

# MAINE STATE LEGISLATURE

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

**Volume II**

**First Regular Session**

May 27, 2003 – June 14, 2003

**First Special Session**

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**Second Regular Session**

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February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
FIRST REGULAR SESSION  
59th Legislative Day  
Tuesday, May 27, 2003

The Speaker resumed the Chair.

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

Prayer by Reverend John W. Keegan, Society of Jesus, President, Cheverus High School, Portland.

National Anthem by Waterville Area Gifted and Talented Chorus.

Pledge of Allegiance.

The Journal of Friday, May 23, 2003 was read and approved.

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

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act To Change Certain Educational Requirements and Make Title Changes for Licensed Social Workers"

(H.P. 1162) (L.D. 1589)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-454)** in the House on May 22, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-454) AS AMENDED BY SENATE AMENDMENT "A" (S-232)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

Joint Order Authorizing the Joint Standing Committee on Legal and Veterans Affairs To Report Out a Bill Regarding Liquor Enforcement

(H.P. 1176)

**READ** and **PASSED** in the House on May 6, 2003.

Came from the Senate **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

Bill "An Act To Establish a Moratorium on Genetically Engineered Plants"

(H.P. 893) (L.D. 1219)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-376)** in the House on May 15, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-376) AS AMENDED BY SENATE AMENDMENT "A" (S-229)** thereto in **NON-CONCURRENCE**.

On motion of Representative McKEE of Wayne, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

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**COMMUNICATIONS**

The Following Communication: (S.P. 577)

**STATE OF MAINE  
121ST MAINE LEGISLATURE**

May 22, 2003

Sen. John L. Martin  
Senate Chair, Joint Standing Committee on  
Natural Resources

Rep. Theodore Koffman  
House Chair, Joint Standing Committee on  
Natural Resources

121st Legislature

Augusta, ME 04333

Dear Senator Martin and Representative Koffman:

Please be advised that pursuant to Title 3 M.R.S.A. §154, Governor John E. Baldacci has withdrawn the nomination of Andrew A. Cadot of Freeport for appointment to the Board of Environmental Protection.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

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

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

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Girl Scout Troop No. 2332, of Glen Cove, which has adopted the Victory Grove, a stand of red pine planted in honor of World War I soldiers. Located on Maine Coast Heritage Trust's Aldermere Farm in Rockport, Victory Grove was established in 1919 by the late Mrs. Albert Chatfield, Sr., of Rockport. Girl Scout Troop No. 2332 acknowledged the importance of preserving the legacy of honoring those soldiers who fought for our country and has adopted the grove for restoration. We extend our appreciation to Girl Scout Troop No. 2332 and commend them on their undertaking;

(HLS 613)

Presented by Representative BOWEN of Rockport.

Cosponsored by Senator SAVAGE of Knox.

On **OBJECTION** of Representative BOWEN of Rockport, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. Yesterday as you well know was a holiday. I am sure many of us had lots of stuff to do. I went to a couple of parades and tried to get to as many things as I could yesterday, but probably my favorite part of the day I spent yesterday in a grove of trees, believe it or not, in a corner of an old farm in Rockport. I was there with an extraordinary group of young women who you will have a chance to meet here in a moment.

This grove of trees, which many of us in Rockport have driven by all these years without giving much notice to, we discovered was planted at the close of the first World War by the previous owners of Aldermere Farm, Mrs. Albert Chatfield, Sr.. She planted the trees at the close of the war in remembrance of those who had lost their lives in the war and to sort of honor those who had served. Over the years, the grove has sort of grown up into disrepair. It has been forgotten. There was a flagpole there that has been lost. The grove has been sort of lost to history until this group, Girl Scout Troop 2332 from the Glen Cove neighborhood in Rockport undertook to basically restore the grove and to go

back and rededicate it and to restore it, return the monuments and put it back to the condition that it was in in 1919.

Yesterday I had the great honor of being with them for this rededication ceremony. They spent a rainy weekend digging in the mud with shovels, replanting some trees, cleaning up the area and they are intending to raise some more money to put in a plaque and the flagpole and some other things to restore this very unique monument to those who have served. It is my pleasure today to include this special sentiment. I hope you can join me in thanking those girls for an act of patriotism and really decency. Thank you Mr. Speaker.

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

**Recognizing:**

the Deer Isle-Stonington Elementary School Chess Team, upon winning its 5th consecutive Maine Elementary State Chess Championship. The team members are Andrew Babbitt, Ian Pelletier, Evan Rollins, Tylor Corriveau, Jay Boyce, Deven Haskell, Joe Brown, Blake Bartlett, Goldie Garcia, Hayden Ciomei, Jason Robbins, Brian Eaton, Sam Grindle and coach Dick Powell. We send our congratulations to the members of the team on their achievements to date, and extend our best wishes to them as they compete in the national championship to be held in Nashville during May;

(HLS 616)

Presented by Representative PINGREE of North Haven. Cosponsored by Senator DAMON of Hancock.

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

**READ.**

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

**Recognizing:**

the Deer Isle-Stonington Junior High Chess Team, upon winning its second State Chess Championship. The team members are Bryant Ciomei, Collin Ciomei, Shane Eaton, Rob Haskell, Drew Eaton, Max Becton, Tabor Johnson, Garrett Steele, Parker McDonnell, Dean Siebert, Jon Eaton, Ben Haskell, coach Richard Larrabee and assistant coach Dan Larrabee. We send our congratulations to the members of the team on their achievements to date, and extend our best wishes to them as they compete in the national championship;

(HLS 617)

Presented by Representative PINGREE of North Haven. Cosponsored by Senator DAMON of Hancock.

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

**READ.**

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

**Recognizing:**

Betty Robinson, Ph.D., of Auburn, who is retiring as Dean of the University of Southern Maine's Lewiston-Auburn College. Hired in 1988, she was the first full-time faculty member at the college, and assumed her current position as Dean in 1996. In addition to her duties as Dean, she has taught in the Leadership and Organizational Studies and the Social and Behavioral Sciences bachelor degree programs. Dean Robinson is credited with the establishment of numerous programs and with the addition of new courses during her tenure. Enrollment at the

college has increased dramatically during her tenure. She has also been an active member of her community, participating in numerous professional, civic and service organizations. We send our appreciation to Dean Robinson for her years of dedication and commitment to the Lewiston-Auburn College and extend to her our congratulations and best wishes on the occasion of her retirement;

(HLS 618)

Presented by Representative CRAVEN of Lewiston.

Cosponsored by Representative MAILHOT of Lewiston, Representative WALCOTT of Lewiston, Representative O'BRIEN of Lewiston, Representative MAKAS of Lewiston, Representative SHIELDS of Auburn, Representative SIMPSON of Auburn, Representative SAMPSON of Auburn, Senator DOUGLASS of Androscoggin, Senator ROTUNDO of Androscoggin, Representative BLISS of South Portland.

On **OBJECTION** of Representative CRAVEN of Lewiston, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Craven.

Representative **CRAVEN**: Mr. Speaker, Men and Women of the House. I am so grateful to have an opportunity to honor Dean Betty Robinson in the Maine State Legislature today. Betty's work extends far beyond the university. She has reached out to the community and business to incorporate their input and expertise by growing and shaping the college. Her work honors the human spirit through education and service. She has created a space that empowers each individual embarking on an education at Lewiston-Auburn College. I have the special distinction of being the first person elected to the House of Representative from the Lewiston-Auburn College and the honor of having had Dean Betty as my public policy professor.

Dean Robinson has been at Lewiston-Auburn College since 1996 as the dean. She served previously as an associate professor. Lewiston-Auburn College has grown by 75 percent while Betty has been there. We are extremely grateful for her service and her friendship. Thank you Betty.

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

Representative **MAKAS**: Mr. Speaker, Men and Women of the House. I want to add a few words to what my colleague from Lewiston has said about Betty Robinson. As Representative Craven has noted, Betty has served the University of Southern Maine and Lewiston-Auburn College very well in her role as Dean of Lewiston-Auburn College. However, my association with Betty began earlier, about 11 years ago when I began as an adjunct faculty member at Lewiston-Auburn College. Betty was there as one of a very small handful of full-time faculty members that the then new Lewiston-Auburn College. Betty Robinson quickly earned my great respect for her scholarship, her dedication to her work and her deep affection for and commitment to her students. My respect for Betty has never wavered since then. Although Betty is retiring as the Dean of Lewiston-Auburn College and her service in that role will be missed, I am delighted to know that after a brief sabbatical she will be returning to her first love, which is teaching. Betty has made a huge difference in the lives of many of her students. I know because they have told me so. That is what it is all about. That is what education is, as anyone who is a teacher knows, it is not just the sociology, the psychology, the math and the English. It is the ability to encourage a student to believe in herself or himself, to recognize his or her abilities and Betty has done that many, many times over, more than she may ever know. Thank you Betty Robinson, not just for what you have done for Lewiston-Auburn College and

the University of Southern Maine, but for what you have done for your students, my students and for all of our students. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I know Betty Robinson. She is a good friend of mine, a former constituent and a loss to Brunswick, but a gain to Lewiston. As I toured the institution to which she served as admirably as dean, I noticed just how connected she is to the students to which she serves. There is one thing that I will say about Betty that I know to be something, which the students will enjoy. She is voluntarily stepping down as dean because she loves the classroom. She loves to teach. I can find and think of no better person to step forward and teach our youth, our future generations, than Betty Robinson. Good luck to you Betty as you endeavor into your next career.

The **SPEAKER**: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here today to say how much Betty Robinson will be missed by all in Androscoggin County and this state. She has been a tremendous asset to our community. Another thing that Betty has done that has been very helpful is supported our Chamber of Commerce and the businesses in Androscoggin County. I am going to tell you how much she has been missed and say, here's to you Mrs. Robinson.

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

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I was fortunate enough to be part of the original group putting together the Lewiston-Auburn College. We were not fortunate enough at that time, eons ago, to be able to build a whole college. What we did is we renovated a tennis court. When the college was first starting its classes, at one end of the building you would have classes and at the other end you could still go down and get in a set or two of tennis, including the locker rooms, which were left in tact. The reason I bring you this information is that Betty Robinson working with that kind of environment was able to mobilize the community, help from many of the sources in the community to be able to get money from the Legislature so that today we have one of the foremost campuses of the University of Maine System. We are serving many non-traditional students, including our new immigrants. For this, I think the whole State of Maine will be able to say in the future, who was that redheaded woman that was the spearhead of that campus? I will tell you her name. It is Betty Robinson.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Mailhot.

Representative **MAILHOT**: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. I am just standing to thank Dr. Betty Robinson for all her efforts, her teachings, her leadership at LA College. Since 1988 she has done nothing but great things for the City of Lewiston, LA College and the University of Southern Maine. Thank you very much Betty for spearheading that tremendous renovation and expansion to the school in Lewiston. Best of luck to you and may God be with you. Thank you.

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

Representative **BLISS**: Mr. Speaker, Men and Women of the House. It is truly an honor to be able to be not only able to stand up and speak about Dean Robinson, but also to be listed as a cosponsor of this sentiment. It is an indication of how strongly the folks from Lewiston and Auburn feel about Dean Robinson

that I had to actually fight with them to be able to list my name on this sentiment as a cosponsor. You may know that on those rare days when I am not sitting here with you, I am an administrator at the University of Southern Maine. I have worked with and participated in meetings with Dean Robinson for some times. The Representative from Lewiston talked about having classes at one end of a building that still had tennis courts at the other end. I remember going to meetings on those tennis courts.

One of the things that is most exciting about the University of Southern Maine is how rapidly it is growing. If you dig a little deeper into the statistics what you really find is that it is the Lewiston Auburn Campus that is growing. Lewiston-Auburn College is the fastest growing part of the University of Southern Maine and it is due in no small part to the work that Dean Robinson has done. She really has worked very hard to make Lewiston-Auburn College an important and implicit part of the Lewiston and Auburn Communities.

A hundred years ago when I did my under graduate and graduate work at colleges in California, one of the things I was most impressed with and one of the things that is rarest about colleges and universities was at those schools the willingness of the president and the dean to wander around the campus and talk to students, actually pay attention to what students said and thought. You hardly ever see that anymore today, unless you go to the Lewiston-Auburn Campus. There you will be apt to find Dean Robinson sitting in the halls talking with students, visiting with students in classrooms, visiting with students in the technology center and the library and paying important attention to what those students think and how they feel about their education. It is truly a mark of a great administrator and a great educator. Partly as a Representative and partly as an educator by trade and partly as an administrator at the University of Southern Maine, I am extremely pleased and very proud to be a cosponsor of this sentiment and to be able to stand here today and look up at Dean Robinson and say, you are truly a prize. We are very pleased and proud of the work that you did as dean and more pleased and proud that you will be back in the classroom with us. Thank you very much Mr. Speaker.

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

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

Expression of Legislative Sentiment recognizing the Deer Isle-Stonington Elementary School Chess Team.

(HLS 616)

Which was **TABLED** by Representative PINGREE of North Haven pending **PASSAGE**.

Subsequently, the Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

---

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

Expression of Legislative Sentiment recognizing the Deer Isle-Stonington Junior High Chess Team.

(HLS 617)

Which was **TABLED** by Representative PINGREE of North Haven pending **PASSAGE**.

