

MAINE STATE LEGISLATURE

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

Volume I

First Regular Session

December 4, 2002 – May 23, 2003

Pages 1-776

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
 FIRST REGULAR SESSION
 51st Legislative Day
 Wednesday, May 14, 2003

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

Prayer by Pastor Tim Brady, Church Hill Baptist Church, Augusta.

National Anthem by Hannah Batley, Thomaston.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

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

(H.P. 744) (L.D. 1027)

House **INSISTED** on its former action whereby the Majority (10) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS** was **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-230)** and **ASKED** for a Committee of Conference in the House on May 12, 2003.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Reports were **READ** and the Resolve and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in **NON-CONCURRENCE**.

On motion of Representative CLARK of Millinocket, the House voted to **RECEDE AND CONCUR**.

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

Non-Concurrent Matter

Bill "An Act To Strengthen the Criminal Laws by Expanding the Definition of Trafficking and Furnishing Prescription Narcotic Drugs To Include Illegal Possession of a Large Number of Pills"

(H.P. 698) (L.D. 941)

Majority (10) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-291)** in the House on May 8, 2003.

Came from the Senate with the Minority (3) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative COLWELL of Gardiner moved that the House **ADHERE**.

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on the motion to **ADHERE**.

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 to Adhere. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 104

YEA - Adams, Andrews, Annis, Ash, Austin, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Crosthwaite, Cummings, Curley, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Goodwin, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGowan, McKee, McKenney, McLaughlin, McNeil, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Mills S, Simpson.

ABSENT - Barstow, Bunker, Cressey, Daigle, Dugay, Eder, Faircloth, Gerzofsky, Greeley, Ketterer, Lewin, Marraché, McGlocklin, Millett, Mills J, Perry A, Rines, Smith W, Tardy.

Yes, 130; No, 2; Absent, 19; Excused, 0.

130 having voted in the affirmative and 2 voted in the negative, with 19 being absent, and accordingly the House voted to **ADHERE**.

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

COMMUNICATIONS

The Following Communication: (H.C. 210)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
 COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 12, 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 Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

- | | |
|-----------|--|
| L.D. 114 | An Act to Enhance Trail Revenue |
| L.D. 196 | An Act Requiring Reflective Registration Numbers on Snowmobiles |
| L.D. 448 | An Act To Exempt a Watercraft That Is Equipped with an Electric Outboard Motor from Paying a Fee for the Certificate of Number |
| L.D. 1161 | An Act To Exempt Saltwater-only Boats from the Lake and River Protection Sticker Requirements |
| L.D. 1255 | An Act To Permit Sebago Lake Mooring Extensions |
| L.D. 1366 | An Act To Ensure Boating Safety |
| L.D. 1474 | An Act Concerning Public Boat Launch Sites |
| L.D. 1503 | An Act To Limit the Size of Motorboat Engines Used on Paradise Pond |

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

Sincerely,
S/Sen. Bruce Bryant
Senate Chair
S/Rep. Matthew Dunlap
House Chair

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2003, June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 1190) (L.D. 1614)

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

Cosponsored by Senator CATHCART of Penobscot.

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

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

Sent for concurrence.

ORDERS

On motion of Representative RICHARDSON of Skowhegan, the following Joint Resolution: (H.P. 1189) (Cosponsored by Representative: BOWEN of Rockport)

JOINT RESOLUTION COMMEMORATING THE NEW ENGLAND

REGIONAL GROUP OF THE WAVES

WHEREAS, WAVES, which is the acronym for Women Accepted for Volunteer Emergency Service, became an established part of the United States Naval Reserve by an act of Congress signed by President Roosevelt on July 30, 1942 and was established to have women serve shore duty in the United States to free up the men to go overseas to fight in World War II; and

WHEREAS, it was established that the WAVES would only be needed during the wartime emergency, and the women would fill both traditional and nontraditional positions, including administrative, medical, parachute rigger, instructor, air traffic controller and aircraft mechanic positions; and

WHEREAS, by the end of World War II, women constituted about 2 1/2% of the United States Navy's total strength, including approximately 8,000 officers and 76,000 enlisted WAVES, with 8,000 more women in training, in addition to 11,000 Navy Nurse Corps officers, 11,000 Coast Guard and 18,000 Marine Corps women on duty with the Navy, making a total of 132,000 women serving in the United States Navy during World War II; and

WHEREAS, the important contributions that the WAVES made were greatly needed, and they served their nation during World War II with distinction, hard work, honor and perseverance; and

WHEREAS, women were eventually inducted into the regular United States Navy after World War II and have steadily gained acceptance into all military roles, including combat, furthering a path that the WAVES of the United States Navy first established; and

WHEREAS, there are many WAVES veterans in the United States, and on May 15th to May 18th the New England Regional Group of the WAVES is having a conference in Rockport, Maine; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to proudly express our sincere appreciation to the WAVES veterans of the United States for the dedicated service they have given our nation, and we welcome the New England Regional Group of the WAVES to Rockport, Maine with our congratulations and best wishes; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the leaders of this group with our best wishes and appreciation.

READ and ADOPTED.

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Falmouth "Yachtsmen" High School Girls Soccer Team, on its winning the 2002 State Class B Soccer Championship: players Elizabeth Bruen, Stephanie Gonzales, Meredith McArdle, Chelsea Cote, Sara Farnum, Kristina Grimaldi, Ashley Higgins, Whitney Huse, Melissa Joyce, Emily Mason, Lindsay Monn, Ashley Beaulieu, Arielle DeRice, Emma Grandstaff, Callan Kilroy, Hannah Monn, Amanda Wood, Ashley Dragos, Hannah Jansen, Bridget Hester and Christina Capozza; assistant coach Andy Pappas; and Head Coach Melissa Anderson. We extend our congratulations and best wishes to the team and the school on this championship season;

(HLS 8)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator BRENNAN of Cumberland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.

READ and PASSED and sent for concurrence.

Recognizing:

the Falmouth "Yachtsmen" High School Boys Soccer Team, on its winning the 2002 State Class B Soccer Championship: players Justin Armstrong, Patrick Halligan, Chris Keeler, Jon Cronin, Zack Jones, Ben Piper, Kyle Perry, Alex Shaw, Carter Waite, Ray Baston, Hobson Bradford, Chris Davis, Chris Hooper, Mike Thoreson, Alex Urquhart, Jimmy Velas, Chris White, Will Barns, Ryan Bradford, Kyle Burnett, Chris Piper, Thomas Starkey, Ben Rayder, Bryant Barr, Connor Hallowell and Miles Libby; assistant coaches Todd Whitcomb and Matthew Starkey; and Head Coach David Halligan. We extend our congratulations and best wishes to the team and the school on this championship season;

(HLS 9)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator BRENNAN of Cumberland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.

READ and PASSED and sent for concurrence.

Recognizing:

the Falmouth "Yachtsmen" High School Boys Cross-country Team, on its winning the 2002 Class B Cross-country State Championship: players Blake Davis, Kirby Davis, Bryan Gattis, Kurt Knudsen, Mike Gaudet, Ben Schnapp, Dan Capaldi, Brandon Bonsey, Trevor Paul, Matt Duddy, Robbie Grygiel, Alex Romanoff, Patrick Hanan, Jon Wilson, Chris Talbot, Chris Kurlanski, Kyle Gowen, Brandon LaPoint, Ben Mercer and Ben Magur; assistant coaches Jorma Kurry and Danny Paul; and Head Coach Bob Gilman. We extend our congratulations and best wishes to the team and the school on this championship season;

(HLS 10)

Presented by Representative DAVIS of Falmouth.
Cosponsored by Senator BRENNAN of Cumberland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.
READ and **PASSED** and sent for concurrence.

