

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
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
46th Legislative Day
Wednesday, May 7, 2003

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

Prayer by Pastor Andrew P. Powell, Calvary Baptist Church, Turner.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 189)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

April 24, 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 Business, Research and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 649 An Act To Allow the Practice of Optometry on the Same Premises As an Optical Shop or Other Establishment

L.D. 1351 An Act Regarding the Labeling of Returnable Containers

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

Sincerely,

S/Sen. Lynn Bromley

Senate Chair

S/Rep. Nancy B. Sullivan

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 190)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

April 29, 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 Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 302 An Act To Make Adjustments to the Renewable Energy Portfolio

L.D. 540 Resolve, To Ensure Optimal Energy Efficiency in State-funded Construction

L.D. 1053 An Act To Enhance Renewable Power

L.D. 1187 An Act To Establish Minimum Energy Efficiency Standards for Products Sold in the State

L.D. 1373 Resolve, To Establish the Commission on Comprehensive Energy Planning

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

Sincerely,

S/Sen. Christopher Hall

Senate Chair

S/Rep. Lawrence Bliss

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 555)

STATE OF MAINE

121ST MAINE LEGISLATURE

Sen. Peggy A. Pendleton

Senate Chair, Joint Standing Committee on Judiciary

Rep. William S. Norbert

House Chair, Joint Standing Committee on Judiciary

121st Legislature

Augusta, ME 04333

Dear Senator Pendleton and Representative Norbert:

Please be advised that Governor John E. Baldacci has nominated Jane S. Bradley of Freeport for reappointment as a District Court Judge; Bernard Staples of Bar Harbor for reappointment as a District Court Judge; and David Griffiths of Presque Isle for appointment as a District Court Judge in Active Retired Capacity.

Pursuant to Title 4, M.R.S.A. Section 157, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

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

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

The Following Communication: (S.P. 556)

STATE OF MAINE

121ST MAINE LEGISLATURE

May 2, 2003

Sen. Christopher G.L. Hall

Senate Chair, Joint Standing Committee on Utilities and Energy

Rep. Lawrence Bliss

House Chair, Joint Standing Committee on Utilities and Energy

121st Legislature

Augusta, ME 04333

Dear Senator Hall and Representative Bliss:

Please be advised that Governor John E. Baldacci has nominated Sharon Reishus of Cambridge, MA for appointment to the Public Utilities Commission.

Pursuant to Title 35-A, M.R.S.A. §105, this nomination will require review by the Joint Standing Committee on Utilities and Energy and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett
President of the Senate
S/Patrick Colwell
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **UTILITIES AND ENERGY**.

READ and **REFERRED** to the Committee on **UTILITIES AND ENERGY** in concurrence.

The Following Communication: (S.P. 557)

STATE OF MAINE
121ST MAINE LEGISLATURE

May 2, 2003

Sen. Bruce S. Bryant
Senate Chair, Joint Standing Committee on Agriculture,
Conservation and Forestry
Rep. Linda Rogers McKee
House Chair, Joint Standing Committee on Agriculture,
Conservation and Forestry
121st Legislature
Augusta, ME 04333

Dear Senator Bryant and Representative McKee:
Please be advised that Governor John E. Baldacci has
nominated Ralph Barnett of Brookton for appointment to the Land
Use Regulation Commission.

Pursuant to Title 12, M.R.S.A. §683, this nomination will require
review by the Joint Standing Committee on Agriculture,
Conservation and Forestry and confirmation by the Senate.

Sincerely,
S/Beverly C. Daggett
President of the Senate
S/Patrick Colwell
Speaker of the House

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

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

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Bill "An Act To Implement Regulatory Reforms and To
Address Staffing Issues in Long-term Care Facilities"

(H.P. 1181) (L.D. 1607)

Sponsored by Speaker COLWELL of Gardiner.
Cosponsored by Senator MARTIN of Aroostook and
Representative: KANE of Saco, Senators: President DAGGETT
of Kennebec, TURNER of Cumberland.

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 Amend the Charter of the Baileyville Utilities
District" (EMERGENCY)

(H.P. 1182) (L.D. 1608)

Sponsored by Representative PERRY of Calais.

Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

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

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

Sent for concurrence.

Pursuant to the Constitution
Apportionment Commission

Representative DUNLAP for the **Apportionment
Commission** pursuant to the Constitution of Maine, Article IV,
Part First, Section 3 asks leave to report out the accompanying
Bill "An Act To Codify the House Legislative Districts As
Apportioned by Public Law 2003, chapter 44"

(H.P. 1184) (L.D. 1610)

Report was **READ** and **ACCEPTED**. The Bill was **READ
ONCE**.

Under suspension of the rules the Bill was given its **SECOND
READING WITHOUT REFERENCE** to the Committee on **Bills in
the Second Reading**.

Under further suspension of the rules the Bill was **PASSED
TO BE ENGROSSED** and sent for concurrence. **ORDERED
SENT FORTHWITH**.

Pursuant to Statutes
Apportionment Commission

Representative DUNLAP for the **Apportionment
Commission** pursuant to the Maine Revised Statutes, Title 30-A,
section 65 asks leave to report out the accompanying Bill "An Act
To Codify the County Commissioner Districts as Apportioned by
Public Law 2003, Chapter 43"

(H.P. 1183) (L.D. 1609)

Report was **READ** and **ACCEPTED**. The Bill was **READ
ONCE**.

Under suspension of the rules the Bill was given its **SECOND
READING WITHOUT REFERENCE** to the Committee on **Bills in
the Second Reading**.

Under further suspension of the rules the Bill was **PASSED
TO BE ENGROSSED** and sent for concurrence. **ORDERED
SENT FORTHWITH**.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Kenneth T. Palmer, Ph.D., of Kittery and Orono, on the
occasion of his retirement as a Professor in the Department of
Political Science at the University of Maine where he has taught
since 1969. Additionally, Professor Palmer served as the
department chair from 1980 to 1985, the supervisor of the
Congressional Internship Program from 1969 to 2000 and the
supervisor of the Legislative Internship Program in 2000. He is
the recipient of numerous professional awards and honors,
including being named the State Legislative Service Fellow by
the American Political Science Association. He has published
books, articles, reports, book reviews, conference papers and
presentations. His book publications include *State Politics in the
United States* and *Downeast Politics: The Government of the
State of Maine*. He also collaborated on many book chapters,
including "Maine: The Cutting Edge of Term Limits"; "Maine:
Which Way Should Life Be?"; and "Maine: Slow Growth in the

Pine Tree State." We send our appreciation to Professor Palmer for his dedication and commitment to the State of Maine and the University of Maine and extend to him our congratulations and best wishes on his retirement;

(HLS 528)

Presented by Representative THOMAS of Orono.
Cosponsored by Senator CATHCART of Penobscot, Representative GREELEY of Levant, Representative WHEELER of Kittery, Representative LEWIN of Eliot, Senator LEMONT of York.

On **OBJECTION** of Representative THOMAS of Orono, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Orono, Representative Thomas.

Representative **THOMAS**: Mr. Speaker, Ladies and Gentlemen of the House. I don't generally get nervous addressing this body, but I guess having a former professor quite literally hanging over my head at this point, I am a little more nervous than I normally would be. It is nevertheless my pleasure to present this sentiment today recognizing Dr. Palmer for his 35 years of service to the University of Maine and to the State of Maine and in doing so being one of the leading scholars on Maine state government and the Maine State Legislature, especially. It would be my pleasure to share with you a list of former students, just within this building, but the list would just be too long. Even the list of titles on his books on Maine state government or this body would span several pages.

I will share one fact with you. It is a fact about myself way back when I was in college. I came into the apartment and I was rooming with an older roommate. He had been taking classes at the university almost as long as Professor Palmer had been teaching them, but he told me, even if you don't have to, at some point you have to read *Maine Politics and Government*. It is a book written by Professor Palmer. I was busy that first year and I never got around to it. I was busy that second year and even though I was continually taking classes from Professor Palmer, I never got around the reading the book until my third year in college. I finally picked it up during that summer. It sounds strange for me to say this now, but this book on Maine state government was more than interesting; it made me interested in government. It made me interested in Maine politics and more than anything else; it made me interested in this body. I really have to credit Dr. Palmer for my interest and my understanding of what it means to be here in this building today. I would extend a personal thanks to Dr. Palmer and also on behalf of this body and the state, I would say we are sorry to see him go, but wish him all the best in his retirement. Thank you very much Dr. Palmer and thank you Mr. Speaker.