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

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I am honored to rise today to recognize some very smart chess players from Deer Isle and Stonington. Perhaps it is something in the water or more likely the lobsters that makes

these kids so good. I had the honor of visiting their school last spring and everywhere I went there were chessboards. There were chessboards on the cafeteria tables, in the classrooms, in the lounges. I would go so far as to say these kids are chess crazy. Their hard work has paid off. The elementary team has won their fifth consecutive state championship this year and the junior high has won their second state title. This spring they both traveled to the national chess championships and did us very proud. The elementary team traveled to Nashville where they tied for tenth place and the junior high traveled to Orlando where they tied for fifth place. I kind of want to apologize to all the other House members in this chamber who may be a little bit jealous. The elementary chess team has won five times in a row and I just want to wish you good luck in winning next time. I look forward to welcoming my chess team back. I can't be any more proud of these kids and their coaches. I hope, again, to welcome them back for many years to come. Thank you Mr. Speaker.

Subsequently, the Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-233)** on Bill "An Act To Provide Fair Hearing Procedures in the Department of Human Services" (EMERGENCY)

(S.P. 444) (L.D. 1356)

Signed:

Senator:

BRENNAN of Cumberland

Representatives:

EARLE of Damariscotta

CRAVEN of Lewiston

SHIELDS of Auburn

KANE of Saco

WALCOTT of Lewiston

CAMPBELL of Newfield

LEWIN of Eliot

LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Senator:

WESTON of Waldo

Representative:

CURLEY of Scarborough

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-233)**.  
**READ.**

On motion of Representative KANE of Saco, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-233)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-223)** on Bill "An Act Concerning

Political Action Committees and Party Committee Activities Prior to Elections"

(S.P. 91) (L.D. 232)

Signed:

Senators:

LEMONT of York

MAYO of Sagadahoc

Representatives:

GLYNN of South Portland

HOTHAM of Dixfield

BROWN of South Berwick

MOORE of Standish

BLANCHETTE of Bangor

LANDRY of Sanford

PATRICK of Rumford

JENNINGS of Leeds

CANAVAN of Waterville

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

Signed:

Senator:

GAGNON of Kennebec

Representative:

CLARK of Millinocket

Came from the Senate with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.  
**READ.**

On motion of Representative BLANCHETTE of Bangor, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-223)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Discrimination in Housing"

(S.P. 287) (L.D. 892)

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

BENNETT of Caribou

MILLS of Farmington

SHERMAN of Hodgdon

CARR of Lincoln

DUPREY of Hampden

BRYANT-DESCHENES of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-193)** on same Bill.

Signed:

Senators:

PENDLETON of Cumberland

CATHCART of Penobscot

Representatives:

NORBERT of Portland

BULL of Freeport

SIMPSON of Auburn

RICHARDSON of Brunswick

Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-193).**

**READ.**

Representative NORBERT of Portland moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Five Members of the Committee on **HEALTH AND HUMAN SERVICES** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-208)** on Bill "An Act To Change the Name of the Augusta Mental Health Institute to 'Riverview Psychiatric Center'"

(S.P. 525) (L.D. 1562)

Signed:

Representatives:

EARLE of Damariscotta  
CRAVEN of Lewiston  
KANE of Saco  
CURLEY of Scarborough  
WALCOTT of Lewiston

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-209)** on same Bill.

Signed:

Representatives:

LEWIN of Eliot  
LAVERRIERE-BOUCHER of Biddeford

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (S-210)** on same Bill.

Signed:

Senator:

BRENNAN of Cumberland

Came from the Senate with Report "C" **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)**.

**READ.**

Representative KANE of Saco moved Report "A" **Ought to Pass as Amended**.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. There are three reports on this bill, as you can see, having to do with the name change for what has been the Augusta Mental Health Institute. A year ago, only last session, the Health and Human Services Committee and the Legislature changed the name from AMHI to Riverview. After the department had conducted a six month process involving families, clients and providers in selecting a very broad range of 71 potential names, including Report "C," which is Dorothea Dix. Report "B," which is to refer to Riverside Center and not include the word psychiatric. What I want to do is to convey very briefly the fact that the name that we came up with was really the product of a very substantial process. This bill came to us this year not to change the name again, but to make some very technical adjustments in it and in the process the issue of changing the name arose. While it did not have any support from the House members in the committee, it did have some strong Senate support.

They came up with the name, Riverview Psychiatric Center as a reflection of what they believed to be a name that best characterized what the center does. What I would like to do is to

quote in their testimony provided to the committee. They say, "We are proposing to use psychiatric as this most currently describes the facility's function in a non-stigmatizing manner. We have had much feedback supporting the term psychiatric rather than mental health or mental illness, especially from consumers and families. The feelings expressed were we should call it what it is." They also specifically chose to include the word center because the name needs to be sufficiently broad to cover the facilities many functions, including treatment services for civil and forensic patients, evaluations, outpatient clinics and our role as a place of teaching and center of knowledge.

Finally, I believe that specifically because Dorothea Dix personally asked that there be no tribute for her in the form of naming buildings. Given the fact of the extensive process that took place among the clients, family members and stakeholders in the mental health system, that the current name, as it exists, the name under which the department has been transitioning the old name of AMHI, including making new signs and publicizing among its constituents the new name that this best honors the Riverview Psychiatric Center, which is Report "A". It best honors the intent of the clients, the families, the providers, as well as Dorothea Dix herself. I urge you to support Report "A." Thank you.

Subsequently, Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-208)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 536) (L.D. 1576) Bill "An Act To Provide Group Health Insurance Coverage to Maine Citizens Eligible for Assistance Under the Federal Trade Adjustment Assistance Reform Act of 2002" (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-228)**

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

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

(S.P. 390) (L.D. 1186) Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-227)**

On motion of Representative **SNOWE-MELLO** of Poland, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

The **SPEAKER**: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. During the time that I served on the Criminal Justice and Public Safety Committee, the subject of finding ways to fund our county jails has been a long and a rather frustrating process for the committee of jurisdiction. This year the Criminal Justice Committee thought long and hard on LD 1186. The majority of the committee thought that this was a reasonable method of providing tax relief on our property owners. We thought by increasing the fines by 10 percent on speeding tickets

and parking tickets, except for non-moving violations on trucks, that this would put the burden on those who break the law. Since the Criminal Justice Committee worked on this item and on this bill, the Chief Justice of the Judiciary decided to make a ruling by doubling the fine on speeding tickets.

Now I have to stand here today and say that I simply cannot support LD 1186. An increase now would be far too much. I believe that many folks back home would be severely strapped to pay their fines. I was told that the judge could set up a payment schedule to help folks pay their fines, but I truly think how much this would increase the cost of the administrative system and burden the already overloaded court system. Personally, I believe that this is not the time to add any more increases on fines that have already been set. I ask you to not support the Majority Ought to Pass Report and vote against the pending motion. Please vote no on LD 1186 and Mr. Speaker, when the vote is taken, I ask for the yeas and nays. Thank you.

Representative **SNOWE-MELLO** of Poland **REQUESTED** a roll call on **ACCEPTANCE** of the Committee 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 Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I stand here as the chair of the good committee in question in this unanimous report. I understand the good comments made by the good Representative in changing her vote on the floor here in a very open and forthright fashion. The problem we have, ladies and gentlemen, is if they don't pay, you do, the gray haired old ladies next door, the people down the street. The property tax base in the country jail is overrun. People are sleeping in the halls. The medical costs have gone through the roof. Washington County's medical or county budget was fully met medically in May of the calendar year. It started in January. The whole committee, as you can tell, didn't like to be unanimous in suggesting possible solutions that increase fines, but they did believe that if we have to pay the bill, the bill ought to be born by the people that are the violators and the people who choose to participate in breaking the laws that the Legislature decides to pass.

It is coincidence that the Chief Justice didn't seem to have any problems raising fines for the whole state to make sure that the Judiciary could do their work. It seems awful funny that the other side of the coin is that they can do their work, but there is no place to put the people after they finish their work. Isn't that kind of ironic. I heard one of the good Representative's speaking. If you drive south of here, anywhere, any state other than here, and you get caught for speeding, our fines are probably a third of what you would run into in Massachusetts for sure, even with all the surcharges that we can sit here and argue about and debate back and forth. The bottom line is somebody has to pay, ladies and gentlemen, who is going to pay? Is it the property tax base that the county levied on your towns or is it going to be the person who chooses to violate? As one good Representative said to me, if they pay too much, then maybe they won't do it again. God forbid if there were no fines anymore, because the violators chose voluntarily compliance over speeding.

The Chief Justice when she was standing here telling you that she was going to raise those fines pointed her finger at each and every one of us and said, this means you too. Ladies and gentlemen, supporting our county jails, if you choose to fine, then this means you too. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I guess I have to take credit for bringing this to your attention, but it is something that as I was going through Committee Amendments, that caught my eye. Even though it is a unanimous report, I think it is important for us to have some discussion on this issue.

As was previously alluded to by the chair, the Chief Justice did raise fines this year in the Judiciary. This did not go through the legislative committee. This was something that she has the authority to do and chose to do it. This 10 percent surcharge on fines would be a total of 25 percent surcharge on every fine. If you are driving through a construction area, fines are doubled. If you drive through a school zone, fines are doubled. There are cases where with the surcharge with the added 10 percent and with all the other things that can happen, someone told me they had figured it out and you could pay as much as \$800 for a speeding fine in one of those areas. I submit to you that those people who get caught for speeding are not the people who use the county jails. To say that these are the users of the county jails is really not accurate. The people who are using the county jails are those people who are caught for criminal offenses in most cases, except for OUI, OAS and some of the more serious motor vehicle violations.

When you make your decision on how you are going to vote on this, I would ask that you take into consideration that except for our luck and perhaps our ability to watch cases where we are going into speed zones, we could be affected by this, each and every one of us, and certainly all of our constituents. I think that the idea is noble. I think that this was discussed and voted on prior to the Chief Justice deciding that it was necessary to increase the fines. Certainly at that time this looked like a better idea than it does now. Now we have all the facts. We know that it would cost 25 percent surcharge. We know that the fines have been doubled. We know that it is going to affect all of our constituents and many of those people who are least able to pay. In some cases, I am afraid, those people, because they did not pay may have their license suspended for not paying that fine, which would put them on a cycle of inability to get back in society, to drive to work and those other things. I would urge you to vote Ought Not to Pass on this when you cast your vote. Thank you Mr. Speaker.

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would add two things. One, those fines from Judiciary raised over \$9 million. They really weren't around the OUIs or operating after suspension. Basically it is a question of getting money. They told us in committee that this would put pressure on those people operating under the influence. Those numbers have gone down the last nine years. I think there were 15,000 people in the early '90s that were caught for operating under the influence. Now it is around 6,000. It wasn't the fines that brought those down. I see this as a way to get money. If you are going to add this, there is \$9 million. Mr. Speaker, I would like to pose a question. If we are going to raise \$9 million through Judiciary and I have heard the 25 percent, what is the calculation if we add the other 10 percent? Thank you.

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 Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I think there is an answer to that. There is a fiscal note attached. I don't have it readily available in front of me, but I



think it is a million plus the first year. It takes a year for this to build up. It will be a million some off and then the next year, possibly, it may be up near \$2 million that would be sent directly back to your 15 county jails to offset the housing of state prisoners and to reduce the cost of your local county tax base. I think that is very important to note. I thank you for the question. I think that is the problem. We are not owning up to our obligation and paying our bills. We have a shortfall here. Personally, if I drive by the local county jail or the local county court and I had to pay \$125 for my speeding ticket, I will point at that brick on the wall and say that I think I own a piece of that building. I own a piece of the rock. I think any offenders should take honor in owning a piece of the rock if they choose to offend.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. Although I had not planned on speaking on a bill which I did not think would be debated because it came out of our committee with a unanimous Ought to Pass Report. I guess I feel the need to remind you, once again, that the committee of jurisdiction, Criminal Justice, heard testimony and heard people talk about needing additional support for our county jails. They took this charge very, very seriously. This is our committee of jurisdiction, 13 people. Thirteen people decided that we needed to enact this bill. It came out of our committee with a recommendation to indicate such. Mr. Speaker, I need to remind people, and I do not mean this in any way to be a reprimand for anyone in this House, because I hold everyone in this House in the highest regard, but I need to remind you, you want to read the laws of the State of Maine. Driving is a privilege. It is not a right of passage. If you break the law, a motor vehicle law of any type, you pay the fine. We all have to add up to that. I am not asking anybody to pay something that they are not justifiably being fined for. I will tell you right now that I will ask any member of this House to go and pull up my driving record. I have been driving since I was 14 years old in the State of Maine. I do not have a driving violation listed against me. If I can do that, then I think everyone else can. If you want to put the pedal to the metal, be prepared to write the check. I am going to recommend that everybody in this House look at this as a fair and just bill from the committee of jurisdiction. Please vote when you cast your vote for this bill as Ought to Pass as amended. Thank you Mr. Speaker.