Recognizing:

Patrick Halligan, of Falmouth, who has been selected as the 2002 Gatorade Maine High School Male Soccer Player of the Year. A student at Falmouth High School, he finished the season with 21 goals and 10 assists including the winning goal in the state championship game. Patrick was selected All Conference, All Region, All State, All New England and All American Player. The award also factors in academic achievements and overall character. We extend our congratulations and best wishes to Patrick on receiving this prestigious award;

(HLS 517)

Presented by Representative DAVIS of Falmouth.
Cosponsored by Senator BRENNAN of Cumberland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.
READ.

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

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. It is quite unusual for three teams to win the state championship in one season, but that is exactly what has happened. My congratulations to the girl's soccer team assistant, Andy Pappas, and coach Melissa Anderson. On the boy's soccer team, Todd Whitcomb and Coach David Halligan. On the boy's cross-country team, coaches Kurry, Paul and Coach Gilman. Two of those gentlemen were former students of mine, Todd Whitcomb and Danny Paul. I would also like to congratulate Patrick Halligan for his all American status and his awards on many, many teams. It is with great pride that I bring these ladies and gentlemen here today. I feel great pride in their achievements. Thank you very much.

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

In Memory of:

Philip C. Hastings, of Readfield, beloved husband, father and grandfather. Phil worked for the Public Utilities Commission as the Director of the Electric Efficiency Program and in that capacity became a leader, teacher and facilitator. He was a professional engineer. Phil was a hiker, a camper, a sailor and an avid skier who was active in ski patrol training. He was a member of the Maine National Guard for 25 years. He was

tireless in his efforts to help all of his family. Phil was a thoughtful, respected, intelligent gentleman with a delightful sense of humor. He will be sadly missed by his family, friends and co-workers;

(HLS 562)

Presented by Representative MOODY of Manchester.

Cosponsored by Senator TREAT of Kennebec, Senator HALL of Lincoln, Senator BROMLEY of Cumberland, Senator YOUNGBLOOD of Penobscot, Representative BLISS of South Portland, Representative ADAMS of Portland, Representative GOODWIN of Pembroke, Representative RINES of Wiscasset, Representative LUNDEEN of Mars Hill, Representative BERRY of Belmont, Representative CRESSEY of Baldwin, Representative FLETCHER of Winslow, Representative RICHARDSON of Skowhegan.

On **OBJECTION** of Representative MOODY of Manchester, was **REMOVED** from the Special Sentiment Calendar.

REA.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Moody.

Representative **MOODY**: Mr. Speaker, Men and Women of the House. The cosponsors of this sentiment, with the exception of Senator Treat, are the members of the Joint Committee on Utilities and Energy. I now yield to the Representative from South Portland, the House Chair, of the committee, Representative Bliss.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative **BLISS**: Mr. Speaker, Men and Women of the House. In the 120th Legislature we did quite an amazing thing here. We took all of the energy efficiency programs out of the hands of the utilities and put them in the hands of the Public Utilities Commission. We felt it was awkward for utilities to be trying to encourage people to buy more power at the same time that they were allegedly trying to get them to save power. The Public Utilities Commission, in turn, hired Phil Hastings to run their Energy Efficiency Program. Phil began his work as Director of the Public Utilities Commission Energy Efficiency Program during this session. He quickly became a valuable resource to the legislators and stakeholders who were considering electric efficiency and conservation programs in this state. On April 19th, the Utilities and Energy Committee, the Public Utility Commission and those who appear before us lost a colleague and a friend. Phil Hastings was a victim of a tragic accident while helping family members. Phil was a professional engineer who lived and worked in the Augusta area for over three decades. Over the years he became one of New England's leading experts in energy efficiency and conservation. In that capacity, he was chosen by the PUC to lead the development of the state's energy efficiency program.

We, in the Legislature, only knew the professional Phil. What we knew was a guy who worked 50 or 60 hours a week and then lugged studies and materials home to work on at night. What we didn't know was the private Phil. Phil was also an avid skier. He was an active ski patrol trainer. He was a hiker and a camper. He was a sailor. He spent over 25 years in the Maine National Guard. As part of his consulting work, he took countless trips overseas where he displayed a keen interest in the culture and people with whom he worked. The thing he probably would have been proudest of was the way that he and his wife took their blended family of four children and really made them the epitome of what a family is all about. Above all else, Phil was a thoughtful, respectful, intelligent gentleman with a delightful sense of humor. His friends on the Public Utilities Commission on the Utilities and Energy Committee, his coworkers and the

entire energy efficiency community will sorely miss this gentleman. Thank you Mr. Speaker.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-356)** on Resolve, Allowing Christy Reposa and Michaela Corbin-Bumford to Sue the State (H.P. 536) (L.D. 730)

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc
GAGNON of Kennebec

Representatives:

CLARK of Millinocket
GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
CANAVAN of Waterville
JENNINGS of Leeds
LANDRY of Sanford

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

Signed:

Representative:

BLANCHETTE of Bangor

READ.

Representative CLARK of Millinocket moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to look very, very carefully at this report before you cast your vote. As you will see on the report in front of you, I am the sole member of the Minority Report. This was for very, very heartfelt reasons. I have stood before you on past occasions and urged you to support the right of individuals to sue the state for wrongful termination, wrongful release of prisoners that have, in fact, caused the death of individuals. This is one instance that I stand here and urge you to defeat the Majority Ought to Pass as Amended Report. Although a very, very sad circumstance, this was a prior state employee that caused the death of a little girl. This is so far removed from state responsibility and it is my firm belief and I have been taken to task by individuals for this that had these parents been involved in the release of this child through a foster care have been doing their duty, this child would not have been put in danger. I urge you very, very carefully to look at this and study it. The state carries a responsibility only so far. I do not believe that this suit, in fact, is justified. I urge you to defeat the Ought to Pass as Amended report and go on to pass the Minority Report that says Ought Not to Pass. Thank you Mr. Speaker.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. What this does, first of all, is repeal the name of Michaela Corbin-Bumford from this bill. That was a mistake in the printing. It is another bill. Secondly, it adds the father of Logan Marr, John Wagg. Third, it says that the state, if Christy

Reposa and the father of Logan Marr, John Wagg, is successful we will pay \$400,000 the maximum, which will include costs, interest and punitive damages. You have seen the news stories. You have seen the headlines. You have read newspapers. It was on everybody's desks in the last Legislature and also in this Legislature to do with common sense and the Logan Marr story. We have heard testimony of wrongful death by the state. The testimony was mostly in favor of this bill. What it does is, John Wagg, was not part of the original bill. It adds the father to the bill. It says that the state should be held responsible for their actions. Would the Clerk read the committee report?