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

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

REPORTS OF COMMITTEE **Divided Report**

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-262)** on Bill "An Act To Provide Leadership in Addressing the Threat of Climate Change"

(H.P. 622) (L.D. 845)

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor
TWOMEY of Biddeford
HUTTON of Bowdoinham
MAKAS of Lewiston
SAVIELLO of Wilton
THOMPSON of China
DAIGLE of Arundel
ANNIS of Dover-Foxcroft

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

Signed:

Representatives:

TOBIN of Windham
JOY of Crystal

READ.

Representative KOFFMAN of Bar Harbor moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The **SPEAKER**: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the motion that had been made by the good chair from Bar Harbor and would like to speak to that opposition. I have lived 70 years being an educator and I would be remiss if I wasn't standing to try to educate you on what is being presented to this body as perpetuating part of the greatest fraud that has ever been put forth in our generation.

This bill seeks to enact in this state a treaty that was not ratified by the Senate of the United States. In 1992, the Convention by the United Nations was held in Rio De Janeiro and from that came a biodiversity treaty and the seedlings for this particular treaty, the so-called global warming treaty. If we go back to look at what science has recorded for us over these periods of years, we will find that actually there is a cooling in the Earth's atmosphere, not a warming. Satellites and balloons are much more accurate in their recording of our temperatures and all of these show that there is actually a half degree cooling as opposed to global warming.

Yes, there are increases in carbon dioxide in our atmosphere, but those increases in carbon dioxide are having a positive affect in that our crops are producing more yield. In 1998, when I ran for another office, one of the leading environmental groups in this state made the comment to a college president that we are successfully shutting down Maine's industry one increment at a time.

Ladies and gentlemen, this bill will be the cap that brings an end to industry in the State of Maine. We hear that there are concerns about melting ice caps. If we look at Antarctica and see the studies that have been done there, we will see that behind the ice that is breaking off and dropping into the ocean as it moves out over the edges of the land that the temperatures in that ice cap are actually colder than they were before.

On the Maine coast we have people who are concerned about the rising ocean level, but they don't bother even looking at the scientific research that has been done on this. It is not rising because of increased melting of any ice cap; it is rising because of the shifting of the plates that Maine is sitting on. Those plates are settling. That study was just released last fall and that is being completely ignored when we talk about global warming.

If this is implemented, the cost to the State of Maine is going to be \$402 million per year in lost revenue. It is going to cost each household about an extra \$6,300 per year to maintain their status of living. Alone it is a \$500 increase in just heating costs. In the late 1960s we had everybody who is out there today predicting global warming, screaming about a possible ice age. That was the year that on the third of July, I lost my entire garden and so did everybody else in our town. On the fourth of July at a parade in the small Town of Benedicta it snowed. I have now seen snow in every month of the year in the State of Maine. If that is a trend of pattern in global warming, I guess I haven't seen it.

In the Congressional Record as testimony was given on this, a Professor Nicholas Christy-Block of Columbia University and they have studied about 85 percent of the ocean's bottom and taken samples trying to determine what the history is. Their results show that we are about at the warmest point between two ice ages. That doesn't imply that we are going to have any further global warming. What it implies is that as we move forward, we will have a cooling down. In a bit of levity they said that right now we are having a chance to sunbath and in 50,000 years we will have a chance to ski in Florida and to also have all kinds of winter sports there. We are in the middle of a cycle. It is not global warming per say.

The major portion of the temperature increases during the 1900s occurred prior to 1940, which bears out the fact that it is not man's activity that is creating any temperature changes in this half of the century.

We had two of the leading climatologists from the world that came here and made presentations to our committee and to anybody who wanted to listen. Dr. Pat Michaels from the University of Virginia and Dr. Sally Balleunis from Harvard. Both of them indicated that there is no evidence of global warming. This whole situation that is being presented in front of us is a fraud.

One of the results of this will be, this is from the Senate Record, "I fear that the current treaty negotiations will shackle the United States economy, meaning fewer jobs, lower economic growth and a lower standard of living for our children and future generations." Ladies and gentlemen, it is laid out there for you. You can pass this and relegate the State of Maine to a standard of living that is far below what we have today. You can initiate this proposal that is in front of you and you can continue the exodus of businesses from the State of Maine or you can defeat this and go on and accept the Ought Not to Pass report.

When the good Lord created this world, and then he created man, he knew that he was creating an imperfect individual or group of individuals in mankind. As such, he built in many safeguards to protect us from damaging this world so that we couldn't live here. One of these is a phenomenon called El Nino. Studies have been done by MIT and NASA, which shows that when the ocean temperature warms in the Pacific, even though it causes storms that wrack the continents on our west coast, it allows ultra violet radiation to escape through the atmosphere. It is a built in safety net for us.

If we look to the oldest book that we have on printed record in Ecclesiastes we find that there is nothing new under the sun. All that is now has been before. Unfortunately we have short memories and nobody can carry that forth from one generation to another. The rivers all run to the ocean, yet the oceans are not full. All of the waters that run to the ocean return to where they came from and the rivers keep on running back in the cycle. It is not going to change.

Ladies and gentlemen, global warming is one of the biggest frauds that ever could be perpetrated upon peoples of this Earth. I ask you to defeat the pending motion and go on and accept the Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Crystal, Representative Joy, raises several issues. I will try and address them very briefly. I will avoid reviewing three hours of testimony that we heard in committee. I will just speak to three points. Is this a treaty? It has been reference several times in this House about this bill constituting a treaty. I was able to educate myself in the last week or two to what does constitute a treaty. In the first place, the bill doesn't reference a treaty. It doesn't reference an agreement. It is sort of a mute point, I suppose, but in case any members are concerned that we need the US Senate to ratify this, the Law Library was very helpful in providing me with dozens and dozens of examples of relationships that the State of Maine has entered into with Canada and other countries regarding agriculture, wildlife management, mutual security at our borders, health issues, health concerns and dozens and dozens of activities there that fall into the rubric of agreements of covenants or compacts where an agreement rises to the status of a treaty where there are expectations and consequences for breaking a treaty it certainly would need to be approved by the US Senate. This modest bill does not rise to that status.

Is there a problem? Is global climate change a problem? I didn't expect to come to the House today to debate whether or not there is a problem, but to discuss the solution. I am happy to discuss the problem. We have heard from a number of distinguished scientists in committee about the problem, including staff from the University of Maine's Institute on Climate Studies, which happens to be one of the leading institutions in the world on this subject. They have had scientists around the world drilling into glaciers, getting temperature and climate records that go back 400,000 years looking at sediments in our lakes and sea floors, looking at the migrations of plants, moving northward from southern areas below us, looking at plant migrations, diseases and insects that are making their way north. The record is pretty clear. We have an international panel on climate change, a recognized group of scientists who are at the top of their careers. They have concurred that there is a substantial increase in CO2 emissions since the industrial revolution that are augmenting and adding to an otherwise natural warming cycle that this planet has gone through since it was created. Compounding that problem to the extent that the Science Advisory Board of the EPA reviewed the scientific literature and concluded that the threat of climate change should be viewed as a top ranked issue facing human health, the economy and the ecosystems of the world.

There has been a discussion now for at least 10 issues on this issue. More and more research is underway, but most recently the Bush Administration in its first year or so needed to respond to the skepticism about this problem because there are many who were calling for some actions to be taken on an international level. President Bush enlisted the prestigious National Academy of Sciences to review the science in this matter, to look at the models and to verify causes and possible consequences of forecasted climate change. The Academy concurred with the preponderance of scientific evidence pointing to a trend of increased global temperatures, a trend driven by a combination of human and natural causes.