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

Representative **MAIETTA**: Mr. Speaker, Men and Women of the House. I also serve on the Criminal Justice Committee that heard this testimony. One thing that hasn't been pointed out clear enough on this subject is when we get our tax bills every year, every quarter, every half year, that includes the county taxes. The county taxes that you get in your tax bill you get from your city or town. Being on the City Council in South Portland for three years, every time budget season came around, it was another one of these county tax increases that there is nothing you can do about. The cost of running the jails has a big impact on that county tax. We pretty much accept the fact that we have to pay that increase for the county jails and the county in general. This bill was meant to offset that tax from the county to your property tax bill that you get every year. Yes, some of our constituents, as my good seatmate has said, will end up paying this tab if they were pulled over for speeding or whatever. I can assure you that every one of our constituents that pay property taxes will be paying this bill without this passing. That being said, I hope everyone would support what was unanimous, which is still a majority report.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. I am one of the majority on the Criminal Justice Committee that voted in favor of this. I still do. I am still in favor of this particular bill. One interesting note is the truckers and the loggers, the non-moving violations will not be affected by this bill. It is moving violations that we primarily addressed. I would hope that you would vote in favor of this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne-Friel.

Representative **GAGNE-FRIEL**: Mr. Speaker, Ladies and Gentlemen of the House. The committee of jurisdiction for any kind of fine or fee, as far as I am concerned, should be the Committee of Transportation, not Criminal Justice. Second, if they need money, then the money should be taken from our general taxes, because the jails do need it. I do support that need, but I think that we should question what we have here.

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

Representative **SHERMAN**: Mr. Speaker, Men and Women of the House. The good Representative hit the nail right on the head. What we are really talking about is taxes. We should admit the fact that all these fees and fines that we are putting on is in lieu of taxation because we have a flat-funded budget. Let's be honest about what we are doing.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. The way I read this bill is it applies to all fines, not just traffic fines. I am a little concerned that there is an annual temptation to address tax problems and budget shortfalls by assessing additional surcharges on fines. Whatever the culpability of the individual, whether it is for speeding or disorderly conduct or some minor offense, at my last court appearance there are already four surcharges on fines, but an additional surcharge if it is an OUI conviction. So, there are five surcharges potentially already in the law. This would add another surcharge. I am concerned about that. I share the Representative from Hodgdon's concern about this being a substitute for taxes. I am also concerned that we are hitting people who, many of them don't have the ability to pay the fines that are assessed now. The court system across the state has piles and piles and shelves and shelves of fines that are waiting to be collected because people are unemployed, don't have the money to pay the fine all at once and they are paying over the course of months or even years.

With all due respect to the work of the committee, I am also concerned on Page 2 of the Committee Amendment, which we have just seen recently here, authorizes funds for a correctional plans coordinator position to promulgate rules and audit the county jail reimbursement request. There is another position being authorized and funds are authorized for computer programming expenses, overtime compensation and printing and postage expenses to update field books for traffic officers. They are some expenses that I wonder whether or not they have gone through the appropriations process or the normal approval process. With all due respect to the committee, I am concerned about the collectability of the surcharge, the appropriateness of the surcharge. I think it is wishful thinking to suggest that this surcharge, if enacted, will bring in the funds speculated that it will bring in. With all due respect to the committee, I will be voting Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House. I pick apart a bill here as well as anybody else can. That position, if you read the language, goes back to making sure that the counties are held accountable and actually document their existing costs and it is not just based on the old percentage. If you notice closely, we are going back to the old system, which requires the counties to be held accountable in their funding and to show the books. If you are going to show the books and be held for accounting, then somebody has to look at the books and to adjust the books and make sure that the monies that they are asking for, appropriately so, for reimbursement of county jails, housing of state prisoners is correct.

I believe if you look at the Judiciary doubling of fines part of the bill that you will probably find the Chief Justice asking for a surcharge or one-time monies to set up the new fine schedule, but when we want to do something in Criminal Justice to increase fines there is definitely a one-time \$20,000 fee required to recompute the computers and to do it as a one-time fee to correct the books. It seems quite ironic, those fees, but we are not the fiscal people in this building. That is somebody downstairs that crunches those and makes those requests. All we are asking you to do is to make the right people pay the bill for the facilities that they are utilizing. Thank you.

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

**ROLL CALL NO. 168**

YEA - Adams, Barstow, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Greeley, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Maietta, Makas, Marley, McKee, McLaughlin, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Pineau, Pingree, Piotti, Simpson, Smith N, Sullivan, Suslovic, Sykes, Thompson, Treadwell, Usher, Walcott, Watson, Wheeler, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Eder, Fletcher, Gagne-Friel, Glynn, Goodwin, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Lundeen, Mailhot, Marraché, McCormick, McGlocklin, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, Peavey-Haskell, Pellon, Perry J, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Smith W, Snowe-Mello, Stone, Sukeforth, Tardy, Thomas, Tobin D, Tobin J, Trahan, Twomey, Vaughan, Woodbury, Wotton, Young.

ABSENT - Bryant-Deschenes, Churchill J, Gerzofsky, Grose, Ketterer, McGowan.

Yes, 63; No, 82; Absent, 6; Excused, 0.

63 having voted in the affirmative and 82 voted in the negative, with 6 being absent, and accordingly the Committee Report was **NOT ACCEPTED**.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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**SENATE PAPERS**

The following Joint Resolution: (S.P. 576)  
**JOINT RESOLUTION MEMORIALIZING MAINE'S  
CONGRESSIONAL DELEGATION TO URGE THE FEDERAL  
SURFACE TRANSPORTATION BOARD TO CANCEL  
CANADIAN NATIONAL RAILWAY COMPANY TRackage  
RIGHTS**

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

WHEREAS, the role of freight rail transportation in Maine is an important one and has raised many policy questions in recent years, which are especially important in view of the bankruptcy proceedings of the Bangor and Aroostook Railroad Company; and

WHEREAS, the 120th Legislature established in Resolve 2001, chapter 120 the Task Force on Rail Transportation, consisting of 13 members, 8 of whom were Legislators and 5 of whom were members appointed for their expertise in various aspects of rail transportation; and

WHEREAS, the task force monitored the bankruptcy proceedings of the Bangor and Aroostook Railroad Company, which in its waning days sold a branch of rail line to the Canadian National Railway Company to raise needed funds; and

WHEREAS, the bankruptcy trustee has rejected the sales contract, but permission of the federal Surface Transportation Board is necessary to cancel the Canadian National Railway Company's trackage rights; and

WHEREAS, the assets of the Bangor and Aroostook Railroad Company are being acquired by Montreal, Maine and Atlantic Railway, which has the resources and expertise to improve rail freight surface to the northern Maine region; now, therefore, be it

**RESOLVED:** That We, your Memorialists, take this opportunity to request Maine's Congressional Delegation to urge the federal Surface Transportation Board to cancel the Canadian National Railway Company's trackage rights so that Montreal, Maine and Atlantic Railway can control the branch lines in question, which will benefit all of northern Maine; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the members of Maine's Congressional Delegation and to the federal Surface Transportation Board.

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

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**BILLS IN THE SECOND READING**

**Senate as Amended**

Bill "An Act To Provide Self-regulation for Registered Dental Hygienists"

(S.P. 460) (L.D. 1390)  
(C. "A" S-130)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence.

Bill "An Act To Amend the Membership of the Plumbers' Examining Board"

(S.P. 248) (L.D. 710)  
(C. "A" S-157)

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

**Senate Amendment "A" (S-222)** was **READ** by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-157) and Senate Amendment "A" (S-222)** in concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS**

**Emergency Measure**

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

(S.P. 418) (L.D. 1287)  
(C. "A" S-192)

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. 122 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, To Establish a Task Force Concerning Speech-language Pathologists

(S.P. 330) (L.D. 989)  
(C. "A" S-185)

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

On motion of Representative RICHARDSON of Brunswick, the Resolve was placed on the Special Study Table pursuant to Joint Rule 353 pending **FINAL PASSAGE**.

**Acts**

An Act To Enact the Uniform Interstate Family Support Act Amendments of 1996 and 2001

(S.P. 327) (L.D. 986)  
(C. "A" S-207)

An Act To Amend the Motor Vehicle Franchise Law

(S.P. 425) (L.D. 1294)  
(C. "A" S-184)

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

(H.P. 952) (L.D. 1298)  
(C. "A" H-476)

An Act To Improve Out-of-home Abuse and Neglect Investigations

(H.P. 968) (L.D. 1314)  
(C. "A" H-459)

An Act To Protect Campers by Making Personal Information Confidential

(S.P. 467) (L.D. 1419)  
(C. "A" S-216)

An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders

(H.P. 1165) (L.D. 1592)  
(C. "A" H-473)

An Act To Ensure Access to Intelligence and Investigative Information

(H.P. 1172) (L.D. 1598)  
(C. "A" H-475)

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, Regarding Notice of Deficient Care in Long-term Care Settings

(H.P. 936) (L.D. 1264)  
(C. "A" H-466)

Resolve, Regarding Opportunities To Decrease the Occurrence of Developmental Disabilities and Mental Health Challenges in Childhood

(H.P. 999) (L.D. 1364)  
(C. "A" H-467)

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 Retain Teachers Holding Targeted Need Area Certificates, Conditional Certificates or Transitional Endorsements

(H.P. 714) (L.D. 957)  
(C. "A" H-458)

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

On motion of Representative NORTON of Bangor, was **SET ASIDE**.

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

An Act To Amend the Laws Governing the Maine Developmental Disabilities Council

(S.P. 371) (L.D. 1099)  
(C. "A" S-183)

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

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

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

**ORDERS**

On motion of Representative DUNLAP of Old Town, the following Joint Order: (H.P. 1203)

ORDERED, the Senate concurring, that Bill, "An Act to Revise Certain Provisions of Maine's Fish and Wildlife Laws," H.P. 1087, L.D. 1482, and all its accompanying papers, be recalled from the Governor's desk to the House.

**READ.**

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

Representative DUNLAP: Mr. Speaker, Ladies and Gentlemen of the House. This Joint Order is in response to some concerns that were brought to me and members of my committee about a piece of legislation that was enacted by this chamber and the other body dealing with possible omission of local home rule. We are going to bring that back and try to amend that to address those concerns. I would hope that the body would vote to pass the Joint Order. Thank you.

Subsequently, **PASSED.**

Sent for concurrence. **ORDERED SENT FORTHWITH.**

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1181) (L.D. 1607) Bill "An Act To Implement Regulatory Reforms and To Address Staffing Issues in Long-term Care Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-525)**

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

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS**

**Emergency Measure**

An Act Relating to Harness Racing Laws

(H.P. 521) (L.D. 704)

(C. "A" H-397; H. "A" H-479)

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. 129 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 Amend the Maine Registry of Certified Nursing Assistants

(H.P. 579) (L.D. 780)

(C. "A" H-504)

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. 120 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 Simplify Calculation of Legal Interest

(H.P. 835) (L.D. 1132)

(H. "A" H-488 to C. "A" H-393)

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. 129 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.

**Acts**

An Act To Protect Maine Families When Workplace Fatalities Occur

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

(C. "A" H-96)

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

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

(C. "A" H-57)

An Act To Allow a Worker at a Beano Game To Play the Cards of a Player Who Takes a Restroom Break

(H.P. 775) (L.D. 1057)

(C. "A" H-404)

An Act To Amend the Laws Governing the Quality Child Care Tax Credit

(H.P. 923) (L.D. 1249)

(C. "A" H-480)

An Act To Conform the Voting Members of Certain State Entities

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

(H. "A" H-358)

An Act Regarding the State Police Command Staff

(S.P. 481) (L.D. 1449)

(C. "A" S-211)

An Act To Amend and Improve the Education Laws

(S.P. 538) (L.D. 1577)

(C. "A" S-201)

An Act To Implement Federal Requirements in Child Protection Matters

(S.P. 551) (L.D. 1597)

(C. "A" S-221)

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.

**Acts**

An Act To Change the Personnel Employed by the Commission on Governmental Ethics and Election Practices

(H.P. 106) (L.D. 97)

(C. "A" H-414)

An Act to Ensure Patient Access to Medical Records

(H.P. 283) (L.D. 363)

An Act To Establish a Municipal Affordable Housing Development District Tax Increment Financing Program

(H.P. 635) (L.D. 858)

(C. "A" H-412)

An Act To Revise and Amend Certain Public Health Laws  
(H.P. 1175) (L.D. 1602)  
(C. "A" H-505)

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.

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**Resolves**

Resolve, Directing the Department of Agriculture, Food and Rural Resources To Develop Guidelines for Requiring Handwashing Sinks in Certain Convenience Stores

(H.P. 1171) (L.D. 1596)  
(C. "A" H-484)

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

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

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The House recessed until 2:30 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-193)** - Committee on **JUDICIARY** on Bill "An Act To Prohibit Discrimination in Housing"

(S.P. 287) (L.D. 892)

Which was **TABLED** by Representative NORBERT of Portland pending his motion to **ACCEPT** the **Minority Ought to Pass as Amended Report**.

Representative DUPREY of Hampden **REQUESTED** a roll call on the motion to **ACCEPT** the **Minority 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 Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. Before we vote on this, I really wish you would take the bill out and take a look at it and see what it does. The present law mirrors the federal law. What you are talking about is someone who owns a duplex and is renting either the left side or the right side or someone above and below them. The other exemption is, as it stands in law is someone who owns a house and they have four rooms in it, they are exempt from the housing laws. I personally think that if I own a duplex that I should have some control of someone who is going to live next to me, six inches away or in the ceiling above me, and this removes that exemption.