Representative CLARK of Millinocket **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I wish to join with the good Representative from Bangor in urging you to oppose the Majority Report. I do so for somewhat different reasons. If the Committee on Legal and Veterans Affairs feels that there has been some kind of financial decrement to these parents or another form of decrement that ought to be compensated with money, then I frankly think you should appropriate an amount of money that you feel is necessary to make them whole and lay it out for this chamber to consider. The problem with the bill that we have now in front of us is that it relegates these people to the court system. It puts both these parents and the department through the pain of litigating this case, regurgitating the unpleasantness, the memories and the publicity that was associated with this unfortunate event. It puts the state through the expense of having to defend it. It puts the parents through the expense involved in retaining council. It just magnifies and extends this deeply unfortunate tragedy. It seems to me that if you wanted to put an end to this and put it to rest, then you would have gone a little further and said, let's just appropriate some money to these folks if we feel that they should be awarded money or should be given money to compensate them for some loss or detriment or harm that they could establish for you. Otherwise, why are we perpetuating this tragedy and simply letting it come forward through the newspapers and the court system and forcing the department and the Attorney General's Office to undertake the expense and the personal pain of having people who are in the department testify and go to court and be interrogated and be subjected to all that process. It seems to me that if we thought that money was appropriate, we should have simply found it and appropriated it. Otherwise, I don't see why we are delegating it to the court system.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative RICHARDSON of Brunswick **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. I ask your support for the Majority Report on this particular issue. Since I have been down here, I came down about 10 years ago, every time there is a session there are several bills that are put in to try to allow someone to bring suit against the state, particularly against the actions that have taken place through DHS. Until one of these suits is allowed to go forward, you are always going to have the cover up that goes

along with each and every one of these situations. If you are a first-time legislator, you may not have been exposed to too many situations involving the child protective services and DHS. If you have been here two or more terms, you certainly will be exposed to many of these. I urge you to support the majority Ought to Pass position. Thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to take up much more of your time. I think before you vote on this, this is a roll call vote, and this is going to send a very, very clear message out there. Parents have in fact put their children in danger through actions of their own. The Department of Human Services, whether you like them, agree with them or not, are there to protect children. They do so to the best of their ability. When you have an agency this big, there are some times that things fall through the cracks. The point that I need to drive home to you is do not reward parents that have knowingly, of their own volition, put their child in danger by not parenting properly. The state had to step in and remove these children from the custody of their parents and place them in a foster home. My heart breaks for this baby that died. This baby never should have died, but that doesn't alter my feeling that the state is responsible. I feel that you are rewarding someone whose parenting skills were not up to snuff with a payment of \$400,000. Please think about the precedence that you are setting every time the Department of Human Services forgets to dot an I or cross a T we are going to have a lawsuit for unlawful this and illegal that. Think of what you are doing when you press your vote. Please follow my vote and vote on the minority side, Ought Not to Pass. Thank you Mr. Speaker.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I share some of the concerns of the good gentleman from Crystal about the public openness of the Department of Child Protective Services. I have to remind him and other members of this body that the confidentiality rules that they abide by are created by us. They are in statute. We have a law that makes it a crime for a child protective worker or anybody working in the department to reveal confidential information about child intervention services. It is quite often that when there is controversy over these issues where the parents or the others involved in the controversy may come forward publicly and tell their side of the story and may call you as a constituent and plead with you for help in regard to a matter involving the Department of Human Services. You find that the department itself is hand strung. They have maybe two arms behind their backs because they cannot publicly respond because of the laws that we have created in this institution to protect the confidentiality of these very sensitive issues. What often appears like a cover-up is really the department abiding by the rules that we have created.

I found it very refreshing to see that two or three hour special program on *Frontline* a few months ago where this case was discussed. The department wasn't able to come forward because the confidentiality rule still applied to this case, but they opened up four or five other cases and they did it by means of getting informed consent from every single individual and attorney and the court system. It was an enormous amount of work for *Frontline* to produce that documentary. They couldn't have done it without with full cooperation of the Department of Human Services, the Bangor Office in particular. It was a wonderful revelation, I think, of both sides of this sensitive topic. It showed how the caseworkers perform on a day-to-day basis and went into the homes of some of these unfortunate parents. It

was a really fantastic show. If it is shown again, and you haven't seen it, you ought to watch it. I have to stress how difficult for the TV producers to put that together. Because of our laws of confidentiality they had to get a rock solid release from every single person that was involved in those stories that were disclosed on the TV.

In any case, I just want to reiterate my support for the good Representative from Bangor on her minority position.

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

Representative **LANDRY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Majority Ought to Pass Report on this because when I looked at this in committee, I looked at all the facts surrounding it. I kept coming to the same conclusion in my mind and in my heart, which is the way I think we should look at everything that we look at in committee. I found that when the state took custody of this child, they then and there assumed responsibility for that child's wellbeing and then for that child's safety and so on. The child was a victim of a very sick-minded person, obviously. We have to realize that that person who caused the death of this child was under the jurisdiction of DHS. DHS, we know, we get e-mails, we get letters, we get all kinds of phone calls seven days a week, something to do with DHS, and someone has a complaint.

Right now our Chief Executive is hiring auditors to look into the accounting practices done by DHS in the past years. It is not an agency without its mistakes by no means, but the life of a child is not what I would categorize certainly as failing to dot the I or cross the T or something that slipped through the cracks. I feel very strongly that the state should be held responsible and liable to these parents. Yes, these parents lost their child to the state because of their failure to meet their commitment. Yes, but we are talking about what happened to this child once this child became part of the state system. I urge you very strongly to consider these things. What has been said here today on this matter are all valid points, but you have to bottom line it sooner or later. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I certainly was not going to get involved in this issue, but I really feel the need to respond to a couple of comments. I do agree with my good friend, Representative Blanchette, whom I admire and respect greatly. I agree with here on several points. This is a very, very tough decision and one that none of us are going to take lightly when we cast our vote. It is precedent setting. That bothers me. The reason that the children came into custody certainly bothers me. However, last session I was a member of the Human Services Committee and as a result of the very tragic death of Logan Marr we initiated and completed an extremely, emotionally draining, exhaustive review of the entire child welfare system and, particularly, this case and others like it.

I will say that we were able to get, as a committee of jurisdiction, around the confidentiality statutes and we found more than most of the press and others. We were able to get into that. The Office of the Child Ombudsmen became the number one top priority of the Health and Human Services Committee and I believe it continues to this day and the office is now funded.

I do disagree with the comment that was made by Representative Blanchette and that is the comment about anytime DHS forgets or does not cross the T's and dot the I's, there will be potential for a lawsuit. I have to say vehemently that this was much, much more than DHS not crossing the T's and dotting the I's. I know everyone will vote their conscience.

Should it go to the courts? The courts will decide the ultimate disposition of this case. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Moore.

Representative **MOORE**: Mr. Speaker, Ladies and Gentlemen of the House. I wanted to respond to a couple of the comments that were made, particularly those from my seatmate, Representative Mills. The Legal and Veterans Affairs Committee did listen very, very carefully to all the details of this horrendous tragedy as they were unfolded to us. Nonetheless, we do realize that we are not a court of law. We are not privy to all the details of this situation. That contributed greatly to our decision not to make a monetary award or suggest something of that nature. We realized that we did not have all of the details, but there was little doubt that this agency was guilty of gross dereliction of its duties. This terrible tragedy could have been averted. The individuals that are impacted by this were impacted by this were impacted because of an agency that continues today to prove itself to be completely out of control. I just want to encourage everyone to endorse the majority decision on this matter. Thank you very much.