Our own Senator Susan Collins introduced the Clean Power Act of 2003 with Senator Snowe and other colleagues. It was a bipartisan bill that begins to address global warming by requiring

power plants to reduce emissions of carbon dioxide and I might add, other pollutants that we end up being at the end of the tailpipe from, to reduce those emissions to 1990 levels by the year 2009. That happens to be the target, actually a little stronger target that we have set up in this bill that is under discussion. Senator Collins went on to say, "Carbon dioxide is causing climate change that threatens to alter the world's delicate ecological balance."

The question is, does this problem, which has been well documented and will be more thoroughly documented and forecasted in the years to come. The problem is much like the national debt. It will affect our children and grandchildren more than it may affect you and I. That doesn't mean it doesn't rise to the level of importance that we should deal with it, even though it goes beyond our term limits.

What about solutions? This bill is a pretty modest bill, inspired by the New England Governors and Eastern Canadian Premiers Conference. It is a regular meeting of those individuals, Governors and Premiers to talk about common interests. In 2001, that group decided that they would work together on plans to reduce climate change gases. Make a contribution to that effort. That agreement was not binding and it didn't rise to the status of a treaty either. It inspired this bill. The goals are to reduce greenhouse gas emissions to 1990 levels by 2010. The process of doing that is collaborative. It involves the stakeholders. It is a non-mandatory, non-regulatory, non-binding approach and the emphasis is on energy efficiency. Energy efficiency, of course, is good for industry and we heard a number of industries speak to us in hearings about the efforts they had already undergone to reduce their energy consumption and thereby contributes to the solution of this problem.

I will wrap up by saying that a number of states in New England have completed their climate change plans. New Jersey has already exceeded the goal we propose in our bill. Christine Todd Whitman, now the administration's director of the EPA, when she was Governor of New Jersey started on this work about eight years ago. New Jersey has already exceeded this goal and is moving beyond it, partly because she recognized that they were a low-lying state like the Netherlands. Like the Netherlands, they couldn't afford a sea level rise of a foot for two. They would lose a lot of real estate. So would Maine, down in Saco and Old Orchard. In any case, they have made real progress. New York, they are moving ahead with their plan and I think it is high time we did too. It is a very reasonable, prudent and deliberate step.

The plan will come back to the Natural Resources Committee for approval and be monitored by this committee and this body here on out. It is not a problem that is going to go away, ladies and gentlemen. We are just going to take incremental prudent steps to deal with it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. First, Mr. Speaker, when the vote is taken, I would request the yeas and nays.

Representative JOY of Crystal REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. We heard about an international panel of scientists. I would like to remind you that Dr. Michael is an active member of

that international panel of scientists. Even though that international panel of scientists might have originally put forth the idea of global warming, he denies that there is any such thing going on.

With regard to this, 19,000 scientists petitioned our Senate not to ratify this particular treaty that governs or covers or is the umbrella for this particular piece of legislation. The US Senate voted 95 to nothing not to ratify this treaty. The treaty has never come in front of the Senate. It was a bill that was put in front of them and telling them not to ratify this unless all of the nations in the world ratified it and had to comply with the same thing.

Energy efficiency is always an excellent plan, but it doesn't mean that we have to initiate this particular bill in order to gain through energy efficiency. I think that every single one of them has done a lot toward energy efficiency in our lifetime. Our lifestyles have changed a lot from years past. Our homes are warmer. We have automobiles that get much better gas mileage and all of those changes are for the better.

There are 2,000 or so scientists who preach global warming, out of those 2,000, most of them are not physical scientists. They are social scientists. Social scientists have one aim in mind and that is to control the behavior of people. Ladies and gentlemen, I ask you to defeat the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I know this has been a very riveting subject first thing on a Wednesday morning. Let me just briefly go over a couple points. I am on the Majority Ought to Pass Report and I remain so and encourage you to stick with that committee recommendation, but I will explain that there is very little that my good friend and seatmate, Representative Joy from Crystal, and I disagree on. Much of what he said today I think is absolutely true. You are probably wondering how can I believe that and still be on the Majority Report? First of all, as explained by our chair, the bill does not do any required reduction goals anywhere. I can live with that. It creates an inventory for the state owned facilities. That is fine. It creates an inventory for the state. It allows agreements for carbon reduction with voluntary agreements with people who want to come forward and want to have a document saying I am reducing carbon emissions and I want you to put on a piece of paper that I did, in fact, meet this goal. Fine, if that is what you want, why not give it to them? The most important part, and the part that I like best, frankly, is it calls for an action plan to be developed by the DEP and submitted to the government.

The reason why I think this is a good bill is because I think it is going to add some clarity to this argument. I think people believe in global warming or I think it is called climate change these days, after shoveling through last winter, you don't get away with calling it warming anymore. I have talked about the goal as something that is easy to do and it is so vague that it is like, why not go ahead and do it? Nobody is quantifying exactly what it is going to take. The part that I like best about this is the state is going to sit down there and say to actually do this, this is what I am proposing. The bill requires it to be cost effective. That, alone, is going to be difficult because it is just not that easy to do. If the state can find the cost effective way to do anything, I think we can all get behind that idea.

It is going to require some clarity. About a month ago the Chief Executive announced that he was buying renewable energy as a goal. Everybody thought that was a wonderful thing. Upon further discussion with the staff of the Chief Executive, we learned that that is going to cost something. That decision to buy renewable energy has a fiscal note, although it is not called that

in this form, of \$125,000 a year. I want the actual plan to point that out. If you are thinking of going down that road, it is going to cost you money. Let's lay it on the table. Let's ask people, do you want to buy renewable energy for \$125,000 or do you want to hire a couple more health care workers for the senior citizens in our community? Let's identify that and put a number on it so it can be a decision we can deal with in the bright light of day.

Again, there are probably three reasons why this is a good idea. Number one, regarding those voluntary agreements, some people want to do it. Why not let them? Number two, it is going to clarify this idea with an actual tangible goal, saying this is what it is going to take, and be careful what you wish for because when you are going to see it, you might find it is not quite so attractive. I will leave it at that. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative **VAUGHAN**: Mr. Speaker, Ladies and Gentlemen of the House. The first thing that I would like to say is that carbon dioxide is not a pollutant. Carbon dioxide is not a pollutant. If any of you studied biology in junior high, you probably heard of the carbon dioxide cycle. Every time you exhale a breath, you emit carbon dioxide. Every time you car runs, it emits carbon dioxide. It doesn't emit carbon monoxide. It doesn't emit a whole host of other toxic pollutants unless you are driving a '56 Chevy, which is possible, I suppose. Carbon dioxide in itself does not cause damage to the environment. Plants would die if they did not have carbon dioxide, which is as important to them as oxygen is to us. I am sure you already know this. I just thought that I would point it out.

The second thing I would like to mention is we are still waiting for that ice age that was predicted in the '60s and until that happens, I am not going to worry too much about global warming.

I will, however, disagree. I do believe that warming is occurring. Warming happens every morning when the sun comes up somewhere in the world. It happens every year somewhere in the world as the seasons shift. It happens everywhere in the world all the time as the sun cycles change. I have heard it stated that we have the warmest temperatures since the 1400s. My question to you is, what were they doing in the 1400s that caused such high global temperatures? Was it ox cart emissions or perhaps all those torches in the castles? If you can show me where somebody is dumping pollutants into a river and causing the degradation of the environment, I am 100 percent with you. I oppose that sort of activity. If you can show me where there is a smoke stack belching phosgene gas or some other compounds of mercury into the atmosphere, I am opposed to that. I am with you on that type of preventative measures that you can take to stop that.

The most compelling thing I have seen concerning the current issue of so-called global warming is the parallel graphs pointing out global temperatures with graphs of sun activity going up and down as a natural cycle in the grand scheme of things. What I would like to know is, let me pose this question to anybody that can answer it, what has mankind done to cause the melting of the polar ice caps on Mars? Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 71

YEA - Adams, Annis, Ash, Barstow, Bennett, Blanchette, Bowen, Brannigan, Breault, Browne W, Bull, Bunker, Canavan, Cowger, Craven, Cummings, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Grose, Hatch, Hutton, Jennings, Kaelin,

Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McKee, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Rosen, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Austin, Berube, Bierman, Bowles, Brown R, Bruno, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Duprey B, Glynn, Heidrich, Honey, Jackson, Jacobsen, Jodrey, Joy, Landry, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Rogers, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Wotton, Young.