The people who brought this bill forward, we are talking about Portland housing and I grant you that is probably the case, but if this passes, I think you have gone another step in invading our

space. If you go out in the rural countryside, you are going to find individuals that may not rent these things because they want some control on who is sharing a common wall.

Pat Ryan from the Human Rights Commission was there. We asked how many of these housing cases came before them? She basically couldn't tell us. The notes I have said, very few, if any, and there was a number of 35 out of 80. I confess that I don't have all my notes here. I don't think this is really a big problem. I think this is a personal, privacy right, if I own a duplex, which I have some say in who is going to be next door to me. How far do we want to squeeze individual's rights and situations like this? I would oppose the motion as presented.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will support the pending motion. The housing accommodation laws in Maine currently allow for three exemptions. One, religious organizations. They are free to pick and choose who they can rent to. The second, a person who rents out four rooms or fewer in their own home. The third, the duplex arrangement, an owner occupied duplex. They are still currently able to discriminate under the Maine Human Rights Act under the basis of race, gender, ethnicity and familial status. Those of us on this report feel that the time has come to chip away even more an official discrimination and to say that the relics from a bygone era have come to an end, at least let us continue to strive in that direction. This bill would, as I just mentioned, take care of one of these three exemptions. There will still be two other exemptions on the books.

When the original housing discrimination laws were passed, these were exceptions that were carved out in order to get support for the bill. I know, and you know, that we like to think of ourselves as a state that doesn't discriminate. I know there isn't a person in here who would support official discrimination. It is surprising that these laws still remain on the books. The question you would have to task yourselves is, shall we continue to sanction official discrimination? If there is something we can do about it here and now, should we do something about it? I feel we should. I feel as though this does occur. As you know, the nature of discrimination is that it is very difficult to prove. It is hard to get people to admit that they will only rent out to certain types of people, but it happens. We do know stories, anecdotally, of this happening.

There is a housing problem in many parts of this state. I would just ask you to think about what you want to stand for today. We can always think of exceptions. We can always think of reasons why we shouldn't change the law. It really comes down to a basic fundamental question for you and your conscience. I say, rather than another step at chipping away privacy or individual rights, it is another step toward liberating people. It is another step towards ending discrimination in this state. I urge you to support this report.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. If discrimination is wrong, it is always wrong. It really boils down to that much simplicity. If you think it isn't happening, let me just share an experience of a woman who works for me, came to me three months ago and said that after living in a duplex for six years, suddenly, right after her divorce, she was asked to terminate that lease. I said, is there anything different? Are you not paying your rent? She pays her rent. She said that she was dating a man. She said that that man is not white. I don't know if they are connected. She doesn't know if that is connected. It is now before the Human Rights

Commission. I can't believe that race didn't play into that decision. As you support, I hope, the pending motion before the House, remember the discrimination that many of in this room are strongly opposed to, if we define it as the wrong direction for us in Maine law, then it must be the wrong direction in Maine law. Please, don't assume that because you haven't heard your own stories that it doesn't exist.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I am very concerned about this bill. I urge you to vote against the pending motion. For evidence of that, I would like to speak to the issues of one of my constituents who doesn't live in Portland. I think that is one of the big problems there. This Portland bill is trying to reflect the problems of that particular area and their concerns and perhaps their experience with discrimination. If it is happening, it is a terrible thing. I ask you to think of this, my constituent who is a single mother living in Arundel, a rural community that has no police force. It is out in the country and she rents half of her house to give her enough income so she and her children can stay in that building. She is concerned. When she brings tenants in to rent that house, she doesn't really look at what race they are or what religion they are. She is looking at, do I feel safe having this person next door to me and my small children knowing that if a problem happens, that help is perhaps an hour or more away. She selects her tenants first off on who is going to make her feel safe living in the country with her small kids. Passing this bill will remove that right for her to make that decision so important to her family.

We have a prisoner just released from Thomaston and she has to rent to him. We get somebody who frightens the heck out of her, she has to rent to them. No, that is unreasonable. I think in this case, forget the Portland issue for a while because frankly a Portland bill is of very limited interest to me anymore. Think about the majority of this state and rural areas and this is a terrible policy for them and it will lead to less housing being available. I urge you to vote against the pending motion.

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

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. While you may think this bill is only about the City of Portland and only about a certain kind of single mother, I can tell you as a single mother I went to look at an apartment and it was available and I liked it. When I went back the next day with my child, I was told it was no longer available. It is a very painful thing to be told that the house isn't available to you because your child is not white. I had a friend who got a new apartment in Lewiston and went over to visit with my son, he was playing in the yard, the next day she was told by her landlord that she couldn't use the yard anymore. It is about time for this sort of thing to end in our state. Thank you.

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

Representative **BLISS**: Mr. Speaker, Men and Women of the House. Let me start by saying that South Portland is physically divided from the City of Portland by a rather large body of water. Discrimination is wrong in South Portland. It is wrong in Portland. It is wrong in Auburn. It is wrong in Arundel. It is wrong in the State of Maine. We have reached the point here where whether you live six inches from your next door neighbor or six miles from your next door neighbor, you ought to say that discrimination is wrong in the State of Maine.

The truth of the matter is if you have a rental property attached to your home and you decide that you only want to rent

that property to people who belong to the same church that you do and you start talking to people in your congregation about the fact that that place is currently vacant and one of them says, my son is looking for a place. You haven't advertised. It is perfectly okay to rent to that person, but when you put an ad up and you say, world, I have this vacancy. If you qualify financially and provide me with the references that I am asking for of anyone who walks in the door, I will rent my space to you. You then place additional burdens on people because you don't like the way they look, then that is discrimination. There is no one sitting here who ought to accept that or stand for it. Every one of us as representatives of the state ought to stand up and say, discrimination is wrong. Ladies and gentlemen, this is time to get rid of this. It is time to say not to rent to people based upon the fact that we are all human beings, not based upon any other factor. I urge you to accept the Minority Ought to Pass as Amended Report. Thank you.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. As a person who signed onto the Majority Ought Not to Pass Report, I want to explain my position and that of my colleagues, including Democrats and Republicans on this issue. I don't think any one of us who signed the Majority Ought Not to Pass Report is in favor of any form of discrimination. I want to point out that many bills come to our attention on the Judiciary Committee that are proposed by the Maine Human Rights Commission in response to a perceived wrong or oversight in our law. This is not one of them. This does not come from the Maine Human Rights Commission. I pointedly asked the Director of the Maine Human Rights Commission if there had been any complaints of discrimination in owner-occupied duplexes or boarding homes. She said that there had been none that had come to their attention. I would encourage the good Representative from Auburn and the Representative from Portland who spoke earlier that if they have anecdotal evidence of such discrimination to please bring it to the attention of the Maine Human Rights Commission and if it is determined that these instances do exist and they are documented, I would feel more comfortable revising this issue.

Let me point out what the law does right now. The law currently prohibits advertising or listing or soliciting publicly on a discriminatory basis whether you have one room to rent or one block of buildings to rent. The law prohibits you, as an owner of an owner-occupied duplex from listing your rental with a real estate agent or from advertising in any form in a discriminatory manner. If you have two rental apartments in addition to your own, you cannot discriminate in any respect directly or indirectly with respect to race, color, sex, physical or mental disability, religion, ancestry, national origin or familial status for any perspective occupant or tenant of the rental.

There is plenty of law on the books right now to cover the situations that have been referred to. I think one of the problems is there is no real definition of duplex. What some people are seeing as a duplex is different than what others are seeing as a duplex. My experience with duplexes, it has been years since I lived in the city, but in my area they predominately involve owner-occupied buildings with so called in-law apartments. This may be something as simple as a studio apartment with a kitchenette over the garage. That would constitute a duplex. There is no legal definition of a duplex in the Human Rights Act. If we are not talking about the kind of commercial landlords that the rest of the act already encompasses, we are talking about, for the most part, in my experience, about retired persons with an in-law apartment who need a little extra income on the side. Those persons, under

current law, even for a studio apartment over the garage, cannot advertise or solicit in a discriminatory manner. If I am a Franco-American family, for instance, and I want to rent my in-law apartment to other Franco-Americans or members of my church, if I am an Orthodox Jewish person and I want to other members of my synagogue, this bill would definitely put a damper on my ability to do so. If you were a white male and you came to me and said that you haven't rented to white males in quite some time, I could be facing the Human Rights Commission and have to go to Augusta and defend my practices. To whom I am renting in a portion of my own home, under current law, is my own business. The law does not dictate any further in that respect.

These are not commercial landlords. These are generally small homeowners. The law currently covers a great deal of activities, as it should. I am also concerned about the potential for reverse discrimination in this small context, as I indicated a minute ago. For those reasons and because it did not come from the Maine Human Rights Commission, this bill, and because the definition of duplex is quite broad and would cover very small areas that are really adjunct to somebody's own home, I voted with the Majority Ought Not to Pass Report. I would urge you to defeat the pending motion on the Minority Ought to Pass Report.

I could read you the law that partly is on the books. It is quite extensive, quite detailed. Again, we are not just talking about race or color or sex, we are talking physical or mental disability, religion, ancestry, national origin or familial status. If the 75-year old woman down the street from me wanted to rent her in-law apartment only to young woman college students or only to boys instead of girls or something of that sort, that person could not do so without violating the law, even in a word of mouth rental kind of situation. Thank you.

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

**ROLL CALL NO. 169**

YEA - Adams, Barstow, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Fischer, Gerzofsky, Goodwin, Hutton, Jackson, Kane, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Makas, Marley, Marraché, McLaughlin, Norbert, Norton, O'Neil, Paradis, Patrick, Percy, Pingree, Piotti, Richardson J, Rines, Simpson, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Canavan, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Finch, Fletcher, Gagne-Friel, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lessard, Lewin, Lundeen, Mailhot, McCormick, McGlocklin, McKee, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, O'Brien L, Peavey-Haskell, Pellon, Perry A, Perry J, Pineau, Rector, Richardson E, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Smith W, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Wotton, Young.

ABSENT - Bryant-Deschenes, Cowger, Grose, Ketterer, Maietta, McGowan, Smith N.

Yes, 55; No, 89; Absent, 7; Excused, 0.

55 having voted in the affirmative and 89 voted in the negative, with 7 being absent, and accordingly the Minority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Representative SIMPSON of Auburn **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought Not to Pass Report.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 170**

YEA - Andrews, Annis, Ash, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Canavan, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Earle, Finch, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lemoine, Lessard, Lewin, Lundeen, Marraché, McCormick, McGlocklin, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Pellon, Perry J, Pineau, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Smith W, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Wotton, Young.

NAY - Adams, Barstow, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Fischer, Gerzofsky, Goodwin, Hatch, Hutton, Jackson, Kane, Koffman, Landry, Laverriere-Boucher, Lerman, Mailhot, Makas, Marley, McKee, McLaughlin, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Bryant-Deschenes, Cowger, Grose, Ketterer, Maietta, McGowan, Smith N.

Yes, 86; No, 58; Absent, 7; Excused, 0.

86 having voted in the affirmative and 58 voted in the negative, with 7 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

**UNFINISHED BUSINESS**

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

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

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

(C. "A" H-490)

TABLED - May 22, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENGROSSED**. (Roll Call Ordered)

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. It has been a few days since we dealt with this matter. Let me try to get back to it, very, very briefly. There are many issues we take up in Natural Resources that are not black and white. Often we find if there is something that has to be done so we start coming up with solutions. That is exactly

the case in this area. Arsenic is a concern for here in Maine. We dealt with this bill. We started adding things to it such as notification during real estate property transfers. That was a good idea. We decided to deal with the disposal of arsenic treated wood. That was a good idea. We started to look at the drinking water issues. That was also good. We then added a ban in the sale and purchase of wood for residential uses. Hold on a second, I think we went a little too far there. We have only banned a few things in this legislative body, ever.

A good example of that is mercury products. When we decided, for example, to ban mercury thermometers, it was only after a long period, literally years of studying the mercury issue and knowing exactly what the issue was, knowing that that particular product could be banned with little to no adverse consequences. A year later we banned mercury thermostats and then later on we banned mercury switches.

This arsenic treated wood issue came to us this session. In the very first term that we dealt with it, the committee saw fit to issue a Majority Report that called for us to ban the purchase and sale of this wood. As you can already tell from the last conversation when this bill came up, that several committee members have already regretted their decision and have announced that they will vote against the pending motion. I urge you to do the same.

A ban on this material will not protect the environment. Arsenic treated wood, called CCA treated wood, is an important commodity necessary for marine, agricultural and construction projects. It is no longer appropriate for residential construction, which is why a voluntary agreement between the industry and the EPA causes for manufacturing to cease at the end of this year. No matter how you look at it, this problem is solved automatically through the federal government. If Maine wants to go further and be the first and the only state to ban in statute the purchase of this wood by lumberyards and the sale of this wood to the people of Maine, the effect will be that lumberyards will stop inventorying this material at all. My concern then is when somebody goes to buy pressure treated wood, they will find it unavailable and they will buy the alternate product, which will be manufactured for residential construction, which is specifically warned against use in marine environments. If you are putting a fence post up in a wetland, this material won't be sold. You won't have anybody to even discuss what you should be using. You will buy that other material. You will put it in the ground and you will damage the environment. I think that is very unfortunate. I think that is a real problem.