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

Representative **COLLINS**: Mr. Speaker, Ladies and Gentlemen of the House. I seldom rise to speak to the body. I feel compelled to this morning, however. This child was in state custody. The child's welfare was the state's responsibility. Out of all the departments that fall under state jurisdiction, by far the most complaints that I receive always seem to concern the Department of Health and Human Services. Whether or not they are always guilty is another situation. I feel in this particular case the State of Maine should be held liable as a result of the actions of one department, the Department of Human Services. I feel as though the caseworker in this particular instance was lax in her duties for not recognizing the signs, the complaints by the child. I also watched the program on TV concerning this case. To me, in my personal opinion, it comes to me all the time the arrogance of this department in dealing with our colleagues, our constituents, the people of Maine and quite frankly I am very upset about it. I feel as though this is a precedence that should be set in dealing with this department. I feel as though in some cases this department is out of control and has no accountability for the actions of this department. I have had concerns about this for a very long time. This particular case, as tragic as it is, can't go unanswered. This child should not have died in this particular instance, particularly the horrible way she did die. I just feel as though it is time to pay the piper. The state, all of us here, are responsible. I feel as though there should be just compensation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I do not support this bill. First, I want to say that I am not here to defend DHS, but DHS did not cause this mother to do the things she did, which caused her to lose her children. I am a foster parent and DHS is very demanding on us and right they should be. Setting this precedence is not the way to go. I also serve on the Health and Human Services Committee and from what I have seen about this case, DHS followed most of their rules. Those rules that they did not follow were also broken with other foster homes. These other foster homes did not have the same outcome. What I am trying to say is DHS did not make drastic mistakes for this to happen. The problem was really with the DHS worker and foster parent that had the child. She had major issues that caused this

dreadful occurrence. I feel that we have to be careful how we are going to be setting a precedence and giving this mother some money for the mistakes that she has made. I am really not in favor of that. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Like many, if not all of you, I am deeply conflicted about this issue. I have been listening to the debate and I don't think there has been a single thing that has been said on either side of this with which I am in disagreement. I don't want my no vote on this to be misinterpreted or misconstrued in any way as a vote of support for the actions of DHS, which I think have been neglectful and wrong in this instance. What troubles me is there is wrongdoing on both sides of this issue. This unfortunate occurrence would not have happened had there not been a need for intervention because of the lack of parenting skills of the mother of this poor child. It concerns me greatly that we are establishing a situation whereby there might be a monetary compensation or even reward, if you will, for this lack of parenting skills and for having placed her child in harm's way. If I could be assured that the proceeds from the settlement, if there was indeed a settlement against the state, were to be put into a scholarship fund or to some other way benefit other children who are in foster care, I would have a much better feeling about this. The idea of this parent benefiting from the death of this child is abhorrent to me and that is why I am going to vote no.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacobsen.

Representative **JACOBSEN**: Mr. Speaker, Ladies and Gentlemen of the House. I am, like many of you, most of you, a parent. Like a few of you, I am a foster parent or have been. When I became a foster parent, I accepted the responsibility of the children as if they were my own. I did not expect my neighbors or friends to pay for the mistakes that I might have made. If I made a mistake, I figured it was my responsibility. When a foster parent takes children into their home, they should take them in and assume the responsibility of that. Foster children do not become foster children without just cause. It is the parent's responsibility to take care of their children in a way that the state does not have to step in. We are compensating the parents who do not take care of their children. I do not believe it is right. That is why I will not vote with the majority on this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Makas.

Representative **MAKAS**: Mr. Speaker, Men and Women of the House. This debate is making me very uncomfortable. Regardless of how someone chooses to vote on this particular issue, I do want to remind people that the question is whether we will allow these people to sue the state, rather than the merits of the case itself. 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. 105

YEA - Adams, Andrews, Annis, Bliss, Bowen, Brannigan, Breault, Brown R, Canavan, Clark, Collins, Cowger, Craven, Cressey, Duplessie, Eder, Finch, Glynn, Goodwin, Hotham, Hutton, Jennings, Joy, Kane, Landry, Lemoine, Lundeen, Maietta, Makas, McLaughlin, Moore, Nutting, O'Brien J, O'Neil, Patrick, Pellon, Perry J, Pineau, Piotti, Richardson J, Sherman, Smith W, Suslovic, Tardy, Thompson, Tobin J, Twomey, Vaughan, Wheeler, Mr. Speaker.

NAY - Ash, Austin, Bennett, Berry, Berube, Bierman, Blanchette, Bowles, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Churchill J, Clough, Courtney, Crosthwaite, Curley, Davis, Dudley, Dunlap, Duprey B, Duprey G, Earle, Faircloth, Fischer, Fletcher, Gagne-Friel, Greeley, Grose, Hatch, Heidrich, Honey, Jacobsen, Jodrey, Kaelin, Laverriere-Boucher, Ledwin, Lerman, Lessard, Mailhot, McCormick, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, O'Brien L, Paradis, Peavey-Haskell, Percy, Pingree, Rector, Richardson E, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Shields, Simpson, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Thomas, Tobin D, Trahan, Treadwell, Usher, Walcott, Watson, Woodbury, Wotton, Young.

ABSENT - Barstow, Bunker, Carr, Churchill E, Cummings, Daigle, Dugay, Gerzofsky, Jackson, Ketterer, Koffman, Lewin, Marley, Marraché, McGlocklin, McGowan, McKee, Norton, Perry A, Smith N.

Yes, 50; No, 81; Absent, 20; Excused, 0.

50 having voted in the affirmative and 81 voted in the negative, with 20 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

Subsequently, the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-354)** on Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

(H.P. 309) (L.D. 389)

Signed:

Senator:

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth

STONE of Berwick

KETTERER of Madison

CROSTHWAITE of Ellsworth

BARSTOW of Gorham

BOWEN of Rockport

SUSLOVIC of Portland

SUKEFORTH of Union

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

Signed:

Senators:

ROTUNDO of Androscoggin

LaFOUNTAIN of York

Representatives:

PEAVEY-HASKELL of Greenbush

BUNKER of Kossuth Township

READ.

Representative McLAUGHLIN of Cape Elizabeth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-353)** on Bill "An Act To Encourage Responsible Employment Practices"

(H.P. 880) (L.D. 1206)

Signed:

Senators:

ROTUNDO of Androscoggin

LaFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth

KETTERER of Madison

BARSTOW of Gorham

SUSLOVIC of Portland

BUNKER of Kossuth Township

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

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush

STONE of Berwick

CROSTHWAITE of Ellsworth

BOWEN of Rockport

SUKEFORTH of Union

READ.

Representative McLAUGHLIN of Cape Elizabeth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Provide a Municipal Process for an Initiative To Impose a Property Tax Cap"

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

Signed:

Senators:

ROTUNDO of Androscoggin

LaFOUNTAIN of York

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth

PEAVEY-HASKELL of Greenbush

KETTERER of Madison

CROSTHWAITE of Ellsworth

BARSTOW of Gorham

BOWEN of Rockport

BUNKER of Kossuth Township

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-352)** on same Bill.

Signed:

Representatives:

STONE of Berwick

SUSLOVIC of Portland

SUKEFORTH of Union

READ.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

CONSENT CALENDAR
First Day

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

(S.P. 46) (L.D. 123) Bill "An Act to Allow Hunters to Exchange Assigned Hunting Areas or Zones with Other Hunters" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-143)**

(S.P. 229) (L.D. 665) Bill "An Act To Authorize Funds To Renovate the State's Court Facilities in the City of Bangor" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-140)**

(S.P. 265) (L.D. 786) Bill "An Act To Provide 'Any-deer' Permits to Permanently Disabled Nonambulatory Persons" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-144)**

(S.P. 285) (L.D. 806) Bill "An Act To Simplify the Requirements for Tagging, Registering and Transporting Harvested Animals" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-142)**

(S.P. 512) (L.D. 1534) Bill "An Act To Amend the Maine Banking Laws" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-141)**

(H.P. 1127) (L.D. 1538) Bill "An Act To Clarify the Appointment of Coguardians and Coconservators under the Probate Code" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 1156) (L.D. 1584) Bill "An Act To Ensure Equity for Active Retired Justices of the Supreme Judicial Court Who Perform Judicial Service" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 512) (L.D. 695) Bill "An Act To Amend the Laws Governing Minimum Lot Size" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-349)**

(H.P. 619) (L.D. 842) Bill "An Act Relating to Portable Classrooms for Certain Cases" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-351)**

(H.P. 840) (L.D. 1137) Bill "An Act Regarding Riverine Impoundments" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-350)**

(H.P. 922) (L.D. 1248) Bill "An Act Concerning Disability Retirement Benefits under the Maine State Retirement System" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-355)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH**.