ABSENT - Berry, Bliss, Bryant-Deschenes, Fletcher, Gerzofsky, Goodwin, Greeley, Hotham, Lerman, Marraché, McGlocklin, Moody, Moore, Richardson M, Rines, Tardy.

Yes, 81; No, 54; Absent, 16; Excused, 0.

81 having voted in the affirmative and 54 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-262)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, May 8, 2003.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-265)** on Bill "An Act Regarding Wrongful Discharge"

(H.P. 820) (L.D. 1117)

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-266)** on same Bill.

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

READ.

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought to Pass as Amended Report.**

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report** and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 291) (L.D. 896) Resolve, To Establish a System for Electronic Filing of Death Certificates Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-104)**

(S.P. 314) (L.D. 973) Bill "An Act To Ensure Comprehensive Cancer Control in Maine" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-105)**

(S.P. 405) (L.D. 1199) Bill "An Act To Establish the Lincoln and Sagadahoc Multicounty Jail Authority" (EMERGENCY) Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-103)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 488) (L.D. 1460) Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

(S.P. 182) (L.D. 542) Resolve, To Reduce the State Valuation for the Town of Hermon (C. "A" S-101)

(S.P. 334) (L.D. 993) Bill "An Act To Promote Economic Growth by Retaining Engineers in Maine" (C. "A" S-97)

(S.P. 408) (L.D. 1277) Bill "An Act To Allow a Retiree Eligible for State-paid Health Insurance Coverage To Decline Coverage and Reenroll at a Later Date" (C. "A" S-102)

(S.P. 416) (L.D. 1285) Bill "An Act To Promote and Protect Private Enterprise" (C. "A" S-100)

(S.P. 469) (L.D. 1411) Bill "An Act To Increase the Licensing Fee Caps of the State Board of Optometry" (C. "A" S-98)

(S.P. 483) (L.D. 1451) Bill "An Act To Manage the Sea Urchin Fishery" (C. "A" S-99)

(H.P. 147) (L.D. 188) Bill "An Act To Amend the Waste Management Laws Regarding the Spreading of Sludge on Land" (C. "A" H-259)

(H.P. 231) (L.D. 288) Resolve, to Authorize Michelle Booker to Sue the State (C. "A" H-270)

(H.P. 786) (L.D. 1068) Bill "An Act To Require an Updated Roster of Maine Members of the United States Armed Forces Presumed Lost or Deceased" (C. "A" H-269)

(H.P. 907) (L.D. 1233) Bill "An Act To Amend the Motor Vehicle Laws" (C. "A" H-256)

(H.P. 1013) (L.D. 1378) Bill "An Act To Provide Financing Relief for Maine Dairy Farmers" (EMERGENCY) (C. "A" H-271)

(H.P. 1038) (L.D. 1415) Bill "An Act To Decriminalize Unlicensed Shellfish Digging" (C. "A" H-264)

(H.P. 1074) (L.D. 1469) Bill "An Act To Raise the Fee Caps of the Board of Dental Examiners" (C. "A" H-263)

(H.P. 1090) (L.D. 1493) Bill "An Act To Expedite the Removal of Overboard Discharge" (C. "A" H-260)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED**

in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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

BILLS IN THE SECOND READING

Senate as Amended

Bill "An Act To Clarify That the Maine Juvenile Code Does Not Preclude Sharing Information with School Administrators for Purposes of School Safety, Order and Discipline"

(S.P. 145) (L.D. 427)
(S. "A" S-95 to C. "A" S-29)

House as Amended

Bill "An Act To Allow the Transfer of Spirits within Existing Businesses"

(H.P. 342) (L.D. 450)
(C. "A" H-229)

Bill "An Act Concerning the Issuance of a Temporary Liquor License"

(H.P. 358) (L.D. 466)
(C. "A" H-268)

Resolve, Directing the Commission on Governmental Ethics and Election Practices To Adopt Rules Regarding Certain Election Practices

(H.P. 744) (L.D. 1027)
(C. "A" H-230)

Bill "An Act to Strengthen the Governmental Ethics Laws"

(H.P. 981) (L.D. 1336)
(C. "A" H-267)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act To Amend the Regional Economic Development Revolving Loan Program

(H.P. 914) (L.D. 1240)
(H. "A" H-198)

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. 123 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Strengthen Delivery of Electricity Conservation Programs

(S.P. 90) (L.D. 231)
(C. "A" S-88)

An Act To Encourage Energy Efficiency and Security

(S.P. 128) (L.D. 352)
(C. "A" S-87)

- An Act To Limit the Transfer of Handguns to Minors
(S.P. 141) (L.D. 404)
(C. "A" S-86)
- An Act Concerning Health Insurance Reimbursement and Contracting Practices
(S.P. 292) (L.D. 897)
(C. "A" S-90)
- An Act To Release the Records of the Attorney General and the Maine State Police Regarding the Investigation, Prosecution and Trial of Dennis Dechaine
(S.P. 369) (L.D. 1097)
- An Act Regarding Mandated Reporters and Child Abuse
(S.P. 370) (L.D. 1098)
(C. "A" S-84)
- An Act To Establish New License Fee Caps
(S.P. 479) (L.D. 1441)
- An Act Regarding Railroad Police Training
(S.P. 482) (L.D. 1450)
- An Act To Bring the State into Conformity with the National Organic Program
(S.P. 487) (L.D. 1459)
(C. "A" S-83)
- An Act To Allow Judges' Faxed Signatures in Involuntary Psychiatric Commitment Proceedings
(S.P. 493) (L.D. 1487)
- An Act To Update and Amend the Revised Maine Securities Act
(S.P. 495) (L.D. 1489)
(C. "A" S-91)
- 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.

Resolves

- Resolve, Directing the Commissioner of Public Safety To Study the Emergency Medical Services System
(H.P. 783) (L.D. 1065)
(H. "A" H-208 to C. "A" H-187)
- Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

Under suspension of the rules, members were allowed to remove their jackets.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-265)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-266)** - Committee on **LABOR** on Bill "An Act Regarding Wrongful Discharge"

(H.P. 820) (L.D. 1117)

Which was **TABLED** by Representative SMITH of Van Buren pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

The **SPEAKER**: The Chair recognizes the Representative from Oakland, Representative Nutting.

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. I rise this morning in opposition to the pending motion, Ought to Pass Majority Report, to begin what very well may be a long list of labor bills, a couple dozen, that we will hear divided reports on. This is the first one. In its amended form that you have before you now, it will be a state requirement that any employer who has a personnel policy guideline book, be required to state in that book somewhere that the employee is going to be treated as an at will employee. They can leave or they can be let go without just cause. There is only one state in the country that does it differently and that is the State of Wyoming. Maine would be, unfortunately, number two.

If this bill should pass in its present form, there would be three types of employers. One with no policy manual whatsoever. They would be basically off the hook. If you don't write it down, you can't make a mistake in the way you write it down. The second group of employers would be large companies, either with legal teams on staff or with easy access to lawyers who would allow them to ensure that they write their policies such that the wording is correct so that they don't get in trouble. The third group, I think, is the most important group. The group that troubles me the most is the smaller companies, your local mom-and-pop stores that if they try to do the right thing and have some policy guidelines so you would understand vacations and sick days and what have you, if they make a mistake and somehow omitted the part about the at will employee that they then would be required to terminate only for just cause. Of the three groups, I think the group that is the most vulnerable is the one that we should seek the most to protect. Employees are already protected by law based on gender, race and age. There are lots of protections that employers willingly follow. This would add one that has the potential, at least, of being problematic.