I think the stigma on our wood products industry will cause people to stop making the product. Wood products in general will be stigmatized. I think that will affect our wood products industry and the many employees which depend on it. I think the stigma in Maine for going far further than the necessary and stigmatizing our own raw material, which is such an important part of our economy is a disaster.

When contractors don't find it available, where are you people going to have the right wood to repair the docks in our harbors and for the farmers to use and for the residential construction, which does require CCA wood, such as putting your house on polls recommended for construction on sand dunes. This bill is bad for our farmers, our contractors, our marina operators and I believe it will discourage future voluntary agreements between industry and the EPA. For that reason, I ask you to vote against the pending motion so that we can move onto the Minority Report.

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

Representative **KOFFMAN:** Mr. Speaker, Ladies and Gentlemen of the House. This bill is dealing with residential use of arsenic treated wood. The wood that has come to be known as pressure treated wood and for which an alternative is now on the market. In fact, in 70 percent of our retail outfits now and that use is growing steadily every week. This is a public health bill. It is true that the arsenic that leaches out of pressure treated wood does affect other elements of the natural environment. My support for this bill was solidified by the recent announcement of the US Consumer Protection Safety Commission, confirming that the existing arsenic treated wood playground equipment poses significant cancer risk to children. That unbeknownst to us, although I think it was announced to the EPA since 1978. Arsenic treated wood used in playground equipment, the same wood that we use on the decks of our homes, on our picnic tables and other structures can rub off in contact with skin, contact with humans, particularly with children playing on that playground equipment.

I looked over the weekend at the website to see the depth of science that went into this. The protocols that the scientific communities used in studies around the world on every continent since 1978, even before 1978, looking at the interaction of arsenic treated wood and human health, particularly in children.

The Consumer Products Safety Commission operates under the jurisdiction of the EPA and is responsible for supervising federal hazardous substances. In its recent public advisory the commission recommended "That parents and caregivers thoroughly wash children's hands with soap and water immediately after playing on arsenic treated wood playground equipment and ensure that the children not eat while playing on treated wood play sets." This is the same lumber we are using in our decks and in our patios and that sort of thing.

The Commission is further concerned about the arsenic treated wood because arsenic is a known carcinogen and exposures to arsenic in the wood pose a risk to developing skin, lung, bladder or prostate cancer to person exposed. Children, young children, exhibit frequent hand to mouth activity and because the arsenic rubs off on the wood with contact, there is likelihood that the children will ingest arsenic through regular play.

The arsenic also leaches out of the wood over long periods of time. The value of arsenic treated wood, at least pressure treated wood, is that it lasts a long time. The problem is that over that period of time the arsenic leaches out onto the ground beneath the structures. For example, my deck, I am quite sure if I had the soil tested now, I would find that there was 10 to 50 parts per billion increase in arsenic content in that soil because of the leaching out than there would be in the woods near my house in a neutral area. That is true for our playground equipment as well. The arsenic is leaching out into the ground and into soils around which the children are playing.

Maine Zone Environmental Toxicology Program in the Bureau of Heath has echoed the concerns about the risk of arsenic treated wood. Their report states, "It is noteworthy that the risks from arsenic treated wood are as high as the risk from arsenic in drinking water at the maximum contaminate level, which is considered excessive." Coupled with the risk to children from arsenic treated wood, the Department of Health and Human Services has found elevated arsenic in wells all over the State of Maine, some severe and some not so, but it is an issue. It is the cumulative contact with arsenic through drinking water, pressure treated wood and other factors that accelerate possibilities of cancer and other problems.

It is true, as the Representative from Arundel, Representative Daigle, mentioned, the EPA did announce in February 2002 after



on and off negotiations since 1978 and extensive research studies, they announced a voluntary decision by industries to move consumer use of arsenic treated lumber products away from a variety of residential uses in favor of a new alternative wood preservative. We are not dealing with commercial again. We are dealing with residential. My next door neighbor yesterday put in my mailbox a flier from the newspaper that EBS put out for spring sales and such. There is a big centerfold picture of pressure treated wood on a deck and it said, we have the new pressure treated wood, arsenic free. It is out there and it is available.

The EPA also advises that treated wood should never be burned in the open, in fireplaces or stoves or incinerators or put in unlined landfills because of the leaching problem. We use a billion pounds of this a year in pressure treated wood across the country. Multiply that by the number of years we have had it and we have created small toxic waste sites all over the place. I am sorry about that. I regret that my 600 square foot deck is built out of pressure treated wood. I am going to have to go and seal it now. I have grandchildren now and I don't want them to have contact with it. I don't want it leaching out to my well, which is 50 feet away from the deck.

The issue came to our committee and with it came the research and the hearings. In addition to the research, I did my own work so I could stand in front of you and speak about this bill and feel confident that we are doing the right thing when we move a little bit ahead of the federal government, which I must say has lagged a long time on this issue. We are a little ahead of the government in not selling it here in Maine after April and that the retail shops stop acquiring it after October. I mentioned earlier that 70 percent of the stores already have made the conversion. My local EBS dealer now has it. When I went to Home Depot to check two weeks ago, I said, do you have arsenic free wood? He said that not yet, but it is coming. It is coming, but I don't want, and I imagine you don't want, Maine to be the dump site for the leftover pressure treated arsenic wood that is going to be left over when every other state is trying to stop the sale of it in their state. Is it too little too late? I don't think 10 million more board feet coming into Maine in the next year is too little too late.

Each of us will have enough of a problem, each individually, municipalities and schools that have playgrounds in treating the wood with sealers and making sure we regularly maintain the stuff, if you believe all the science about this. In any case, I really wish you would support the Majority Ought to Pass Report, which includes the provisions that the real estate industry, to its credit, came forth very readily and agreed that they would notify potential customers of pressure treated wood on the sites of facilities they are selling and test the drinking water wells as well. That notification is important in this process as is the DEP provision that we figure out a way to get rid of pressure treated wood when we are ready to dispose of it, other than throwing it in the back yard in a heap to burn or otherwise burning it in incinerators. It has to be carefully handled.

Finally, we are going to do a study on the risk to drinking water wells in Maine. Fifty percent or more of us, an increasing number of us, are relying on private drinking water wells for our supply of water. There is nothing much more precious than that in the world. We know not enough about the level of arsenic risk, septic contamination and other risks to drinking water. We ought to get a handle on that as a Legislature. This bill will provide for that study.

I sum up by saying that those are good provisions in the bill. I think that the cautionary principle ought to be put in place here while all the science isn't done yet, it will be. I don't think we will

be regretful that we took a little bit more stringent action on this than the federal government has taken. Thank you ladies and gentlemen.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Let me just be very brief in my point to my good friend from Bar Harbor, Representative Koffman. First, this is a voluntary agreement between the industry and the EPA, but it is a one-way street. What happened was the industry agreed to voluntarily give up its license to use this as a pesticide. It cannot go back the other way. The industry cannot resume use of this material for treating wood for residential uses. It was voluntarily arrived at, but it is not something that can be reversed. That is absolute 100 percent gone. There will be no more wood manufactured for residential uses. The only point of contention right now is not all those issues about drinking water and studies and real estate. Those are unanimous. However reports come out of the committee, it is uniquely the issue of whether or not we are going to ban something, use a legislative weapon of mass destruction, a ban saying that no matter what the circumstances, you can't buy it. No matter what the circumstances, you can't sell it. Somehow we know enough in the matter of a week to know all the unintended consequences and the ramifications of doing this. In proportion of all the other bans that have come out for products, I believe it is unwise. I believe it will result in problems and it will hurt our industry. I encourage you to vote no on the pending roll call.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. I support the Majority Report because it levels the playing field for lumberyards struggling to compete against the big box companies. The numbers I got says 70 percent of independent Maine lumberyards have already switched to the safer alternative that does not contain arsenic. The only pressure treated wood sold by Home Depot stores in Maine is still laced with arsenic. Our Maine lumberyards are at a competitive disadvantage to stores like Home Depot. The arsenic treated wood sells for 10 percent or 15 percent less than the safer alternative. The remaining lumberyards that still sell arsenic treated wood are ready to make the switch. They are waiting for Home Depot to end its use. I believe that LD 1309 levels the playing field by speeding the phase out of arsenic treated wood by all.

In the north we have got a reminder right now of what arsenic can do in higher doses. I certainly don't want to look in the face of a child and say because I didn't have the heart to do what I thought was right, to get rid of this arsenic treated wood and continue to let kids get sick by playing on or being around it. It is problem. We know it is a problem. I think it is time to just get rid of it. Thank you Mr. Speaker.

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

Representative **HUTTON**: Mr. Speaker, Men and Women of the House. The weapon of mass destruction is already out of the box. It came with pressure treated, arsenic treated, wood to our children. I just want you to consider this, we have a playground in Bowdoinham. It is a wonderful playground and parts of it started falling apart. The good custodian decided to replace some of the boards. He didn't know. He replaced them with arsenic treated wood. When I started learning about this, the first thing I did was call my school board member and say that you had better get somebody out there to coat them. For the past seven years our kids have been exposed to arsenic on the

playground. I worked with kindergartners, kindergartners who touching is what they do. They touch things and then they put their hands in their mouth. Do they think to wash their hands? No, no matter how many times you tell them to was them, they don't think to wash their hands.

That arsenic from the playground was going right into their mouths. We are talking three times a day, nine months a year and they go out in the middle of winter too, that is part of our routine up in Maine, that they were exposed to arsenic.

The other thing I am concerned with is once this is out in the stream, we don't know how to get rid of it. We need to figure that out. In Bowdoinham we have a great recycling barn where people bring all sorts of things in to be recycled. I am worried that that is going to haunt us for years in recycling. This is one way to help us deal with the problem and inform the public of what is going on with this wood. I urge you to vote Ought to Pass. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. It looks to me really that first of all the bill isn't necessary. If the federal regulations are going to take place within nine months, by the time this bill can take affect, we have three months out of the way. By the time you get anything in the way of enforcement involved in it, it should be up to the federal edict. It doesn't look to me as though we need to do something that has already been done for us. It doesn't make much sense to me to put a law on the books that isn't going to really have any practical affect. We do scare ourselves to death with a lot of these things. There isn't a question that arsenic is a bad material ingested, but I have a question for anybody who is willing to answer it. I wonder if there are any documented cases of death or illness from leached arsenic from pressure treated wood? Thank you.

The SPEAKER: The Representative from Skowhegan, Representative Richardson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I was thinking about this very question over the weekend in relationship to smoking. I was one of those who got into the habit early. I used to go into my father's bedroom and sneak his pipe tobacco out of the can. I have to confess. I don't know with all of the litigation over cigarettes and all the settlements over cigarettes to the states, if anyone every proved that any individual who smoked a pack or two a day for 40 years died because of that when they got lung cancer. In fact, 40 percent of the lung cancers are non-smokers. In any case, there has been a significant amount of research done since the '70s on this subject. From Argentina to Chile to many of our states, the research has pointed to arsenic ingestion leading to bladder cancer, lung cancer and showing high concentrations of inorganic arsenic in water can lead to death from cancer in nearly one in 10 exposed persons. One in 10, it must be a typo. It is not one in million, not one in 10 million. That is from high concentrations in water. The findings in an ongoing program in molecular epidemiology shows that the low dose intake of inorganic arsenic has geneotoxic affects on bladder cells. The research is there folks. It is time for us to face that.

It is interesting when we talk about bans, the good Representative from Arundel did, the EPA has essentially banned the use of arsenic acid in every other product in the marketplace, according to the studies I looked at on the web. Most recently in 1993, agricultural use of arsenic in pesticides were canceled voluntarily, because of cancer risk to worker who were handling it

in agricultural fields. The curious thing was, what do you suppose happened to all that arsenic material that we used to use in the pesticide industry, it was shipped to the pressure treated wood industry where it was put into pressure treated wood and packaged and sold. This is the last remaining smoking gun in the arsenic department. I hope we get this bill passed. Thank you.

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Representative CLARK of Millinocket assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to further respond to the question posed earlier. As to translate to my good friend from Bar Harbor, the question was, are there any studies saying that this wood has caused harm. The answer is in one word, no. We have looked at that. The question was asked. Believe me, if there was a study that proved this, there would have been a lot of information brought to the committee's attention. By exception, the answer is clear, no. For those of you who kept your paperwork from last week, you will recall a chart that showed arsenic exposure to children, showing a very, very high bar for intake from food. Clearly that is where all the problem is coming from. A similar high bar from intake from drinking water where the problem is coming from in a miniscule dark shaded area near the bottom it indicated that which has been documented to come from this source. In spite of all that, we are still going to continue to voluntarily stop production of this material. I just urge us not to go to the further and, I think, foolish step of a legislative ban. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. The good Representative Daigle from Arundel makes my point exactly. There is arsenic in our environment. There is arsenic in our water. It is accumulative. No one ever talks about the accumulative affect. I have four grandsons, Brady, Casey, Cameron and Zachary. It is about children. I am not going to take a risk. I want to make sure that their environment is protected. I don't want to wait nine months. Thank you very much. Please follow my light.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 171

YEA - Adams, Andrews, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Davis, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Mills J, Mills S, Moody, Moore, Murphy, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic,

Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton.