(H.P. 313) (L.D. 393) Bill "An Act Authorizing the Operation of Low-speed Vehicles on Certain Roads" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-357)**

On motion of Representative RICHARDSON of Brunswick, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

BILLS IN THE SECOND READING

Senate

Bill "An Act To Modify the Exemption for Compost under the Nutrient Management Law and the Nutrient Management Review Board's Authority To Hear Appeals"

(S.P. 517) (L.D. 1543)

Senate as Amended

Bill "An Act To Reimburse Philip Wolley for Litigation Expenses Incurred in Connection with His Termination and Reinstatement as a State Employee"

(S.P. 94) (L.D. 260)

(C. "A" S-116)

Bill "An Act To Create a Sustainable Energy Trust Fund"

(S.P. 284) (L.D. 805)

(C. "A" S-133)

Resolve, To Encourage Use of Alternative Energy Sources

(S.P. 388) (L.D. 1184)

(C. "A" S-132)

House

Bill "An Act Concerning Representation of the State in Disclosure Hearings" (EMERGENCY)

(H.P. 1031) (L.D. 1404)

House as Amended

Bill "An Act To Require the Workers' Compensation Board To Adopt Rules To Require Electronic Filing"

(H.P. 268) (L.D. 339)

(C. "A" H-191)

Bill "An Act To Protect Maine Families When Workplace Fatalities Occur"

(H.P. 368) (L.D. 476)

(C. "A" H-96)

Bill "An Act To Encourage Agricultural Cooperative Associations To Provide Group Health Plans" (EMERGENCY)

(H.P. 381) (L.D. 492)

(C. "A" H-336)

Bill "An Act To Improve the Operation of the Workers' Compensation Board"

(H.P. 488) (L.D. 658)

(C. "A" H-57)

Bill "An Act To Allow Smelt Fishing in Long Lake in Aroostook County"

(H.P. 637) (L.D. 860)

(C. "A" H-341)

Bill "An Act To Extend Public Record Requirements of Nongroup Health Insurance Rate Filings to All Health Insurance Rate Filings"

(H.P. 776) (L.D. 1058)
(C. "A" H-334)

Bill "An Act To Improve the Ability of the Public Utilities Commission To Enforce State Laws, Rules and Requirements"

(H.P. 1088) (L.D. 1483)
(C. "A" H-342)

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

Bill "An Act To Conform the Voting Members of Certain State Entities"

(H.P. 1029) (L.D. 1402)

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

On motion of Representative RINES of Wiscasset, was **SET ASIDE.**

The same Representative **PRESENTED House Amendment "A" (H-358)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Mr. Speaker, Ladies and Gentlemen of the House. This is just a clerical correction to the bill.

Subsequently, **House Amendment "A" (H-358)** was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-358)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Emergency Measure

An Act to Amend the Law Relating to Annuities

(S.P. 121) (L.D. 342)
(C. "A" S-114)

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. 118 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.**

Emergency Measure

An Act To Implement the Recommendations of the Legislative Youth Advisory Council

(H.P. 557) (L.D. 751)
(C. "A" H-295)

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. 111 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.**

Emergency Measure

Resolve, Directing the Department of Inland Fisheries and Wildlife To Conduct a Programmatic Review within Certain Areas of the Department

(S.P. 52) (L.D. 129)
(C. "A" S-125)

The **SPEAKER**: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to do something with this legislation in a very positive manner, but I want to hang off for a little bit. I will tell you why. We have had a lot of press lately about accounting irregularities and there has been a drive to expedite finding some way to provide funding for the newly created Office of Program Evaluation. We have been looking at different legislation, proponents of the budget looking at these types of evaluations and looking at perhaps consolidating them in budget package to do just that type of work.

The good Representative from Waldoboro and I have agreed that if we are going to be looking throughout the entire budget and other bills, we might as well be looking at bills also coming out of our own committee. I think it would be a very, very good idea if this was to be set aside and later tabled while we take a bright light and shine in every corner looking for funding. I would make that as a positive suggestion to any member of this body to table this legislation until later.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Emergency Measure

Resolve, Authorizing the Commissioner of Inland Fisheries and Wildlife To Allow a Well and Waterline Easement

(S.P. 122) (L.D. 346)
(C. "A" S-124)

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. 116 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

Resolve, To Enhance Services to Children and Families

(H.P. 421) (L.D. 558)
(C. "A" H-293)

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. 114 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 306: Information Disclosure Rule Amendment, a Major Substantive Rule of the Public Utilities Commission

(H.P. 1091) (L.D. 1494)
(C. "A" H-294)

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. 124 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Mandate

An Act To Clarify the Laws Pertaining to the Surcharge for Records Preservation for the Registry of Deeds

(S.P. 107) (L.D. 325)
(C. "A" S-115)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, 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.

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

Acts

An Act To Enhance the Powers of Law Enforcement Officers Authorized To Make Out-of-county or Out-of-municipality Arrests

(H.P. 361) (L.D. 469)
(H. "A" H-290 to C. "A" H-123)

An Act To Require the Installation of Dental Amalgam Separator Systems in Dental Offices

(H.P. 514) (L.D. 697)
(C. "A" H-274)

An Act To Update the Abandoned Property Laws

(S.P. 297) (L.D. 901)
(C. "A" S-117)

An Act Regarding the Sale and Protection of Ferrets

(H.P. 685) (L.D. 928)
(C. "A" H-296)

An Act To Ensure Communication about Public Complaints against State Employees

(H.P. 764) (L.D. 1047)
(C. "A" H-279)

An Act To Amend the Laws Governing Noncompete Clauses in Broadcast Industry Contracts

(H.P. 823) (L.D. 1120)

An Act To Clarify the Division of the Positions of Town Assessor and Selectman

(H.P. 900) (L.D. 1226)
(C. "A" H-280)

An Act To Amend the Law Regarding Juvenile Restitution

(H.P. 904) (L.D. 1230)
(C. "A" H-278)

An Act To Improve Boating in Maine

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

An Act To Provide Requirements for Towns To Deorganize

(S.P. 421) (L.D. 1290)
(C. "A" S-121)

An Act To Make Changes to the Laws Governing Aquaculture Leasing

(H.P. 1040) (L.D. 1417)
(C. "A" H-282)

An Act To Allow the Maine Turnpike Authority To Allow the Purchase of Nontoll Services by Electronic Toll Collection Patrons

(S.P. 470) (L.D. 1420)

An Act To Improve Access by the Department of Corrections to Federal Funds under Title IV-E of the Federal Social Security Act

(S.P. 498) (L.D. 1498)
(C. "A" S-118)

An Act To Improve Access to the Victims' Compensation Fund

(H.P. 1103) (L.D. 1510)
(C. "A" H-277)

An Act To Amend Provisions of the Submerged Lands Law

(H.P. 1123) (L.D. 1531)
(C. "A" H-275)

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, Requiring the Maine Human Rights Commission To Report on Complaints Involving Supervisors

(H.P. 408) (L.D. 523)
(C. "A" H-285)

Resolve, To Streamline and Encourage Use of the Suspension Process to Combat Reckless Driving

(S.P. 243) (L.D. 705)
(C. "A" S-110)

Resolve, Directing the Department of Professional and Financial Regulation To Conduct a Sunrise Review for the Regulation of Spoken Language Interpreters

(S.P. 305) (L.D. 909)
(C. "A" S-119)

Resolve, Directing the Community Preservation Advisory Committee To Study the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs

(H.P. 762) (L.D. 1045)
(C. "A" H-284)

Resolve, Directing the Department of Environmental Protection To Recognize the Distinction between Water Storage Reservoirs and Natural Lakes

(H.P. 777) (L.D. 1059)
(C. "A" H-283)

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

An Act To Expand the Education Tax Credit

(H.P. 387) (L.D. 502)
(C. "A" H-286)

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

On motion of Representative CUMMINGS of Portland, was **SET ASIDE.**

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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 Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 106

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Cummings, Curley, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Bennett, Bunker, Crosthwaite, Daigle, Gerzofsky, Goodwin, Jackson, Ketterer, Lewin, Marraché, McGlocklin, Norton, Perry A.