A partial list of those organizations who are opposed to list bill include the Maine Merchant's Association, the Chamber of Commerce and the Maine Municipal Association. Most importantly, I think, the administration where the Director of the Bureau of Labor Standards, Michael Frett, was opposed. In his testimony, as the last thing here, I will read to you one paragraph of his testimony. He says, "The courts in Maine have consistently ruled that employer policies, handbooks and the like do not constitute contracts. Therefore, they do not necessarily bind the employer. This bill runs counter to that stream of decisions. Further, the bill presumes that all policies are equitable. Therefore, a flawed or even draconian termination policy would be supported as much as a fair minded policy would be if this becomes law." With the words of the Director, I will end my testimony. Mr. Speaker, I ask that when the vote is taken, it be taken by the yeas and nays.

Representative **NUTTING** of Oakland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. This bill does not change the law in Maine with regard to at will employment. The law in Maine with regard to at will employment is that an employer, unless there is a contract of employment that specifically provides protections for just cause, that that employee may be let go at any time for any reason. What this bill does is bring into Maine law the requirement that there be a disclosure by the employer who has personnel policies, requires that the employee be told if the employer wants to claim at will status. The employee be explained that at will means they can be let go at any time without any reason whatsoever. There is nothing in this bill that requires personnel policies. There is nothing in this bill that does anything other than bring some kind of disclosure to the employees. We have seen too often in our state employees with personnel policies who on being terminated say, but how can they do that? They told me in the personnel policies that if I followed the rules, my employment would be secured. They then discovered that because we are an at will state that they can be let go any time. This will require that if you are going to give assurances to the employee in the personnel policy, if you are going to be at will, that these assurances mean nothing. They can be let go at any time for no reason.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 72

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fischer, Glynn, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Lundeen, Maietta, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Young.

ABSENT - Berry, Bliss, Bryant-Deschenes, Dugay, Fletcher, Goodwin, Greeley, Hotham, Marraché, Mills J, Moody, Moore, Richardson M, Rines, Rogers, Tardy.

Yes, 71; No, 64; Absent, 16; Excused, 0.

71 having voted in the affirmative and 64 voted in the negative, with 16 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

Under suspension of the rules, members were allowed to remove their jackets.

The Bill was **READ ONCE**. Committee Amendment "A" (H-265) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 8, 2003.

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:

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.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-93)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Amend the Laws Governing Wage and Benefit Records Kept by Contractors Working on Public Works Projects"

(H.P. 281) (L.D. 361)

TABLED - April 8, 2003 (Till Later Today) by Representative SMITH of Van Buren.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative TREADWELL: Mr. Speaker, Men and Women of the House. We have seen this bill before, not in this session, but it has been debated previously. What the bill will do is require employers working on public projects to maintain the wage and benefit records of their employees at the job site and have those records available to any inspection by the Bureau of Labor Standards, a public authority that let the contract, its officers and agents. It also requires information regarding the independent contractors and several other items in those records. The bill was opposed by the administration. Elaine Clark from BGS and Michael Frett from Bureau of Labor Standards both testified in opposition to the bill.

I fail to see the need for these records to be maintained and private information to be available for inspection. I think that what we actually have here is a privacy issue. I urge you to vote in opposition to the motion that is on the floor.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. There already is in Maine law a provision that requires that in the case of public works projects that records be kept concerning the employees of the contractors. What we are doing here is closing a loophole. Too many of the public works jobs have got people who are classified as independent contractors. There is no record available to the public works agency or even the public with regard to how much money is being paid to whom for these so-called independent contractors. The problem with the independent contractors is it allows people to come in and work at rates, which are against the wage rates that we have in the state. This bill here closes that independent contractor loophole, specifically requiring that independent contractor information be kept by the contractors and be furnished to the public works agency. There are privacy protections in this bill. The bill provides that the private information is going to be subject to rules that will be drafted by the public agency. There are the privacy protections there. I ask you to vote in favor of this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. It is my understanding that the Bureau of Labor Standards already has the ability to go to the home office of whatever company is doing this public construction project and get those records. I would submit to you that this is probably only something that is going to cost the doing of business to go up in Maine. It is going to require duplicate sets of records being kept at remote work sites and not only that, people can go in there unannounced and paw through these records. That slows the process down.

I want to call you attention to a publication that you all have. It is called *Measures of Growth*. Probably many of you have been to the presentations that this Maine Economic Growth Council has put on. This is a report telling us what is wrong and what is right with the State of Maine. There are people in this body that serve on that council, leaders from industry leaders from education and there are other leaders from the community that serve on this council. I want to call your attention to Page 10, Item 14, the cost of doing business. "The cost of doing business in Maine is not good and it is going to get worse according to the Maine Economic Growth Council." This is a publication that you ought to keep close at hand because of all the things we do in this body that cause all the things that happen in this report, we should be aware of what is going on here. We should be able to pull out this report and say that this bill is before us today and it will do what, according to the Maine Economic Growth Council. If we could follow the recommendations in here, we would have a much better, more solid business climate in the state, instead of going the other way. This bill, the one before it and several more to come, are only going to increase the cost of doing business in the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill will not cause duplicate records. This bill specifically will require that records concerning independent contractors be made available. It is to remedy what is an abuse that is occurring on our public works policies where employees are misclassified as independent contractors. This is a loophole that has to be closed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Point of Information Mr. Speaker.

The SPEAKER: The Representative may pose his question.

Representative **SHERMAN**: Mr. Speaker, Men and Women of the House. To anyone on the committee, does this apply to the State of Maine when they employ Canadian workers on State of Maine owned lands?

The SPEAKER: The Representative from Hodgdon, Representative Sherman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. To my understanding, it does not. It deals with public works projects. It would not deal with public works projects. It would not deal with the cutting on state owned land.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative Smith from Van Buren mentioned that we had to keep track of the people

who are classified as independent contractors. There are already laws on the books that define who is an independent contractor and who is not. We do not need this law in order to do that. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative **TREADWELL** of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 73

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Brannigan, Breault, Bull, Canavan, Churchill E, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Finch, Fischer, Gagne-Friel, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Glynn, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Wotton, Young.

ABSENT - Berry, Bliss, Bryant-Deschenes, Bunker, Faircloth, Fletcher, Gerzofsky, Goodwin, Greeley, Hotham, Marraché, Mills J, Moody, Moore, Richardson M, Rines, Tardy.

Yes, 72; No, 62; Absent, 17; Excused, 0.

72 having voted in the affirmative and 62 voted in the negative, with 17 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-93)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 8, 2003.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-146)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Eliminate the Social Security Offset for Unemployment Benefits" (H.P. 657) (L.D. 880)

TABLED - April 29, 2003 (Till Later Today) by Representative SMITH of Van Buren.

PENDING - Motion of same Representative to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED Report**.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is going to be a significant drain on the funds in the Unemployment Compensation Trust Fund. Under current law, if a person is drawing Social Security benefits and they go on unemployment, their unemployment receipts are reduced by the amount that they receive from Social Security benefits. This law will eliminate that offset. The end

result will be, according to the Maine State Department of Labor, the increase in benefits under LD 880 for current claimants would be about \$600,000. The estimated increase in benefits from the claimants who currently do not even file a claim because they are receiving Social Security would be estimated to be \$2.1 million. Based on the year 2002, had this proposal been in effect, we would have had an increase in \$2.7 million or 2.2 percent of the total benefits paid in the year 2002.

In 1999, we took measures in this Legislature to cure an insolvency problem in the Unemployment Compensation Trust Fund. Up until that time the fund had been teetering on insolvency with fund balances ranging between \$60 and \$90 million at its low point during the spring when unemployment was at its highest. The solvency issue was taken care of and now we have a healthy trust fund. If we start dipping into that fund by expanding benefits, which this LD will do, we are going to be back in the situation of insolvency again unless we start increasing the taxes upon all the employers in the State of Maine. There is a mechanism for that to happen. Unfortunately if we start to do that, we are going to make Maine even more unfriendly to businesses to come here and operate in the State of Maine. If you want that, and I don't think you do, but if you want that, this is exactly what this bill will do. I would urge you to vote against the pending motion and I guess that is all I have to say, Mr. Speaker.

Representative McLAUGHLIN of Cape Elizabeth assumed the Chair.