NAY - Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duprey B, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Marraché, McCormick, McKenney, McNeil, Millett, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Usher, Vaughan, Young.

ABSENT - Bryant-Deschenes, Grose, Ketterer, Maietta, McGowan, Mr. Speaker.

Yes, 82; No, 63; Absent, 6; Excused, 0.

82 having voted in the affirmative and 63 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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Bill "An Act To Fund Municipal Collection of Household Hazardous Waste"

(H.P. 1135) (L.D. 1549)

(C. "A" H-494)

TABLED - May 22, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENGROSSED.** (Roll Call Ordered)

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. This is probably the last time I will standing up to speak tonight, which many of you are grateful for. I hope you saved your paperwork from last week. This is the bill that proposes to start a new program with a new tax on the sale of paint and pesticides in order to fund paying for collecting hazardous waste. No one in this body could possibly be against the idea of collecting household hazardous waste. Before we talk about the necessity of this bill let me tell you a little bit of news that you won't read in the papers. As a result of negotiating this bill in front of committee, we identified a regulatory obstacle to commercial businesses accepting household hazardous waste. Some letters have been exchanged between the committee and the Department of Environmental Protection. Modifications are being made now that will allow that to take place. I am told by two large hazardous waste vendors that later on this year they will start offering over the counter service to people who wish to get rid of household hazardous waste at any time. That is good news for the State of Maine. It didn't require anything legislatively, it just required a command and control environment to be relaxed slightly.

This bill wants to start taxing paint. It is important for you to recognize that over 80 percent of the revenue will be collected from a tax on latex paint, which is non-hazardous. That is why you wash it in your sinks. Money will also be collected from the sale of pesticide containers. Those of you who are in agricultural areas should recognize that many of your farmers and pesticide applicators who are already regulated under a program and recycle their containers will also be taxed at 20 cents per container. It is a totally inappropriate, unfair, assessment of a new tax on a population who doesn't deserve it to fund another program, which is not a crisis.

Every committee in this Legislature would have loved to have started a new revenue source for a project their committee dealt

with. We would like to have had transportation for the mentally ill. We would like to have funding for our animal control and welfare programs or dairy farmers or personal care attendants or game wardens. The list could just go on and on. We showed restraint with the exception of the Natural Resources Committee where a majority feels that a new tax for a new program is appropriate now. I urge you to vote against this motion so we can be consistent in showing this fiscal restraint and not send the mixed message to our population that we think there is a budget crisis and we are asking you to sacrifice, except for this. Thank you.

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

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On motion of Representative KOFFMAN of Bar Harbor, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-494)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-526)** to **Committee Amendment "A" (H-494)** which was **READ** by the Clerk.

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

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to describe briefly the amendment and thank those who inspired its creation. First, I might want to mention the good Representative from Lincoln, Representative Carr, pointed out last week in debate that we have had historic problems with dedicated funds, sometimes in environmental areas, particularly the tire fund. We have collected funds over the years and we have bought our new tires and got rid of our old tires. Those funds were not always tied to their purpose. The Representative from Lincoln wanted to make sure that the word in the legislation, the word may, permissive, be changed to must. This amendment changes the word to must. Those funds generated, 90 percent of them, must be redistributed to regional municipal collection sites.

Secondly, I want to thank the Representative from Hodgdon, Representative Sherman and the Representative from Litterton, Representative Wotton, who expressed concerns that while this bill is titled the household hazardous waste bill, we want to be really specific that this bill does not affect and indeed exempts commercial agriculture, farming or by whatever other name you want to call it, our agricultural industry from provisions of the bill that will not be paying 20 cents a container for their pesticides and herbicides. They will continue to benefit from that portion of the bill, which would send 5 percent or \$25,000 a year to help them with their management of pesticides and recycling of their containers. I appreciate those who contributed from both sides of the aisle to improving this bill through the amendment. I think it is a strong bill as it stands. It is overdue. Many states have led the way to help their municipalities develop systems to collect this material and get it disposed of properly. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. When I said I wouldn't rise any further, I guess that was untrue. I am not going to oppose the motion to adopt this particular amendment because I am reminded of the five stages of dying and how it relates to this bill. The first stage is denial. This really isn't a new tax, but it is. The second stage

is anger, because some people stand up and calling it a new tax. It is. The third stage, which is bargaining. If I cut you out of it and if I don't tax you, is that all right? This is where we are at now. We can go ahead and add this on and continue our debate because then what follows is the fourth stage of depression when everybody from the second floor to the people out there know it is a new tax and to acceptance that we are trying to tax people. For that reason, I support putting this amendment on the bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Andrews.

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

The SPEAKER PRO TEM: The Representative may pose her question.

Representative **ANDREWS**: Thank you Mr. Speaker. I would like to have an answer to the question as to why we are putting a 20 cent tax on every gallon of latex paint to fund household hazardous waste when that is not hazardous waste? Could someone please explain the reasoning behind that?

The SPEAKER PRO TEM: The Representative from York, Representative Andrews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. This came up in committee too, because latex paint certainly is not as toxic as most pesticides and most other paints and solvents and other materials that we have a hard time disposing of properly. You do not put it in your oatmeal in the morning, but it certainly isn't highly toxic. On the other hand, those cans end up in our commercial, conventional treatment centers and need to be sorted at some expense to that industry. All those cans have to be sorted out and not incinerated. They have to be sorted out and disposed of separately. This has some side benefit in terms of the management of our waste stream. Frankly, we need to generate the revenue to make this program run. It is important enough to the public health and well being to put the fee there as well on the pesticides. There may be some other mechanism for dealing with this and I am sure there are enough creative people in this body to sort that one out. It is something that is long overdue in Maine. Most other states have moved on this. I think it is time for us to do so too.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. To further respond to that question, I disagree with the Representative from Bar Harbor. There is no excess cost or handling to latex paint disposed of in the municipal solid waste stream. They are land filled harmlessly. It is incinerated harmlessly. In trash to energy plants it is either sorted out through magnetic separators automatically or it is just burned without any detrimental effects whatsoever. The real answer to that question is the same as Willy Sutton when asked why he robs banks? That is where the money is. When you are raising taxes that is where the money is.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I want to thank the Representative from Bar Harbor, Representative Koffman, for taking care of two of the items that was of concern to many of us. I have a couple of concerns, but one major concern. That deals with the transfer of monies from the waste management fund to the new fund that would be started up. It is my understanding that about \$438,000 would be transferred to this fund in order to get it started. It is also my

understanding that that \$438,000 is spoken for and is part of the Part II Budget. I have a major concern as to how this will start up without that money and also how the Part II Budget will come together without the same money. Obviously we can't use it for two different sources. Thank you Mr. Speaker.

Subsequently, **House Amendment "A" (H-526) to Committee Amendment "A" (H-494) was ADOPTED.**

Representative DAIGLE of Arundel **REQUESTED** a roll call on **ADOPTION of Committee Amendment "A" (H-494) as Amended by House Amendment "A" (H-526) thereto.**

Subsequently, the same Representative **WITHDREW** his **REQUEST** for a roll call.

Subsequently, **Committee Amendment "A" (H-494) as Amended by House Amendment "A" (H-526) thereto was ADOPTED.**

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to rise today in support of LD 1549. I have worked the last 12 years in managing hazardous waste. I am fortunate to have a wonderful staff of professionals who know how to handle these materials to minimize the impacts on the environment. However, municipalities, of which I am a selectman of, do not have that kind of personnel, nor do they have the resources to handle the waste correctly. The hazardous waste in question can have a real affect on the environment and the public health. This is not based on any kind of risk assessment or anything else. This is real potential issue. Therefore, I support this bill and ask you to help the municipalities in handling this material correctly. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I just want to thank the good Representative from Lincoln for pointing out the fact that this money is both helping to jump start this program without any new fees for the first year. It is also in the Part II Budget. We will be taking a very close look at that as we would any bill with a fiscal note in the Appropriations Committee. Thank you.

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

Representative **RINES**: Mr. Speaker, Men and Women of the House. This is a good bill, but misses the target. The target is the pockets of the people in your district. Most communities don't have the expertise to handle the toxic waste in their transfer stations. I worked at a transfer station for three years. I know what happens there. I know how they treat it. They treat it the best they can, but they don't have the education, nor do they have the money to do it. As we all know, as was said by the good Representative earlier, we need to raise the funds to make this program work. Raising the funds at the expense of your constituents on non-toxic waste is not the way to do it. Later down the road we have an account that can also be raided for other things. Be careful about how we raise our money and what it is being used for. I think this bill misses the target, while it is very well intended and it should be done, I don't think this is the way to do it. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 172

YEA - Adams, Barstow, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Cowger, Craven, Cummings, Davis,

Dudley, Dugay, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Hatch, Hutton, Jackson, Kane, Koffman, Landry, Laverriere-Boucher, Lemoine, Leman, Lessard, Mailhot, Makas, Marley, Marraché, McKee, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Bennett, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Curley, Daigle, Duprey B, Duprey G, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lewin, Lundeen, McCormick, McGlockin, McGowan, McKenney, McNeil, Millett, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rines, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Usher, Vaughan, Young.

ABSENT - Berube, Bryant-Deschenes, Crosthwaite, Fischer, Grose, Ketterer, Maietta.

Yes, 75; No, 69; Absent, 7; Excused, 0.

75 having voted in the affirmative and 69 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-494) as Amended by House Amendment "A" (H-526)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH.**

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**SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-161) - Minority (5) Ought Not to Pass - Committee on LABOR on Bill "An Act To Prohibit the Use of Workers' Compensation Trust Funds for Political Contributions"**

(S.P. 315) (L.D. 974)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-161) AS AMENDED BY SENATE AMENDMENT "A" (S-213)** thereto.

TABLED - May 23, 2003 (Till Later Today) by Representative SMITH of Van Buren.

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. We have before us a bill that when I first heard about it, I felt a little bit uncomfortable with it because it appeared that there was something illegal or at least not totally above board with the self-insured workers' comp trust funds.

The bill itself asserts that surplus payments from the private self-insured comp trust funds was used to contribute to political campaigns and that is correct. There is further an allegation that this was done somewhat illegally or at least without any concerns for the injured workers of the State of Maine. That is not correct.

In the interest of full disclosure I will admit that my campaign in the last election received some of those funds. The workers' comp trust funds are regulated by the Bureau of Insurance. In fact, they are very highly regulated and the board of directors that control those funds have a fiduciary responsibility to make sure that the funds are properly accounted for and dispersed in a legal

manner and in all of the other safeguards and precautions that are in effect for those funds.

The use of the monies in the political process, remembering they are surplus funds over and above what the reserve requirements are for the fund and the use of the monies for political purposes is legal. There is no allegation that anything illegal was ever done with this money. All the reporting was accomplished as required by the law. We have a similar situation to the money that is brought in by the unions that is from the dues paying members of the union and then that money is dispersed for the purpose of political activity. I see a very close parallel to these two things. The union is using money for political purposes and the self-insured employers in the interest of trying to keep people here in the Legislature who are friendly to their interests are willing to contribute to the political campaigns of those candidates. That is exactly what happened here. It is a free speech issue.

I think that in the interest of the free speech issue, I think that this bill goes a little further than really needs to be done. As I said when I first started speaking, I felt a little uncomfortable with the fact that the workers' compensation trust funds were being used for political activity. At first blush I found that a little uncomfortable, especially when I found out that some of that money had gone to my campaign. However, as I looked at it and realized that there was no illegal activity during that political campaign, I now feel that it is a freedom of speech issue. Thank you Mr. Speaker.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. I want to respect Representative Treadwell's strong concern that he first shared about workers' compensation insurance going into the hands of political parties of either side. I think his concern is justified. I want to say that just over a year ago many of us in this Legislature were torn and tried very thoughtfully and reasonably to determine what should happen with Maine's workers' compensation system. In many of the conversations people came to us and said that there will not be enough money if X happens or Y happens or if anything happens. I personally took a lot of time weighing those decisions and even went back to the Supreme Court cases related to this. Taking Maine businesses seriously is something I think we all have to do. To find out within months that almost \$100,000 had gone to political purposes undermines that argument. It is not illegal. I think it is unwise.

As we enter these discussions on workers' compensation, this bill sets a tone on how we ought to be thoughtful and careful about the figures we throw around the cost of the workers' compensation system and to the cost of Maine workers. In my opinion, this establishes a clear line between political contributions and the money that has been earned by Maine employees and by their employers. It sets a cautious line, a clear line and one that we should abide by. Thank you Mr. Speaker.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. The reason for this bill is there is a principle here that the money that employers are charged for workers' compensation premiums should be used to pay for benefits for injured workers, medical or weekly benefits. That is the basic principle there. It should not become part of a fund that a group of directors for some self-insured group are going to decide to give to the candidate of their choice. We are not dealing with free speech issue here. The employers who paid those premiums have the right to decide if they want to donate to candidates. It is

not for the directors of the chamber trust or the manufacturers trust or the Maine Motor Transport Trust, construction trust, forest products trust or the distributors trust, all of which contributed \$103,650. It is not for them to decide what the free speech will be to of their employers who have paid the premiums.