Yes, 138; No, 0; Absent, 13; Excused, 0.

138 having voted in the affirmative and 0 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

SENATE PAPERS

The following Joint Resolution: (S.P. 568)

JOINT RESOLUTION EXPRESSING SUPPORT FOR LOCAL, STATE AND INTERNATIONAL ACTION TO CONSERVE THE GULF OF MAINE

WHEREAS, the Gulf of Maine is an essential cultural, environmental and economic resource that Maine has relied on for generations; and

WHEREAS, this international watershed, which we share with Massachusetts, New Hampshire, New Brunswick and Nova Scotia, is under threat from increasing population pressure, resource exploitation and habitat degradation; and

WHEREAS, since 1989 the 3 states and 2 provinces bordering the Gulf of Maine, in concert with the federal governments of the United States and Canada, have enjoyed a rich and unique relationship through their participation in the international Gulf of Maine Council on the Marine Environment; and

WHEREAS, the nations of the world gathered at the World Summit on Sustainable Development in 1992, subsequently creating the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and encouraging the nations to reverse the pollution of our oceans; and

WHEREAS, the stakeholder-based Global Programme of Action Coalition for the Gulf of Maine was formed to galvanize action on these issues from a grassroots perspective and resulted in a series of citizen forums about the Gulf of Maine; and

WHEREAS, the Gulf of Maine Council on the Marine Environment's 2001-2006 Action Plan, based on extensive stakeholder input, identifies over 50 actions pertaining to coastal and marine habitat degradation and contaminants in the marine food chain that require coordinated international action; and

WHEREAS, the states and provinces, federal agencies, nongovernmental organizations, First Nations and the business community are organizing an October 2004 State of the Gulf Summit

to document the health of this international water body, to draw attention to the environmental and economic threats to this world-class resource and to develop strategies for future collective action; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, acknowledge and support improving the conservation and management of the Gulf of Maine's habitats, its watershed and its resources through international collaboration as a priority; and be it further

RESOLVED: That we endorse the participation of representatives of the Joint Standing Committee on Marine Resources in the 2004 State of the Gulf Summit to become well-informed on actions the State should consider for the protection of its gulf waters; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be submitted to the Gulf of Maine Council on the Marine Environment.

Came from the Senate, **READ** and **ADOPTED**.

READ and **ADOPTED** in concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-353)** - Minority (6) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Encourage Responsible Employment Practices"

(H.P. 880) (L.D. 1206)

Which was **TABLED** by Representative McLAUGHLIN of Cape Elizabeth pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative BOWLES of Sanford **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 Rockport, Representative Bowen.

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. I was in the minority on this bill and primarily because I have sort of an underlying philosophical issue with what the bill is trying to do, although I understand what it is trying to do. The goal of the bill, as I understand it is fundamentally to encourage businesses to offer health care by holding out the carrot of state

contracts. State contracts would be weighed as to whether the business in question offered health care to its employers or not.

The title, "An Act to Encourage Responsible Employment Practices" implies that not offering health care is irresponsible employment practices, which I have some issues with. This bill is really more stick than carrot. It basically puts businesses that cannot afford to offer health care coverage in a disadvantage. It favors larger firms who would be more likely to offer these benefits over smaller ones. It is holding businesses responsible for the fact that health care is unaffordable, as though it was their fault. I am sure that my father would like some work in his garage repairing state vehicles. With a two-man shop he struggles just to keep the business competitive, much less being able to offer a full health benefit package to his employee, even though he has offered to do so. His employee being one of these young immortals, would rather have a pay raise than health insurance. It is not for lack of trying. This bill would hold that against him and against any small business trying to grow and trying to compete and trying to do the right thing for its employees. What bothers me is the philosophy that I see recurring. The way to solve the social problems that we face as a state, like poverty and lack of health care, is to go after businesses, to have businesses pick up the tab for solving social problems, rather than coming together as a people and as a state to try and solve these problems without making it harder to run a business in this state than it already is. The consequence of this philosophy, as we all know, has been high comp costs, high health care costs, high unemployment costs and Maine being repeatedly rated as one of the worst places in this country to do business. In fact, the job loss potentially that can ultimately come from balancing the treatment of all of our social ills

The Chair reminded Representative BOWEN of Rockport to stay as close as possible to the pending question.

Representative **BOWEN**: Thank you Mr. Speaker. I was saying that we can solve the health care problem. The health care problem is solvable. We are working on it right now. We don't need to go after businesses and punish small businesses because they cannot afford in this climate to offer health care. I urge the Ought Not to Pass on this report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Sukeforth.

Representative **SUKEFORTH**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in opposition to LD 1206 and urge you to support the Minority Ought Not to Pass Report. My concerns for this bill is are several. My biggest concern is that the bill assumes that health care benefits be considered when a business bids on a state contract to provide services. What this bill does is if that business doesn't provide health care benefits, it is going to use a formula and assume that what the cost would have been to provide those benefits and raise that bid. I understand the purpose of the bill is to put everybody on a level playing field. If you read title of the bill, "An Act to Encourage Responsible Employment Practices", I don't think anybody really has a problem with that. My problem is it is only looking at the health care benefits that a business provides. In my mind there are many other factors that should be going into the consideration on whether or not you consider a businesses responsible employment practices. This bill does not look at the level of wages that that business pays their workers. It doesn't look at their other human resource policies, such as vacation time, sick time, family leave time. It only looks at whether or not they provide health insurance. For many small businesses, we all know the health insurance market in this state is a mess, for many small businesses it is just not practical for them to provide health insurance for their employees. They know that. They

don't mean to hurt their employees and often times they try to make it up in other areas.

I own a small business. My small business wouldn't be affected by this bill because I don't provide services. What I do for my employees, because it is not practical for me to provide health insurance is I sit down with my employees that are eligible and we work something out. For some of them, I pay them a higher wage and they get their health insurance through their spouses health insurance program. For others of them, I might give them compensation time or raise their pay and they get their health insurance on their own. This bill, I just think that given the state of the health insurance industry in this state and also because other factors should be considered in whether or not you are a responsible employer. I just think that this bill is a bad bill and I really urge you to defeat the pending motion and support the Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. I rise today because I take a little bit of an interest in health insurance matters. While this didn't have anything to do with my committee, I think it is an interesting discussion. A couple of weeks ago I was out in California and my 11 year old son, Max, who decided a couple of years ago that he wanted to go to Stanford University and insisted that I take him there. We visited the campus and it was really an impressive place. I guess that Catholic education better pay off, right? While I was there I picked up the campus newspaper and read the banner headline for that day, which was interesting. The Board of Regents or the Board of Trustees or whatever governing body it is at that university, it is a very well endowed university in a big community within the town of Palo Alto had just unanimously approved a policy change that is along these same lines. While the parallel is a little different, that is a university, we are a state, I think the point should be taken. They affirmatively decided that they would in all of their contracts apply a formula that said that any contractor wishing to do business with the considerable buying power of the university, must pay a living wage. I think it was \$11.50 or \$11.56 or \$16.55. The difference between those two numbers was predicated on whether or not the employer provided a standard of health insurance. Providing health insurance and paying \$11.50 would qualify them for the ability to bid or no health insurance and \$16.50 would also qualify. Boy, that is pretty interesting and pretty bold. There must have been opposition to it. A couple of paragraphs down I read the Chamber of Commerce in Palo Alto had predicted that this one measure, within about a 50 mile radius of that university would do more to improve the quality of life and business than any other measure that any government entities could have predicted. There is a little bit of a parallel to this bill, as I understand it. It is a level playing field type option. While it does not address all the 401K and other pay incentives and personnel type issues, it does shine the light on the most prominent issue on that realm, which is health care, which is why I support the bill.