The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Madam Speaker, Ladies and Gentlemen of the House. This is to try and remedy what is a very basic inequity in our law. All too many of our elderly people who are dependent upon Social Security need to work. They can't live on just Social Security. What happens to them when they are laid off? They discover that Maine law says that if you are receiving Social Security, we are going to offset that Social Security against unemployment. Too bad, you needed to work, but unemployment is not going to help you. We all have people in our districts that are receiving Social Security and need to work. This is something for them.

We all received today a letter from the AARP. I would like to read a part of it to you. It says, "Retirement is about a financial stage in life more than an age we reach. With today's high cost of living, many more Mainers are working out of necessity well beyond the age of 65. Maine is one of the very few states that reduce unemployment compensation for Social Security recipients. LD 880 will eliminate this unfair situation."

There was comment made on the cost of this. It will cost \$2.7 million and the fact that it may move the unemployment contributions from Schedule B to C. We are already going to move onto a new schedule anyway. We are talking about basic fairness and equity for our elderly. I ask you to support this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oxford, Representative Heidrich.

Representative **HEIDRICH**: Madam Speaker, Ladies and Gentlemen of the House. When I came up here in the 119th, one of the reasons I came was because I heard the business climate in Maine was so poor. As I have sat her through the 119th and the 120th and now the 121st, I see that we just constantly hurt

business within our state. When people think of business, of course, we all think of the big firms. The businesses are your constituents, the people who have the mom-and-pop stores, the guy that is selling television sets, the services that you are getting all through this state and we rank number one in being unfriendly to business. That is pretty amazing because all I have ever heard people say is it is Canada's fault. It is NAFTA's fault. It is China's fault. Actually in some cases it is probably true, but I think the biggest fault, unfortunately, has happened in this chamber and the chamber down the hall. We have got to start creating jobs. Jobs are extremely important for our economy. Let's put our people back to work. Let's keep our young people here. When the vote is taken, please, I would like to have the yeas and nays please.

Representative HEIDRICH of Oxford **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought to Pass as **Amended Report**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Madam Speaker, Ladies and Gentlemen of the House. The Unemployment Compensation Fund, at one time in 1996, was low and needed money. I can remember using it as a plank in my campaign platform. The Unemployment Compensation Fund was rescued. How was it rescued? By a tax on business, which they gladly paid. Now that it is a healthy fund it should be used for what it was meant to be used for. When a company goes out of business, it can provide a life sustaining, unemployment compensation to people whom through no fault of their own lost their jobs. It was never meant to be anything else but that. If we keep raiding it, we will bring it back to the condition it was in the early '90s. I urge you to keep this Unemployment Compensation Fund healthy and not have raids on it, no matter how noble the idea is of giving people more money, it really is going to backfire. We need to keep this fund healthy.

I urge you to vote accordingly. It is a very, very important thing to keep this fund healthy. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative **HUTTON**: Madam Speaker, Women and Men of the House. I just wanted to clarify a couple of points and then give you an example of how this strikes our senior citizens. First of all, the Unemployment Bureau has already told us that we will be moving from Class B to C. The cost to businesses will be increasing anyway no matter what we do. Secondly, I want to tell you that the businesses are already paying unemployment for those workers. These are full-time workers who they are paying unemployment benefits for. The money is going into the system as we speak from those employers. That won't change.

I just want to give you an example of how it affected one of my constituents. She was over 65 working full time and collecting Social Security. She was laid off from her job when a store closed. She went to collect her unemployment benefits, \$38 a week. I want to ask you, who do you think she turned to to try and get some help? She turned to the state. She was looking for full-time work. She wanted to work. She was perfectly capable of working. I will ask you think about us too. As we all face this, many of us are getting to this point and I don't know about you, but I think I am going to be working until I am about 80 at this point in order to pay for all the college that I have to pay for.

I urge you when you are thinking about this, yes, businesses are paying, but they are already paying. It is already going to go

up. I ask you to consider our senior citizens when you vote on this bill. Those senior citizens who are hardworking, contributing members to the society. Thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Madam Speaker, Men and Women of the House. I worry sometimes about being told repeatedly that Maine is poor for business and unfair for business. I would ask this body to think just a moment of the gentleman or lady who greets you at Wal-Mart or the gentleman or lady who served you at Ames, those people are laid off and those people are on Social Security. I think it is time that Maine became a little more friendly to its retired population, which is here now and in need. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative **TREADWELL**: Madam Speaker, Ladies and Gentlemen of the House. We have been told by previous debaters that the cost of unemployment compensation insurance for the employer is going to increase in the State of Maine within the next year. As a rationale for passing this bill we are saying, it is going to increase anyway, so let's pass this bill and increase it a little more. That defies the like of logic that I am used to. I really don't understand that argument.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Madam Speaker, Ladies and Gentlemen of the House. I have heard many anecdotal stories of people who are receiving unemployment benefits who clearly have substantial other financial means, whether it be a spouse who has a continued job or whether it be people who have some wealth accumulation. I see this bill somewhat as a philosophical issue about whether we want an unemployment insurance system that is an entitlement regardless of financial means or whether we want an unemployment system that is a means-tested safety net. I think this bill takes us a step toward making it even more of an entitlement. What I would like to see our unemployment system being is one in which it is a means-tested safety net for the people who really need it. That is how I would want to target unemployment insurance sources. I am going to be voting against the Majority Ought to Pass Report. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Madam Speaker, Ladies and Gentlemen of the House. I hardily applaud and second the comments that were just made. I think they are exactly on point.

The issue of wanting to protect senior citizens, who in this chamber doesn't want to protect senior citizens, raise your hand. Of course we all want to protect senior citizens, but I would also like to protect Maine's working families. When employers have to bare the cost of harmful legislation, they invariably react in an economy that does not allow them to increase their revenues and expand their business, they invariably react in the only way that they can, which is to downsize, restrict themselves, to limit their expense. Unfortunately that means, in many cases, they are going to lay people off. Those people who get laid off are not only going to be retirees, but they are going to be people who are still working who have children in school. They are going to be people who are paying mortgages on houses and making car payments.

We don't want to hurt senior citizens, but why should we hurt somebody else in the process. Senior citizens at least have a safety net in Social Security.

I heard a comment that Maine should be friendlier to senior citizens. I would hope we remember that comment when we

have a discussion about Maine's inheritance and estate tax laws. Thank you.

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

Representative **BLANCHETTE**: Madam Speaker, Ladies and Gentlemen of the House. I need to point out that this bill is a fairness bill if nothing else. We are looking at the very senior citizens that have devoted 30 and 40 years of their life in the workforce. When the Social Security benefits that were withheld from their work all while they were gainfully employed were inadequate in today's society. These people are not working because it is great fun to stand on your feet when you are 65 and 70 years old at Wal-Mart greeting people with a smile on your face to earn the extra \$50 or \$60 a week that you need to buy your prescription drugs. These people aren't working just for the fun of it. You need to look through the fallacy of the Wal-Mart ads that say this is great fun. We are all one big family. If you believe that, I have some swamp land that I can sell you at a real cheap price. These people are working because they have to. If they are going to be penalized when they are laid off, through no fault of their own and they cannot collect any unemployment benefits, which, by the way, they have been paying into since the benefit program started and have never been able to collect. Let's bring it around to a fair playing field. Give our senior citizens some dignity left in what we refer to as the golden years. I stand here speaking to you as a senior citizen who has been a member of AARP for years. Let's take it home where it belongs and benefit our seniors.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Madam Speaker, Men and Women of the House. When I came here eight or nine years ago for the first time the Unemployment Compensation System was in an absolute shambles. It is a system that is almost as big as the Workers' Compensation System. It was in just as much trouble as the Workers' Compensation System had been in during the late '80s and early '90s. It had as much promise, or nearly so much, as the Workers' Compensation System to produce the kind of conflict and misery and political turmoil that many of us, almost all of us, I suspect remember from 1991 when the government of the State of Maine was closed down for several weeks over this contentious issue.