Indeed, I have never heard until today that there are surplus funds with these insurers. All I have heard is that the monies are somehow not available for the employees or somehow they are being overcharged. We ask you to vote in favor of this bill and keep workers' compensation premiums where they should be, with the payment of benefits to injured workers. Thank you.

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

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. Just a couple of quick responses to some remarks made by the Representative from Carmel, Representative Treadwell. He characterizes this as something similar to the union dues contribution situation. Of course, this body knows that that is simply not true. That issue rose a number of years ago. Laws were enacted and, in fact, those union members have to give permission before any portion of their dues are used for political contributions. In fact, this goes a little bit further.

The Representative is also absolutely right in his remark that there was no allegation of any wrong doing here. That was not an issue in committee that was discussed. That was put out. There was no allegation of wrong doing. Those sums were properly reported. Contributions were properly reported to the Ethics Commission. All this bill does is now seek to make it illegal from now on for good reason.

The employer, your constituents, who pay into these workers' compensation trust funds are buying workers' compensation insurance premiums. That is obviously a deductible expense, a business expense. If that employer pays \$100 a month into the trust fund and the board decides without the employers permission, to spend \$10 a month on political contributions, then technically those employers, your constituents need to file amended tax returns because they have, in fact, written off what is, in fact, the political contribution. Those surpluses, which we understand from the Bureau of Insurance, are regularly generated by these trust funds, in other words, they are generating more money than they use to pay out in benefits and administration on a year to year basis, should be returning portions of those premiums back to your employers and your constituents in the form of refunds at the end of the year. They are not. They are turning them over and they are running a surplus. Here in election year 2000 they took \$100,000 for that surplus and contributed to various candidates and political action committees. This bill would stop that. I believe it is appropriate to do so. It is not a free speech issue. It is not the employers themselves, the people that are parting with that money that are contributing or making a free speech statement as to who will accept or will be contributed to in a political campaign. It is the board of directors of a slush fund that the Board of Directors have paid into in good faith thinking that they are paying for workers' compensation coverage and not for political contributions. Thank you Mr. Speaker.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I wanted to stand up and talk about the union issue because the union which I belong cannot use any of our dues money in political action. In fact, it is a separate committee entirely, given with fundraisers and donations and whatever that all political donations are given, not from dues. I also believe that

this is a proactive measure. It happened. No one is saying there is wrong doing. I know I have voted and many times, much to the dismay of people sitting on this side of the aisle, based on the fact that I wanted to keep workers' comp down. I wanted to keep the prices down. I wanted to do this. I do find it disingenuous when I believe the Chicken Little stories that the sky is falling and that there is an extra \$100,000. Certainly I can think of many places that could go, rather than to political campaigns, for either side of the aisle. I would hope that we would pass this and move on with the idea that absolutely no way, at least in my voting, will I be saying that there was wrongdoing. That is not true. I simply think that having had this out in the open, it is time to say from here on we will abide by this law. I think it is fair and the right thing to do. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I wish to thank the good Representative from Bath for his mostly correct analysis of this bill and what it is attempting to accomplish. There are a couple of problems with some of things that we have heard characterized thus far. The first thing that needs to be clarified is that everyone in this chamber needs to understand that not one dollar, not one dime of workers' compensation money was included in these donations that were made to political campaigns, not one dime. The money that was used for these contributions were excess funds, funds that were above and beyond the actuarial requirements necessary for the obligation that these associations had incurred. There were not dollars from workers or that would have been used for workers were used in these contributions.

Second of all, there was apparently, at least the impression given, that these donations were made by a board of directors without having consulted their members. I don't know of a single instance where that was purported to the case. Not one member, as far as I know, of any of these associations came forward and said that I did not authorize these excess funds to be used. In fact, in every case of which I am aware, the board of directors of these associations went back to their members and said, that this is the amount of the excess, what do you care to do with it? Those members said they would like to use these for political donations. There is nothing improper, incorrect in their doing that. That board of directors is made up of members of those units that belong to the association. They have the right to do that based on a vote of their membership.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I want to respond briefly to the remarks of Representative Bowles. Number one, the money that was used for these political donations was collected from employers for workers' compensation premium payments. It was not collected from employers for the purposes of political contributions.

Second, at the hearing before the Labor Committee, the question was asked, did you go back to the employers and ask them if they wanted to make these donations? The answer was no, the members of the trust, the employers, were not consulted. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Mr. Speaker, Ladies and Gentlemen of the House. I am appalled at some of the rhetoric that I am hearing in this chamber on this bill. These same self-insurers are the ones that gave us the give back with Kotch last year because they couldn't afford the Supreme Court decision here in the State of Maine on what it would pay to injured

workers. These funds, to the best of my knowledge, are reserved funds for future injury payments to injured workers. Maine is a very profitable state for insurance carriers to operate in. We are in the top five in profits in workers' compensation. The premium rate ranking that we keep hearing about that it is so costly to operate in Maine, according to the National Conference of Self-Insurers, the data from March 2003, Maine is 28th in the year 2002. In the year 2000 it was 19th. The premium rate ranking is even going the other way so it is not so darn costly in this state. Mr. Speaker, I would ask for a roll call when the vote is taken.

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

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

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

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

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

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who may want to answer, could these funds have been put into a PAC and the PAC established and they, in turn, could give money to candidates?

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the good gentleman from Crystal's question is yes provided that the amount was in excess of the actuarial requirement necessary to meet its statutory obligation.

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. In further answer to the question, a good deal of this money was, in fact, contributed to a PAC as well as individual candidates.

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

**ROLL CALL NO. 173**

**YEA** - Adams, Andrews, Annis, Ash, Austin, Barstow, Bennett, Berube, Blanchette, Bliss, Bowen, Brannigan, Breault, Brown R, Browne W, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Collins, Cowger, Craven, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Greeley, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Rosen, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin J, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton.

**NAY** - Berry, Bierman, Bowles, Bruno, Clough, Courtney, Cressey, Duprey B, Heidrich, Honey, Jacobsen, Jodrey, Joy,

Kaelin, Ledwin, Lewin, McKenney, Millett, Nutting, Richardson M, Rogers, Shields, Sykes, Tobin D, Treadwell, Vaughan, Young.

**ABSENT** - Bryant-Deschenes, Crosthwaite, Dugay, Eder, Grose, Ketterer, Maietta, Mr. Speaker.

Yes, 116; No, 27; Absent, 8; Excused, 0.

116 having voted in the affirmative and 27 voted in the negative, with 8 being absent, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-161)** was **READ** by the Clerk.

**Senate Amendment "A" (S-213)** to **Committee Amendment "A" (S-161)** was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (S-161)** as **Amended by Senate Amendment "A" (S-213)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

**HOUSE DIVIDED REPORT** - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-65)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part"

(H.P. 110) (L.D. 101)

**TABLED** - April 1, 2003 (Till Later Today) by Representative **SMITH** of Van Buren.

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

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

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. Two years ago in the 120th Legislature we passed similar legislation to this. All workers' compensation legislation failed either between the bodies or by veto. Maine people, Maine labors needed a labor Chief Executive to correct the wrongs of 1992. LD 101 is an "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part." As you reported, it was reported out of committee **Ought to Pass**.

This bill corrects an inequity. The amendment produces a bill protecting workers starting January 1, 2003, not 1993 as the previous Legislature tried. It starts January 1 of this year. There have been no severe injuries that had amputations in the first five months, thank goodness for that. Workers have been safe. This was all according to labor statistics for this year.

We need to correct the problem. We need to protect the 600,000 work force in the State of Maine. I would appreciate your support on this legislation. I thank the Speaker.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. This report, which came out of committee in an 8 to 5 vote recognized the severity that amputations have in the life of an injured worker. It also recognized a very significant fact. When you look at the number of amputations that have occurred in the state, I will give you the years of 1993 when there were 13 amputations, 1994, there were 7. We come up to the year 2000, there were 29. The year 2001, there are 30. There is an obviously dangerous and alarming trend towards the number of

amputations. We do know as a fact that when things cost money, safety comes to the floor. I cannot help but state to you that if there is a cost to amputations, there will be more safety brought into the workplace and there will be less amputations. Even now the cost of this bill is not very large, but we need to do something so that there are safety measures brought into place. I urge you to vote in favor of this bill.

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

**ROLL CALL NO. 174**

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

NAY - Andrews, Annis, Austin, Barstow, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressesey, Curley, Daigle, Davis, Dugay, Duprey B, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lemoine, Lewin, Lundeen, Marraché, McCormick, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Perry J, Rector, Richardson E, Richardson M, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Wotton, Young.

ABSENT - Bryant-Deschenes, Cowger, Crosthwaite, Grose, Ketterer, Maietta, Rogers, Mr. Speaker.

Yes, 61; No, 82; Absent, 8; Excused, 0.

61 having voted in the affirmative and 82 voted in the negative, with 8 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.

Bill "An Act To Require a Toll-free Telephone Number To Be Maintained by the Bureau of Unemployment Compensation" (EMERGENCY)

(S.P. 39) (L.D. 116)

TABLED - May 23, 2003 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-168).**

Representative SMITH of Van Buren **PRESENTED House Amendment "A" (H-518) to Committee Amendment "A" (S-168)** which was **READ** by the Clerk.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. This amendment removes the emergency preamble and emergency clause and changes the appropriation accordingly with regard to this bill that dealt with an 800-telephone number for unemployment purposes.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. We took a vote on this bill two or three days ago, last week I guess it was. It failed enactment because of the emergency preamble. I would ask you to vote the same as you did the last time. We have another bill LD 1552 that does exactly the same thing. LD 1552 is a good bill. It came out of the committee as a Unanimous Ought to Pass Report. I would encourage you to vote for that one instead.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-518) to Committee Amendment "A" (S-168).**

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

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-518) to Committee Amendment "A" (S-168). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 175**

YEA - Adams, Annis, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Craven, Cressesey, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, 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.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, 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 - Bryant-Deschenes, Cowger, Crosthwaite, Goodwin, Grose, Ketterer, Maietta, Mr. Speaker.

Yes, 81; No, 62; Absent, 8; Excused, 0.

81 having voted in the affirmative and 62 voted in the negative, with 8 being absent, and accordingly **House Amendment "A" (H-518) to Committee Amendment "A" (S-168) was ADOPTED.**

**Committee Amendment "A" (S-168) as Amended by House Amendment "A" (H-518) thereto was ADOPTED.**

The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-482)** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce"

(H.P. 195) (L.D. 240)

TABLED - May 21, 2003 (Till Later Today) by Representative SMITH of Van Buren.

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



Subsequently, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

On motion of Representative BRUNO of Raymond, the House **RECONSIDERED** its action whereby the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought to Pass as Amended Report.

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

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

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. I must rise to speak briefly on this bill because of a handout that has recently been distributed among the House. I guess, in my brief legislative career I shouldn't be surprised at the amount of bad information that is passed out, but I simply am on this form, which was provided to you by the Maine State Chamber of Commerce and others. Somehow this information would lead you to believe that this bill would provide paid family leave. I only wish that were true. What the information is referring to is a feature of the bill. This provides part-time unemployment. If an employee has a working history of part-time work and they are laid off, under current law they cannot collect unemployment benefits. This bill would allow that part-time employee to collect a reduced amount, compensatory reduced amount of unemployment benefits reflective of this if that employee continues to work and make themselves available or continues to make themselves available for part-time work, all the same rules that apply to full time.

What the Maine Chamber is trying to tell you here, if they were being honest with you, would be that in the event that a full-time worker takes a part-time job because of requirements at home, they take care of a disabled family member or another family emergency, then loses that part-time job to a layoff, that employee is then qualified to go in and ask for part-time unemployment as long as he continues seeking further part-time work. It is just an exception to the history of part-time employment that the bill would require. It is not paid family leave. As I said, I wish it were, but it is not.

This paper passed out to you by the Maine Chamber also implies that this part-time unemployment bill is going to increase the unemployment taxes paid to your constituency, employers. As you know, the employers pay unemployment taxes on the first \$12,000 that each employee's income, full-time or part-time. Those taxes are already being paid. As you know, there has been testimony before and information presented to this House, the unemployment taxes are scheduled to rise anyway. This bill is not pushing that up into the next schedule.

Finally, what this form does not tell you and, in fact, implies that come the year 2006, the state will be basically bankrupt because of this bill. This bill is sunsetted. There is a sunset provision for 2005. If part-time unemployment doesn't work out for some reason, 2005, the bill goes away anyhow. I am sorry to take up your time, but I just had to respond to some typically bad information being passed out. Thank you Mr. Speaker.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I think the summary of the amendment that we have, the Committee Amendment on the Majority Report, which replaced the bill, in the summary it says that a person is not disqualified from receiving benefits if the person's lack of availability is a result of illness or disability or an immediate family

member or the lack of availability is necessary for the safety and protection of the individual or a member of the individual's immediate family. Those are almost the exact words in the family medical leave legislation. What we are doing is saying in this bill, in the majority amendment, that we will pay unemployment comp benefits under those circumstances. That is family medical leave.