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

Representative **BARSTOW**: Mr. Speaker, Men and Women of the House. When this bill first came across my desk as a member of the State and Local Government Committee, I must admit that I was a little skeptical and I was trying to think of myself as a common sense individual when looking at bills of this type. The one thing that I would like to bring forward that has not really come forward in this argument is this is the state and way that they want to do business if this bill passes. This is going to be tougher for businesses possibly, yes, but this can give them a

level-playing field when dealing with us in our business practices. This is not going to keep businesses from coming to the state and competing in a capitalist market. They still can go out and if they decide not to have health insurance for their employees, they are more than welcome to do so. They can bring that forward in the rest of the economy. When dealing with the state, I feel that we should bring on this leadership role in state government and ask that health insurance be a factor in accepting these bids. We try to promote the idea of access to affordable health care and we also try to promote the idea of small business and such in this state. I think doing this gives a level playing field to them and I hope you all will support the bill. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. I do need to clarify a few statements that I have heard from committee members so far in this discussion. One was from the good Representative from Rockport, who was making illusion to the fact that his father could not bid on a state contract because of this bill. I am not aware that his father is in the personal services industry. The amendment on this bill limits it to contracts going out for personal services, temporary staff. We did hear from a representative from Maine Merchants Association who very adamantly opposed to the bill. When he was asked how many of his members in his association would be affected, he had to admit it would only be a couple out of at least 700. Oops.

I am hearing a lot of talk that this is only for health care. It also is for retirement benefits. It helps level the playing field relative to both health care benefits and retirement benefits. I want to make sure that people totally understand that this is not a mandate. Nobody who is coming in to bid on a state contract for personal services for temporary staff is required to offer health benefits or retirement benefits to their employees. Nobody is disqualified from bidding on state contracts because they don't offer those benefits. Contractors that do not offer the benefits will still be awarded those state contracts when they provide the best value. If there is anybody in here that doesn't think the state should be going for the best value when it awards contracts, see me later behind the glass.

I want to remind you, already, right now, in its evaluation of bids the state already considers factors other than costs. That is why we are going for the best value. I encourage you to consider this long and hard, seriously, about this bill. Understand the limitations that have been put on it and vote for the Majority Ought to Pass Report. Thank you Mr. Speaker.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. This bill did not come before my committee, but as a member of the Insurance and Financial Services Committee, health care issues are very important to me. This bill is in no way a mandate. It only allows the state to take in, being if they offered benefits, health care and retirement benefits. The state already has the ability to look at issues other than those. Some of the bids it is more easy to quantify the quality of the work, say a paving contract or guardrail contract. It is easy to examine the work and see the quality and that on a bid is taken into account. If the contractor can deliver the work in a timely fashion, if they have a good history of doing good work with the State of Maine, if they are qualified and licensed to do the work. Contractors with the state are already required to be insured, bonded and offer workers' comp insurance. As a state we are doing all we can to promote access to health care. I think it only makes sense that

we would hold ourselves to the same standards when dealing with contractors. I would urge support of this motion. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I would just like to point out a few facts that have not escaped my attention. Nearly 200,000 uninsured citizens reside here in Maine. There remains an unlevel playing field benefiting employers who offer health insurance to their employees and it hurts those who don't. We all know we have a death spiral in the health care insurance market. Why? Not enough employers and employees have health insurance, offer it or have taken advantage of it. We need to level the playing field here for a moment. This is one step where the state can lead. We are leading in the area of health care. We have a health care reform package. We have created a Joint Select Committee to hear the health care reform package. We are trying to control growth of health care costs. We are trying to limit the spending and get our arms around what is choking, essentially, economic growth in Maine and that is the cost of health care. If we can get our arms around health care, we can move this state forward. The Governor has a bold plan for economic development and part of that plan includes, obviously, trimming the costs around health care.

We can we do that How can the state offer an opportunity to lead here? It is to set the example. It is to provide the opportunity for state contractors to offer health insurance to their employees without the benefit of being harmed in the bidding process. The state pays a significant share of health care costs through the Maine Care Program, for those who do not get health insurance through their employment. This cost shifts to taxpayer money. We pay when the employer does not pay. We are trying to lead by example here by showing the employer there is a benefit to providing health care and health insurance to their employees and that that benefit will not be used against them. The costs of providing health care for the uninsured are paid by those of us who do have insurance. Providers pass on those costs of uncompensated care through higher fees, which, in turn, lead to higher insurance premiums. It doesn't take a very smart person to understand that the more of us who have insurance, obviously the risk being spread across a number of people will lower the cost of insurance. This just allows us to lead as we have led the respect to balancing the budget without raising taxes. We are asking our municipalities to do the same thing. This allows us to lead in the area of health care. It is but one element to our entire health care reform package that we are trying to pass through this institution. I would ask you to join me. Maine workers can't wait any longer for health care. We have a health care crisis. It hurts economic development because of the rising cost of health care. Maine employers who provide that health care should not be penalized, certainly not by the State of Maine. I ask you to join me in accepting the Majority Ought to Pass as Amended Report. Thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker said that you don't have to be particularly smart to understand this bill. I have never claimed to be all that smart, but to be truly honest and frank with the body, as I read the language in the bill, I truly and I honestly do not understand the mechanics of this bill, how it is implemented, how the purchasing agent would, in fact, develop the rules for it? I do have a couple questions. During the testimony, I am interested in where the Administration was on this bill during the public testimony? I am also interested in

whether or not this applies to contract providers through the Maine Care Program?

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

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

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I am a little bit concerned as someone who, of course, did not sit through the debate on State and Local, I am a little bit concerned as to whether several issues may have been addressed during the discussion of this bill. For instance, if I were the proprietor or owner of a small personal services company and I had one or two employees working for me who were the spouses of people who worked for a larger employer, which might offer a health care package and a retirement package, and for that reason they declined an offer from me to set up a health care package for them, would I then be penalized in my ability to bid for a contract with the state, because of their action in choosing to do that? Also, a number of employers who have relatively small numbers of employees, find that their employees can purchase insurance cheaper individually or perhaps through some association than they, as an employer, can provide those benefits. In that case, those small employers sometimes reimburse through their compensation system, employees for having purchased those services. Again, would I be discriminated against or hindered in my ability to bid for services? Thank you.

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

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. In response to the good questions from the good Representative from Sanford and hope that it is going to change his mind on how he is going to vote, of course. Question number one, no. Question number two, no.

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

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

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

Representative **SHERMAN**: Mr. Speaker, Men and Women of the House. My question for those of you on this bill that may live along the Canadian border, Canadians come into this country, they are also selling in this country. How do you calculate the fact that the Canadians have universal health care? It seems to me that that would give them an unfair advantage with Maine Contractors.

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 Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. In response to the question, I am not sure how many of those Canadian companies are sending employees here to provide personal services. I am actually not aware of any of them doing that. However, if you provide the health care and retirement benefits to your employees, your cost for doing so is taken into account in your bid price. It therefore lowers it, presumably, and it is more equal, presumably, with those employers who do not provide those services, be it because they have national health care, because some of the Canadians are coming over to do this, which they probably aren't or because your employee has chosen to take the health care benefits from

their spouses policy, therefore, you are not paying the cost for those employees benefits or if you are, you make note of it if you are giving them a different kind of compensation for their health care and retirement costs. You make note of it in your bid and that cost is taken into account. As has been said by previous speakers, it helps level the playing field. It gets rid of those bumps. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Rockport, Representative Bowen.