The Unemployment Compensation Fund that was down around \$80 million, which was a dangerous level. There were not enough assets in the fund to take care of any form of downturn without raising taxes dramatically in the face of such a downturn. The benefit levels were designed in such a way that people who didn't need the benefits all that much were getting them or getting too many of them and other people who might need the benefits weren't getting anywhere near enough. There was a study commission formulated in the mid '90s and eventually after several years of hard work by that Labor Committee or a series of Labor Committees, we finally managed to get the entire system reformed and that included elements from all sides of the political spectrum. I well remember the very significant concessions that were made by the AFL-CIO, by labor representatives who were present at the committee and who knew it was in the best interests of all concerned to come to the table and make concessions to get the system fixed. There were, of course, concessions made by the business community. The Chamber of Commerce was extremely helpful in essentially agreeing to a significant tax increase in exchange for certain permanent concessions on the benefit side with some leadership from the Department of Labor and from some members who are still here, Representative Treadwell of Carmel, Representative

Davis of Falmouth and my old seatmate, Representative Pendleton from Scarborough who is no longer here. A number of us were able to put together a huge and comprehensive overhaul of this horrible, fractured system without closing down state government, without incurring the political turmoil that was associated with the fixing the parallel system of Workers' Compensation only a few years before.

The system now is highly solvable. Instead of having \$80 million trust fund, the trust fund is up around \$400 million. We have come through the present recession and are still able to hold taxes down. Taxes are reduced on the employers from the high point that we had four years ago. I think we need to call this reform a dramatic success.

Now, of course, we face the prospect of whether the benefits should be reexamined, whether we should be looking at the benefit picture, the benefit package. I have to say to you that if I were going to expand benefits or look at benefits, this is not the class of benefit category that I would choose to expand because Representative Woodbury is entirely correct. The entire system is designed to buy groceries and pay rent. That is what it is for. It is a safety net that keeps people having a small amount of income coming into the household, it is not designed for long-term support or even for generous support. It is designed as a substitute basically for welfare. It is designed as a safety valve, safety net, and nothing more. We, as a state, really can't afford a system that becomes anything more than that.

You may find that there are exceptions, but the typical person who is receiving a Social Security benefit that is so large that it wipes out his entitlement to unemployment, that person typically has not only Social Security, but some other resources available to keep the wolf from the door. That is not true of breadwinners who are supporting their families and who are laid off from places like the paper mills, the wood turning mills and the other places where we are seeing dramatic unemployment problems. This state has industries in it that are terribly vulnerable to shut down because of our national trade policies. Many of them are in my district, but all of you in all of your districts, I suspect, have at least one industry or employer that is right on the edge of closing in the face of foreign competition from China, Taiwan and the Philippines and Korea.

This fund, this trust fund, which we have so carefully restructured and rebuilt is absolutely essential to preserving the welfare of all of these employees who are at risk. My problem with this bill as it comes to us now, is it raises the specter of increasing costs to that system for a class of people who, by enlarge and on average, have access to other resources to get them through. We need to preserve this fund and this system for those who have no other choice. There are so many of them in each of our districts. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I know somebody in my district and I am sure you do to, Dorothy Baltruss for me and I am sure it is a name for somebody else in your district. She works. She works not because she wants to, but because she has to. She is a senior. She has to pay her bills like the rest of us. She has drug prices that she has to contend with, rising costs of food and fuel. We had a very rough winter. She has to make ends meet. Dorothy, like a lot of people in our district, turns around and for some reason they get laid off. It is not their fault. They didn't do anything wrong. They just worked for the wrong employer who had a downturn in their own economy.

I, like Representative Bowles, don't want to be unfair to seniors, but I see something patently unfair when, in fact, these

same seniors are taxed at the same rate as John Richardson or anybody else in this room. They make the same tax contribution, but they don't get the same benefit. There is something inherently unfair about that. I don't know. You tell me. What is unfair about the fact that they pay for unemployment benefits that they never get?

Representative Mills made some very good points. The points I remember the most is at one time this Unemployment Trust Fund was in some trouble. It now has \$426 million. It is quite a nest egg. I like that fact that they have \$426 million. I think that is fantastic. I can't in good conscience not support the Majority Report here, because with \$426 million, I am not going back home to Dorothy Baltruss and tell Dorothy I'm sorry. We are going to offset your money that you have paid into. We are not going to give you the same benefits. You know what, I can't really help you out with your drug prices. I can't do that. I can't help you with respect to the issue of the rising cost of fuel and food and everything else.

At the same time, we, on the national stage are talking about a tax cut for the richest. We are not doing what we can for our seniors. I am asking all the people in this body to join me in accepting the Majority Ought to Pass Report. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Madam Speaker, Men and Women of the House. Just like the good Representative from Brunswick, I will give you an example, my father. He is 80 years old now, but he worked until he was 75, not because he had to, but he wanted to. He was driving my mother crazy. He was driving everybody else in the house crazy. He went back to work. That is why he went back to work, not because he had to. The argument on this bill should be whether or not we should off set Social Security with unemployment. I heard twice from previous speaker saying that they contributed to the fund, so they are entitled to the money. Ladies and gentlemen, the people who pay the money are the employers. The employee pays zero. It is 100 percent employer paid. That is who pays the bill. The argument from the Representative from Yarmouth is right on point. Is it an entitlement or is it a benefit when you lose your job? That is what you ought to be voting on today. Don't be confused saying that employees paid into this so they are entitled to that money, because that is not who paid into that fund. It is solely 100 percent paid for by employers. Thank you Madam Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Madam Speaker, Ladies and Gentlemen of the House. It is clear that our perceptions are based upon the world that we live in and what we see of the world we live in. I don't see a world around us where the elderly people on Social Security, at least very many of them are working because they want to work. Far too many are working because they have to work. People work not because they have all these other resources and pensions and such after they have turned 65, they work because they need that extra money to pay the bills. Five hundred dollars or so from Social Security does not make it. Not everybody is married to a wealthy man. The class of people that we are trying to protect here are those working people, the people who need to work to supplement their Social Security. This is a bill that is sorely needed. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **DAVIS**: Madam Speaker, Men and Women of the House. Isn't it a fact that 100 percent of the funds in the Unemployment Compensation Fund in Maine are paid into by business? There is no other source of money for that. Could somebody answer that please?

The **SPEAKER PRO TEM**: The Representative from Falmouth, Representative Davis has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Madam Speaker, Men and Women of the House. In answer to that question, Madam Speaker, if I am not mistaken the federal government under the Reed Act is supplying \$33 million to the Unemployment Security Fund just this year alone.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Carmel, Representative Treadwell. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **TREADWELL**: Madam Speaker, Ladies and Gentlemen of the House. I have to respond to the last comment from the good Representative from Bath. The Reed Act money was returned to the state from the federal government. That money was contributed by, again, the employers of Maine. They sent that money to the federal government, which in turn returned it back to the state. It is still employer money. It is \$32.9 million that came back. It is part of the money that is in that trust fund right now. That is part of the reason that it is as healthy as it is. It is still employer money.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **COURTNEY**: Madam Speaker, Men and Women of the House. We heard a few minutes ago that the trust fund is in really good shape in the State of Maine and that would be a reason that we ought to take a good look at this. We also heard from the previous speaker that the employers are going to be facing an increase in the coming year. I guess if anybody could answer for me, why would that be the case?

The **SPEAKER PRO TEM**: The Representative from Sanford, Representative Courtney has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Madam Speaker, Ladies and Gentlemen of the House. I used to work for a company that paid us on a production basis and every couple of months they would do what they called the settling up. Sometimes we would receive a check for \$1,000 or \$1,500. A lot of time it changed in the period that we referred to as mud season while we were on unemployment. The first time that happened to me, I called the unemployment office and told them that I had received a check for \$1,100 or \$1,200 that week and was wondering what was going to happen to my unemployment benefits? They got back to me a couple days later and said that because I had earned the money in a period that I wasn't receiving unemployment that it didn't count against me and I was still eligible to draw unemployment for the couple months of mud season. I see this

as the same type of problem for senior citizens. We are penalizing them for work that they did years ago and now they are receiving that benefit. In my district we don't have a lot of businesses that provide retirement, 401K and stuff like that. I have a lot of people that are getting by on \$500 or \$800 a month and paying big prescription drug bills. They are out there trying to pick up the extra amount of money on a second or a part-time job or whatever they need to do. Drawing unemployment is not the best thing in the world. I don't think these people really want to have to go do this unless they have to. If it is someone that is well off, I am sure they don't even apply for unemployment, but these people that are having a hard time, I think this is something that would really help. I understand that we are probably not the greatest state business wise, but we are definitely not be greatest state hourly pay wise either. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Madam Speaker, Men and Women of the House. Maybe I will try it a different way. I would like to pose a question through the Chair. If it is such a good argument that the strength of our Unemployment Compensation Fund is the reason for making this change, I would ask again, why are we going to be increasing the cost for the employers in the coming year? Can somebody please answer that question for me because I believe the people of Maine have a right to know that answer?

