universe;

3. Submit and support legislation to clarify and make more consistent the definitions, applications and criteria for independent contractors in federal law; and

4. Review Section 530 of the federal Revenue Act of 1978, as amended, with the Internal Revenue Service to ensure that its current application does not represent a barrier to the health and safety of those who work in the forest products industry and that, if warranted, the delegation submit and support legislation that will clarify the application of Section 530 of the federal Revenue Act of 1978, as amended; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Secretary of the United States Department of Labor, to the Commissioner of the United States Internal Revenue Service and to each Member of the Maine Congressional Delegation.

READ.

Representative JACKSON of Fort Kent moved that the Joint Resolution be **REFERRED** to the Committee on **LABOR**.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending the motion of Representative JACKSON of Fort Kent that the Joint Resolution be **REFERRED** to the Committee on **LABOR** and later today assigned.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Gerald Durgin, of Gorham, nationally recognized as an outstanding Athletic Administrator by the National Federation of State High School Associations. Gerald has worked diligently to improve the town's athletic programs and facilities while enriching the educational experiences of all students attending schools in Gorham. We extend our congratulations and best wishes to him;

(HLS 135)

Presented by Representative BARSTOW of Gorham.
Cosponsored by Representative CLOUGH of Scarborough, Senator GILMAN of Cumberland.

On **OBJECTION** of Representative BARSTOW of Gorham, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER:** The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW:** Mr. Speaker, Men and Women of the House. I am proud to stand today to recognize a great athletic director that serves our town in Gorham, Gerald Durgin. He also is a well-renowned athletic director in the state and as the sentiment brings forth, he is nationally recognized. He was one of only six in our country to receive this national citation this past year. Mr. Durgin is a friend of mine. Going through school he was the athletic director while I was there as well. Also, now

being involved in athletics in town, he is not your normal administrator. He brings forward the normal virtues of sportsmanship. He teaches life lessons through sports and helps all students in the school. He is also the one out there if the basketball court needs to be taken care of. He will do the maintenance on that. If there is a hole that needs to be filled out on the baseball field, he takes care of that. He is just someone who really embodies the spirit of Gorham, which is a town I am proud to represent here in the Legislature. He does an excellent job of representing as he serves our schools and our town. I think it is very right and just that we recognize him here in this hall. I thank you very much for listening.

The **SPEAKER:** The Chair recognizes the Representative from Portland, Representative Cummings.

Representative **CUMMINGS:** Mr. Speaker, Ladies and Gentlemen of the House. I, too, would like to extend congratulations to Athletic Director Durgin for outstanding performance. The measure of a great athletic director is not only the performance in athletics, but when the principal and vice principal are away, can he keep order in the school. My memory of being a teacher and a coach there was he was superb at all those. I wish to extend my sincere congratulations for his award today. Thank you.

The **SPEAKER:** The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH:** Mr. Speaker, Ladies and Gentlemen of the House. I would also like to offer my congratulations to Gerald Durgin on receiving recognition from the National Federation of State High School Associations for his outstanding work as Gorham's Athletic Administrator.

This is one of the many well-deserved awards that Mr. Durgin has received in his many years as an educator. He has been an inspiration to a number of Gorham students over the years, about three decades, I think. Gorham is fortunate to have him. I know that all in Gorham look forward to having him on board for many more years of his fine leadership. Thank you.

Subsequently, **PASSED** and sent for concurrence.

Recognizing:

Elizabeth Lovell, of North Haven, who lives to play basketball. A senior point guard, she recently scored her 1,000th career point, becoming the first girl on the island to reach that milestone. We congratulate Elizabeth on her achievements and wish her continued success;

(HLS 151)

Presented by Representative PINGREE of North Haven.

Cosponsored by Senator SAVAGE of Knox.

On **OBJECTION** of Representative PINGREE of North Haven, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER:** The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE:** Mr. Speaker, Men and Women of the House. As a former member of the North Haven Girl's Basketball Team, I am very proud to recognize Elizabeth Lovell on becoming the first team member in the history of North Haven Girl's Basketball Team to score 1,000 points. As many of you know, especially those of you who attended any of the recent tournament games, basketball is incredibly important to Maine's small towns and islands.

I was lucky enough to attend the game where Liz reached her milestone. The small North Haven gym was packed and islanders lined the walls and filled the bleachers. For any of you who have attended small-town basketball games in mid-January,

you know it is an excitement that is hard to describe. As you might imagine, when Elizabeth reached her 1,000th point, the gym went wild.

As a senior at North Haven Community School, Elizabeth has excelled at both sports and academics. She has already gone to four of the five colleges she applied to and she is waiting to hear from the fifth. On top of that, she is a great person. I wish her all the best. She is here today with three team members, Joan Davidson, Molly Hopkins and Jacqueline Curtis, as well as Principal Barney Hallowell, and I might add that they are here today to also receive an award for the Creative Ticket Schools for Excellence Award in Arts. I congratulate them on that as well. I thank them for taking the time to take the ferry and come here today. Thank you all for listening.