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

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

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. Can you also note in your bid, you said Representative McLaughlin, that you can note that there was coverage on Canadian health care or there were some exceptions. I wonder if one of the exemptions you can note in your bid is that you are a small business struggling to survive and you can't afford to offer health care to your employees, although you wish that you could?

The **SPEAKER**: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. This bill, which we keep talking about wanting to level the playing field, really seems to me that it degrades the playing field. You are already telling the people who have health insurance that they have a leg up on this bid on people who don't have health insurance or don't offer it. They probably can't. I ran a business for a long time and we wanted to have health care for my employees. I never quite made it. Before I could make it, I went out of business. I am sure that there are lots of people in the business that the state might be looking to employ, would offer health care also if they could afford it. If they are not offering it, they probably can't afford it. What is going to wind up happening is the people who are able to make it, are the ones who are always going to get the bids and the playing field is not at all level at the moment. I guess my question is, how many contracts does the state offer to people who don't have health care and how many of them do they employ at the present time?

The **SPEAKER**: The Chair recognizes the Representative from Union, Representative Sukeforth.

Representative **SUKEFORTH**: Mr. Speaker, Ladies and Gentlemen of the House. I am unable to answer Rep Richardson's question, but I would like to offer my opinion on the good Representative from Sanford's two previous questions, which our good chair responded no and no. It is my opinion that the answer should be yes and yes. Let me tell you why. The advocates of this bill argue that this doesn't penalize anybody. Their argument is that it rewards good companies. While I don't argue with that, I do feel that it does penalize certain companies in certain circumstances such as those Representative Bowles said and those that I referred to when I spoke earlier. Those would be companies that for various reasons, many of them just because of the state of the health insurance industry in this state, that are unable to provide health insurance policies for their employees, but they still try to address the issue some other way, such as paying them a larger wage or other incentives or paying them a larger wage and they are employed through their spouses. In that case, it is my opinion, that this bill would penalize those companies. When they submit their bid on a state service contract, it will ask, how much do you spend, specifically, on your health insurance line? They would be putting zero. However, in effect, they are spending money in other ways to

compensate for that. In my opinion, they would be penalized and the answers would be yes and yes to his two questions.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

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

The SPEAKER: The Representative may pose his first question.

Representative SHIELDS: Thank you Mr. Speaker. Does this bill contain a level of health care that an employer must provide in order to qualify?

The SPEAKER: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Thank you Mr. Speaker. I have nothing to do with the bill, but I have read it and I have read the committee report. In answer to the question, Mr. Speaker, it does not. That was a concern that I had. However, my concern was satisfied. Occasionally some good comes out of these long debates we have. Legislative intent can be gleaned by the administering party when, indeed, the action has to be carried out. For what it is worth, I hope my next few words will help to establish legislative intent. The report calls for rulemaking to establish a basis for bid price and cost comparison among businesses that provide health and retirement benefits to their employees and those that do not, a methodology for calculating bid price and cost differentials. I submit to you that within that rulemaking whoever it is that is going to make these rules will provide for whether it is a \$15,000 deductible or a \$500 deductible and so forth. That would be important. I also submit to you that it would be very easy for the rulemaking and the carrying out of these rules to include in the bid process and in the methodology for calculating the bid price, a line, if you will, whereon an employer could say that I do not provide health insurance for my employees, but I do pay them \$5 an hour extra or something along those lines. If that can be read as legislative intent, I feel wonderful.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

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

The SPEAKER: The Representative may pose his question.

Representative SHIELDS: Thank you Mr. Speaker. The amendment indicated personal services. Does that affect then the agencies who hire personal care attendants and agencies who hire foster parents, among other people, who are providing for personal services? In view of the fact of the Executive's current proposal, which is being heard in regard to universal health care in this state, would not the passage of this bill be mute if the Executive's health care plan goes into affect and there is universal health care?

The SPEAKER: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative BARSTOW: Mr. Speaker, Men and Women of the House. Representative Shields brings up a good question. It would be my answer that legislative autonomy would provoke us to take measures right now to act upon our own until the Chief Executive brings forward his own proposal and that is passed into law. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative DUPREY: Mr. Speaker, Men and Women of the House. Not to belabor this point, because I know everybody wants to eat, I will put a different perspective on this. Last year I had five employees. This year I have 25 employees. My business is growing. I have state contracts to the tune of about a quarter of a million a year. I am not in the personal services industry, my industry might be next, I don't know, but those state contracts have enabled me to get a bigger business. By next year, I will be able to offer health insurance because the contracts from the state have helped me grow. Without that, by putting me in a disadvantage and not enable me to bid on projects, my company wouldn't be able to grow and I wouldn't be able to offer health insurance. Just a little bit different perspective Mr. Speaker.

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. 107

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

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

ABSENT - Bennett, Bunker, Daigle, Dugay, Dunlap, Goodwin, Jackson, Landry, Lewin, Marraché, McGlocklin, Norton, Perry A.

Yes, 70; No, 68; Absent, 13; Excused, 0.

70 having voted in the affirmative and 68 voted in the negative, with 13 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-353) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Thursday, May 15, 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:

CONSENT CALENDAR

First Day

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

(H.P. 59) (L.D. 51) Bill "An Act to Amend Certain Provisions of the Program Evaluation and Government Accountability Laws" Committee on STATE AND LOCAL GOVERNMENT reporting

Ought to Pass as Amended by Committee Amendment "A" (H-361)

(H.P. 810) (L.D. 1107) Bill "An Act To Clarify Eligibility in the Maine State Retirement System Life Insurance Program" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-363)**

(H.P. 917) (L.D. 1243) Bill "An Act To Exclude Inclined Stairway Chairlifts from the Definition of Elevator" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-360)**

(H.P. 1151) (L.D. 1578) Bill "An Act To Make Filling Out-of-State Prescriptions for Schedule II Drugs More Convenient" (EMERGENCY) Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-359)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 585) (L.D. 808) Bill "An Act To Control County Jail Health Care Expenses" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-365)**

(H.P. 661) (L.D. 884) Bill "An Act To Expand the Definition of 'Juvenile Crime' To Include the Offenses of Possession and Use of Drug Paraphernalia, Illegal Transportation of Alcohol by a Minor and Transportation of Illegal Drugs by a Minor" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-366)**

(H.P. 1146) (L.D. 1564) Bill "An Act Regarding School Bus Contracts" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-364)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 438) (L.D. 1347) Bill "An Act To Clarify the Authority of the Attorney General To Seek Restitution and To Require the Superintendent of Insurance To Investigate Certain Insurance Practices" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-155)**

(S.P. 464) (L.D. 1408) Bill "An Act To Refine the Maine Rural Development Statutes" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-148)**

(S.P. 476) (L.D. 1438) Bill "An Act To Require Disclosure of Benefit Offsets under Disability Insurance Policies" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-154)**

(S.P. 514) (L.D. 1535) Bill "An Act To Authorize Certain Former Members of the Maine State Retirement System To Rejoin the Maine State Retirement System" (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-152)**

(S.P. 523) (L.D. 1554) Bill "An Act Regarding Eligibility under the Municipal Investment Trust Fund" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-149)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

(S.P. 529) (L.D. 1570) Bill "An Act Concerning Storm Water Management" (EMERGENCY) Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-151)**

On motion of Representative RICHARDSON of Brunswick, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

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

On motion of Representative PATRICK of Rumford, the House adjourned at 1:02 p.m., until 9:00 a.m., Thursday, May 15, 2003 in honor and lasting tribute to Philip C. Hastings, of Readfield and Donald Mangarelli, of Rumford.