The **SPEAKER PRO TEM**: The Representative from Sanford, Representative Courtney has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Madam Speaker, Men and Women of the House. I believe that the answer to the good Representative's question is the fact that we have continued to expand unemployment benefits over the past several years. We have expanded them to people who are not previously eligible for them. We expanded the amount of the benefit in a number of pieces of legislation that passed through the 120th Legislature and have been introduced in this Legislature, that is the reason for the increase in premiums.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 74

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Churchill E, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Campbell, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Dugay, Duprey B, Fletcher, Glynn, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Maietta, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone,

Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Young.

ABSENT - Bryant-Deschenes, Daigle, Greeley, Marraché, Mills J, Moody, Moore, Richardson M, Rines, Tardy, Mr. Speaker. Yes, 78; No, 62; Absent, 11; Excused, 0.

78 having voted in the affirmative and 62 voted in the negative, with 11 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-146) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, May 8, 2003.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-175) - Minority (5) Ought Not to Pass - Committee on LABOR** on Bill "An Act To Provide That Employee Terminations by Any Company That Receives Monetary Benefits from the State Require Just Cause" (H.P. 860) (L.D. 1163)

TABLED - April 29, 2003 (Till Later Today) by Representative SMITH of Van Buren.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative **TREADWELL:** Madam Speaker, Ladies and Gentlemen of the House. We have before us another just cause termination bill. This one has a slightly different slant to it. It will require any company that is receiving tax credits under the Business Equipment Tax Reimbursement Program or the TIF Program or the Job and Investment Tax Credit, Research Expense Tax Credit of the Ship Building Facility Credit, if any company that is receiving credits under those programs may not terminate an employee without cause. Again, there is only one other state in the union that has a just cause termination law on the books and that is the State of Wyoming. If this bill passes, it could very well be another hindrance to business by making a reason judgment whether they want to avail themselves of these tax credits to have state government tinkering with their business decisions. I would urge you to vote against the pending motion. Madam Speaker, I request the yeas and nays.

Representative **TREADWELL** of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH:** Madam Speaker, Ladies and Gentlemen of the House. This bill addresses only those employers with more than 50 employees. I think we have heard it expressed often enough that the 90 percent of the businesses in the State of Maine are small businesses, which are under that number. We are only talking about the larger employers of the State of Maine. Another thing to consider is that this many of the larger employers, such as your papers mills, already have collective bargaining agreements, which provide for just cause. This bill will require those larger employers who are benefiting from some of the taxpayer incentive benefits to adopt that basic standard of fairness that their employees will be treated with just cause. Just cause has been part of the fabric of our state for many years now. It is in teacher employment contracts. It is in the paper mill contacts. To expand this to the larger employers who are getting the benefit of taxpayer incentives is nothing more than expanding fairness. I ask you to support this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Baldwin, Representative Cressey.

Representative **CRESSEY:** Madam Speaker, Men and Women of the House. There are five good reasons we should oppose this bill, LD 1163. First, just cause is a vague concept. Businesses will be discouraged from entering the BETR Program because of fear of litigation. Second, if businesses are afraid to enter the tax incentive programs, the state loses through lack of economic development and jobs. Third, businesses that get economic incentives are already held to specified performance standards. This introduces a factor not relevant to the public purpose of the economic incentive. Fourth, at will works both ways. The employee can leave at any time for any reason. If we are requiring just cause of employers terminating, then why not require that employees can only leave for just cause. Fifth, employers don't fire employees for no reason. They want to keep good employees. It is just too expensive to train and rehire a new person.

Please permit me to read an e-mail note that I received from someone who is not in my district, but they are a Chief Executive officer of a company. "I urge you to reject LD 1163. Maine's current business climate, for example its tax structure, escalating health costs, excessive property taxes, unnecessary and unreasonable business regulations, create enough challenges for a growing Maine business. In order to compete in the global economy, growing companies need the flexibility in changing both staffing and labor skill sets as business models adapt to market demands. The growing Maine companies that are critical to Maine's economic successes are likely to participate in state incentive programs. Do not place additional bureaucratic burden on these growing companies with short-sided legislation such as LD 1163. At will employment is critical to growing companies. Do not give any more companies a reason to leave the state. I urge you to reject LD 1163. Thank you Madam Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN:** Madam Speaker, Men and Women of the House. I would ask you to support the Majority Ought to Pass Report for a variety of reasons. The good Representative Smith reminded you that this is carved out for all small businesses. Ninety percent of Maine's business is small business. Growing business is a small business. I would agree with the Representative from Baldwin that businesses don't want to get rid of good employees. Small businesses treat them like family. Sit down and work, but when the major decisions are being made down south or over in Texas, they don't care about the employee. The market is such that they can bring anyone in. I know of two people in my district alone, both of them, one from a company that gets \$3 million in BETR Program. The people that are working there that are putting that money into the budget that allow the BETR Program to work, cannot be given the very least of protection. It is amazing. The programs the workers work for and support, through the taxes that they pay to the State of Maine, doesn't even offer them the very small benefit of just cause. Isn't that amazing? You pay for something and you aren't allowed just cause, but your money, part of your wages, goes in this case of the constituent, \$3 million goes to a tax incentive. Big companies don't care. The money goes out of state. Little companies, I agree, 90 percent of what makes this state run is small businesses. This bill carves out 50 or more employees would be considered a pretty good size business in Maine.

Representative Ash from Belfast when we were talking about this bill in a discussion in the hallway said that he has to treat his people like family. If he didn't have the type of quality people that he had working for him, there is no way he could show up here

and be able to run for the Legislature. I maintain for all of you that are small businesses out there, owners, the truth is probably that way for you also. They become part of your family. This bill does not affect them. If everybody treated people like family in businesses, then this bill would not be needed. I would ask you again, if you pay taxes in order for the State of Maine to be able to give a business a tax break, should you not at least be given just cause? It seems fair to me. It seems reasonable. I would ask you to support the Ought to Pass as amended report. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 75

YEA - Adams, Ash, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Wotton.

NAY - Andrews, Annis, Austin, Barstow, Berry, Berube, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fischer, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lemoine, Lewin, Lundeen, Maietta, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Woodbury, Young.

ABSENT - Bierman, Bryant-Deschenes, Daigle, Dugay, Goodwin, Greeley, Marraché, Mills J, Moore, Rines, Tardy, Mr. Speaker.

Yes, 71; No, 68; Absent, 12; Excused, 0.

71 having voted in the affirmative and 68 voted in the negative, with 12 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-175)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, May 8, 2003.

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

**ENACTORS
Emergency Measure**

An Act To Provide Financial Relief for Maine Dairy Farmers
(H.P. 1013) (L.D. 1378)
(C. "A" H-271)

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. 126 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

SENATE PAPERS

Bill "An Act To Amend the Law Relating to Multiple-employer Welfare Arrangements" (EMERGENCY)
(S.P. 559) (L.D. 1605)

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

REFERRED to the Committee on **INSURANCE AND FINANCIAL SERVICES** in concurrence.

Bill "An Act To Amend the Adult Protective Services Act"
(S.P. 560) (L.D. 1606)

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 Expedite the Drilling of Private Drinking Water Wells"
(S.P. 558) (L.D. 1604)

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

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

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

On motion of Representative SMITH of Monmouth, the House adjourned at 1:02 p.m., until 9:00 a.m., Thursday, May 8, 2003.