Subsequently, **PASSED** and sent for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 74) (L.D. 151) Bill "An Act Concerning Full-time Law Enforcement and Corrections Officers" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(H.P. 33) (L.D. 26) Bill "An Act to Create the Maine Youth Conservation Wildlife Management Area" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(H.P. 262) (L.D. 319) Bill "An Act to Reenact Standards for Road Construction for Forest Management Activities" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**

(H.P. 355) (L.D. 463) Bill "An Act to Enhance Integration of Transportation and Land Use Planning" Committee on **TRANSPORTATION** reporting **Ought to Pass**

(H.P. 534) (L.D. 728) Bill "An Act To Repeal the Crime of Plundering at Fires as Larceny" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

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

ENACTORS

Acts

An Act to Ensure Full Disclosure of the Source of Water Sold in Containers (H.P. 28) (L.D. 21)

An Act to Repeal the Mandate to Perambulate the Municipal Boundary Lines when there is No Boundary Dispute (H.P. 74) (L.D. 66)

An Act To Amend the Charter of the Eastport Port Authority (H.P. 95) (L.D. 86)

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

UNFINISHED BUSINESS

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

Bill "An Act To Provide Incentives for Affordable Neighborhood Developments"

(H.P. 802) (L.D. 1084)

(Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested)

TABLED - March 4, 2003 (Till Later Today) by Representative SULLIVAN of Biddeford.

PENDING - **REFERENCE**.

On motion of Representative SULLIVAN of Biddeford, the Bill was **REFERRED** to the Committee on **NATURAL RESOURCES**, ordered printed and sent for concurrence.

An Act to Ensure that Child Labor Laws Apply to Public Sector Employers

(S.P. 20) (L.D. 34)

TABLED - March 4, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative SMITH of Van Buren, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "A" (H-11)** which was **READ** by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-11)** in **NON-CONCURRENCE** and sent for concurrence.

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

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES TO SUPPORT THE FULL PURSUIT OF DIPLOMATIC RESOLUTIONS AND WEAPONS INSPECTIONS

(S.P. 163)

- In House, **ADOPTED AS AMENDED BY HOUSE AMENDMENT "A" (H-8) AS AMENDED BY HOUSE AMENDMENT "A" (H-9)** thereto on February 11, 2003.

- In Senate, **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

TABLED - March 5, 2003 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **FURTHER CONSIDERATION**.

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

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

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

SENATE PAPERS

Bill "An Act To Amend the Laws Governing Agricultural Marketing and Bargaining"

(S.P. 413) (L.D. 1282)

Came from the Senate, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** in concurrence.

Bill "An Act To Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Capital Projects and Major Maintenance at State and Municipal Parks and Historic Sites, for Acquiring Land for Coastal and Inland Waterway Access and for Capitalizing a Revolving Loan Fund for Land Trusts and Municipalities To Acquire Land and Conservation Easements for Public Access"

(S.P. 423) (L.D. 1292)

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

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

Bill "An Act To Amend the Maine Health Security Act as It Relates to the Reporting of Registered Nurses by Health Care Providers"

(S.P. 409) (L.D. 1278)

Bill "An Act To Amend the Motor Vehicle Franchise Law"

(S.P. 425) (L.D. 1294)

Bill "An Act To Encourage and Support Maine Owner-operated Small Businesses"

(S.P. 427) (L.D. 1325)

Bill "An Act To Provide for the 2003 and 2004 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

(S.P. 428) (L.D. 1326)

Came from the Senate, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** in concurrence.

Bill "An Act To Amend the Life Safety Requirements for Residential Care Facilities"

(S.P. 418) (L.D. 1287)

Bill "An Act To Increase Public Access to the Prior Authorization Process"

(S.P. 419) (L.D. 1288)

Bill "An Act To Establish a System of Advocacy and Oversight To Benefit Persons with Mental Retardation and Autism"

(S.P. 422) (L.D. 1291)

Bill "An Act To Improve the Fairness of the Health Care Provider Tax and To Ensure Fair Implementation of Health Care Reimbursement Reforms"

(S.P. 424) (L.D. 1293)

Came from the Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Bill "An Act To Improve Boating in Maine"

(S.P. 411) (L.D. 1280)

Came from the Senate, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE** in concurrence.

Bill "An Act To Enact the Uniform Mediation Act"

(S.P. 426) (L.D. 1295)

Came from the Senate, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

REFERRED to the Committee on **JUDICIARY** in concurrence.

Bill "An Act To Allow a Retiree Eligible for State-paid Health Insurance Coverage To Decline Coverage and Reenroll at a Later Date"

(S.P. 408) (L.D. 1277)

Bill "An Act Regarding the Operation of Vending Services in Public Buildings"

(S.P. 417) (L.D. 1286)

Came from the Senate, **REFERRED** to the Committee on **LABOR** and ordered printed.

REFERRED to the Committee on **LABOR** in concurrence.

Bill "An Act to Allow Shipment of Wine By Mail"

(S.P. 412) (L.D. 1281)

Bill "An Act To Allow County Candidates To Run as Clean Election Candidates"

(S.P. 414) (L.D. 1283)

Bill "An Act To Extend Term Limits from 8 Years to 14 Years"

(S.P. 415) (L.D. 1284)

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

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

Resolve, Related to Aquaculture Leases in Blue Hill Bay

(S.P. 410) (L.D. 1279)

Came from the Senate, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

REFERRED to the Committee on **MARINE RESOURCES** in concurrence.

Bill "An Act To Promote and Protect Private Enterprise"

(S.P. 416) (L.D. 1285)

Bill "An Act Concerning County Treasurers"

(S.P. 420) (L.D. 1289)

Bill "An Act To Provide Requirements for Towns To Deorganize"

(S.P. 421) (L.D. 1290)

Resolve, To Establish a Commission To Determine Why Young People Are Leaving Maine (EMERGENCY)

(S.P. 429) (L.D. 1327)

Bill "An Act To Amend the Laws Regarding County Government"

(S.P. 430) (L.D. 1328)

Came from the Senate, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

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

On motion of Representative LEWIN of Eliot, the House adjourned at 11:20 a.m., until 10:00 a.m., Wednesday, March 12, 2003.