The second point that I would like to make is that according to the Department of Labor, in the year 2004 we are going to be on schedule A for unemployment comp taxes. It is projected right now in 2004 that we are going to move to Schedule C, which is what the good Representative from Bath has just mentioned. We are already scheduled to go to a higher and higher tax rate on unemployment comp. With this bill in 2006, you are going to Schedule D, which is an additional increase in taxes. We have several other unemployment comp bills that are waiting to pass through the system that are going to further increase those taxes.

I think if we continue piling these things on, we are going to make a bad situation in the State of Maine even worse and I just don't know how the employers of the state are going to be able to afford to continue paying higher and higher taxes every year. Thank you Mr. Speaker.

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

Representative **HUTTON**: Mr. Speaker, Men and Women of the House. I just wanted to remind the body that back when part-time workers were taken out of the system there was a promise made to those people that when the fund was solvent, they would be put back in. Part-time workers would be put back in. It was a promise that the Legislature made in negotiating in trying to help both the businesses and the State of Maine to make the unemployment insurance fund solvent. We now have something called the Reid Act Funds which are coming to us from the federal government. I am going to read from a paper because it says it well. It explicitly states that these funds may be used for individuals who are seeking or available for only part-time and not full-time work. We are going to sunset this. We have a possibility for the next few years of helping those part-time workers get through very hard times of being unemployed.

Let me tell you that this is a woman's issue. Don't doubt that this is not a woman's issue. Seventy percent of the part-time workers are women. A good portion of those, a majority of those, are women with children under the age of five. What we are saying to them is, you can't get part-time unemployment so what are they going to do? Who are they going to turn to? They are going to turn to the state. They are going to start asking the state for money. We already have money that is going in and being paid by the employer. We have the Reid Act money and we have a promise that we made. I hope you choose to help me honor that promise along with a lot of other people in this House and vote Ought to Pass. Thank you.

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

Representative **MILLS**: Mr. Speaker, Ladies and Gentlemen of the House. I rise just to make a point. My memory is that we have not yet and have never covered people who are making themselves available only for part-time work. Part-time workers are currently covered and have always been covered if they had had part-time employment, lost that employment and then came to the Employment Security Commission and said that they were ready, willing and available for full-time work. That is the current role. There are a couple exceptions, but that is the current role and has been the role for many years. To my knowledge, we have never covered a person who says that they are not available for full-time work. Certainly there has been no promise

made to people who have been in the part-time market. This proposal would expand Maine law beyond where it has been in years past. There were in our negotiations of five or six years ago, many changes made to the unemployment compensation statute. There were benefit provisions that were curtailed. There were taxes that were increased. There were many, many things done, but we did not take away a benefit for part-time workers at that point. I just wanted to set the record clear as I remember it. Thank you.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I agree with the Representative from Cornville with regard to, if you are a part-time worker and after being laid off you represent to the unemployment office that you are looking for full-time work, you will get your benefits. Indeed, there are a number who are covered this way. What we are trying to do is give coverage to those people who, because of their circumstances, are not able, in good faith, to say that they are looking for full-time work. The demands of their home or whatever, requires them only to be available for part-time work. These people have worked and contributions have been made to the system because of their work. It is only fair that they get those benefits.

I would like to talk about the number for a moment. Congress allocated \$32.5 million in Reid Act funds to Maine in 2002 to help stimulate the economy. This federal legislation specifically provided it was available for part-time work. However, it has not yet been done so by the State of Maine. So far, the employers have had to benefit from these funds. The funds went into Maine's Unemployment Trust Fund that they triggered a substantial tax decrease for employers, nearly \$25 million less employers paid in 2003. It is the second year in a row they have had a significant decrease. In 2002 the employers paid \$37 million less. What is the cost of this present bill? It is \$2.3 million. A mere \$2.3 million compared to \$37.6 million in one year and \$25 million the other year. That is one half of one percent of the balance of the state's trust fund. The figures from the Labor Department show that it is not going to create any great increase. We are still in Schedule A. In 2006 we are going to Schedule C. At that time the unemployment trust balance will be \$442 million. I suggest to you there are the funds to give the kind of unemployment benefits these people are entitled to. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. There are so many things that I would like to respond to and I don't know if I can get them all, but, first of all, the Reid Act money, the \$32.9 million that came to the state a year and a half ago or two years ago, that money is already in the fund. It is being used now to pay benefits. It is already factored into that increase in the unemployment comp rates that we have been talking about. The fact that the Reid Act money, it was an incorrect statement that the Reid Act money was specifically earmarked for part-time unemployment comp benefits. I had never heard that. I don't think that that is the case.

In 1999 when the unemployment compensation fund was in dire straights and very close to be insolvent, we had a reform bill that came through. It increased the tax rate on all employers in the State of Maine and the increase in that rate was \$13 million. That remained in effect until the comp fund reached its 18-month reserve, which is about \$440 to \$450 million, where it is today. As a result of it reaching that level, which happened quicker than

anybody had thought it was going to happen, the unemployment comp taxes were decreased. They have been decreased twice now in the past couple of years. The money that is there is intended for payments to support those people who have lost a job through no fault of their own in order to give them financial stability while they are looking for another job. That is the purpose of the fund. That is the reason we set the \$442 million as 18 months of reserves in that fund. If we start tinkering with it, pretty soon we are going to set the fund out of balance. It is going to back the way it was three or four years ago. It will be insolvent again.

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

Representative **HUTTON**: Mr. Speaker, Men and Women of the House. I just wanted to clarify. When I read this statement I said, may be used for, not shall, should or all the other words that we have used to say definitively would be. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. This bill is correctly identified as "An Act to Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce." That is exactly who part-time workers are. Our workforce in the State of Maine is not where it was 10 or 15 years ago. It is where it is today in 2003. Many service jobs, many jobs in many places, including our big supermarkets, who may never hire, at least most of their workforce, full time. It is part-time work.

When I hear the good Representatives say that the fund did have a big problem and was on the verge of bankruptcy, that was not because of part-time unemployment paid out. You heard the good other Representative say that we never have had this part-time unemployment paid to people who have been working. We are not talking about people going in there asking for charity. Yes, their employers have been paying into the fund for the part-time workers, but the part-time workers have not drawn any money out of the fund. Does anybody see anything questionable about this process? How would you feel? You have been working and for some reason you are laid off. You go in and file and you have a history of part-time work. We shouldn't expect them to then say they are here for full-time employment tomorrow. We don't want people to lie. We want truthful workers. We want to say to workers that if you are unemployed, I don't think they are going to squander their little bit of part-time unemployment benefits. We are not going to give them full-time unemployment benefits. We are going to give them part-time unemployment benefits. There is a fund to carry it. Yes, the employers have been paying into it, but the employees have not been drawing out. That is really, really a problem. This bill addresses that. Finally, how many women are part-time workers? About 70 percent of the part-time workforce are females. I am not here to explain that. If you want to you can, but I think it is awful. They work part-time. They are willing to continue to work part-time, but there isn't the work for them. They don't control that. I think when they go in and apply for unemployment benefits, they should receive them and we should not say they cannot.

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

Representative **NORTON**: Mr. Speaker, Ladies and Gentlemen of the House. I have listened to the good Representative from Carmel explain to us what the purpose of unemployment is, for stability until a person gets their job back. I find it amusing, however, that if somebody is supporting their family on one or two or three part-time jobs, that losing one of

those jobs doesn't create financial instability. It would seem to me that if someone is trying to craft an income with part-time jobs, losing one definitely creates instability. You bet this is a gender issue. Most of the people trying to do that are women who are trying to support themselves and their families. There are some single parent men who are doing that too. When that happens and they lose one of their jobs, it creates tremendous hardship.

I also find it amusing that although half of the states do provide some kind of coverage for part-time workers, the literature that I have in front of me says most not, well maybe one more than half or two more than half do not. I think 23 or 24 states is a significant number. I think we should be following suit, especially with some of the employment problems that we do have.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. When 2.3 million is defined as mere, well, I think we are starting to run into issues. One of the problems that we have in this bill is that we have an unemployment situation in Maine that is growing worse. If you look at your report you get from the Department of Labor, you will notice that unemployment in Maine is now up to 5.3 percent. Those are some of the highest numbers that I have seen in probably in the last seven years. The money in the trust fund is to pay for that unemployment. What happens when you start taking more money out? You have to build back your reserves. How do you build back your reserves? You raise taxes on the employers.

While it is only a mere 2.3 million you are taking out, you are also going to take out a big chunk of money for all the unemployed people who are now unemployed in this state. Another announcement today that the people in Brewer are going to lose 125 jobs in that mill up there, which they will be entitled to unemployment funds also. How much more can we take out of that fund? What other things do we want to fund? Part-time employees, sure, most of them are women. I will agree with that. Most of them are not the breadwinner in the house either. To change policy like this is a major issue.

I think I have a question for the Chair. I am going to make the assumption since there is not an exception in the bill that anyone who works in the school district also qualifies for unemployment as a part-time worker. What is the cost to a municipality if this bill were to pass?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Duprey.

Representative DUPREY: Mr. Speaker, Ladies and Gentlemen of the House. I rise not to answer the good Representative's question. I originally did not plan to speak on this bill, but I feel that I should at least give you two points to ponder. One other comment first, I beg to differ. I don't believe this is solely a gender issue. Look at the Katahdin Region right now. Several months ago 1,100 people were put out of work. Out of that 1,100 hopefully by the end of this week, a few hundred will be going back to work. At the most, in East Millinocket, we can expect 330 when that mill is running what they will call full capacity. Twelve to 14 months from now another 200 or 230 will hopefully be put back to work in the Millinocket facility. Again, when that mill is running what they consider full capacity. That is about 50 percent of what we knew of the workforce less than six months ago. We are talking about 550 people still out of work. What will those people do? The majority of them, hopefully, will find full-time employment. For those who can't find full-time employment, they will have to resort to part-time work, not just one part-time job, but two or three or however

many they can handle physically and emotionally. If they lose just one of those part-time positions, what will they do?

I urge you to consider that and vote to support this bill. Thank you.

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

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

The SPEAKER PRO TEM: The Representative may pose her question.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House. I heard the good Representative from Raymond, Representative Bruno, say that most of these jobs would not be women? I would ask where he found that information because I would like very much to see it before voting on this.

I lost half of that question. He said they were not the breadwinners. That is the piece I would like to see. They were women, but not the breadwinners. I would like to see that information. Please.

The SPEAKER PRO TEM: The Representative from Biddeford, Representative Sullivan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House. I don't have any definitive information on that. What I have is my experience of having close to 500 employees in this state and knowing who the part-time workers are in my workforce. Most of them are not breadwinners and that is what my experience tells me.

While I have the floor, I would like to continue, Mr. Speaker.

The SPEAKER PRO TEM: The Representative may continue.

Representative BRUNO: Thank you Mr. Speaker. The Representative from Medway makes a perfect argument why you shouldn't deplete the fund. All those people in Millinocket are going to need to collect unemployment benefits. What you don't want to do is to deplete the fund to a point where you don't have any money in it. When only half of the workforce is going back, hopefully, you need to have a reserve of 18 months in that fund. That is a perfect argument as to why you don't want to start extending this fund to more and more people.

I think we really need think about this policy change that we are making here. We have an unemployment rate that is going up. We have mills shutting down, another one today. Someone needs to pay for all that unemployment. Ladies and gentlemen, this fund is what does it. The more you expand it, the less money in the fund and then what? Do you raise your unemployment taxes so high that you can't bring anyone into this state?

There was an article today in the KJ quoting Kevin Mattson, the former Executive Director of the Democratic Party in the state, he said, "Taxes in this state are a big problem when you try and bring a company in." That is a direct quote. Go read it yourself. He is in the real estate development business and he can't attract anyone to come to this state because of taxes. That is the number one concern. The unemployment tax is a tax on employers. Just remember that when you vote. Thank you Mr. Speaker.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **VAUGHAN**: Mr. Speaker, Ladies and Gentlemen of the House. Since we are going to be unemployed ourselves in a few days, will a vote for this bill be giving ourselves an unintended benefit as well as the legislative staff?

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. If I may tackle that question, such a vote will not have that consequence. I assume we will all be out there looking for full-time work. Thank you.

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

Representative **JACOBSEN**: Mr. Speaker, Ladies and Gentlemen of the House. We are a state that has tremendous part-time employees, tremendous seasonal employment. I, myself, will be hiring approximately 30 part-timers. I have already started to hire them. Next fall when the leaves come out, they are unemployed. The ski industry in the mountains, they have seasonal employees. The state is loaded with seasonal employees. Do we want our unemployment system paying all these people that know that their jobs are seasonal? I think we better think twice before we deplete all the funds and save it for those who really need it.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I need to tell you some stories about people that really need it, unemployment compensation. Representative Patricia Blanchette, Seat 54 in the 121st Legislature. I have been an active, loyal, hardworking employee of Hannaford Brothers Corporation for 24 years. If I get laid off tomorrow, although Hannaford has paid unemployment compensation on Patricia Blanchette for 24 years, I cannot collect a dime, unless, in fact, I want to go to work full-time. I am 60 years old. Why do I want to go and stand on my feet for 40 hours a week? I have been a loyal, dedicated employee and this is the way you are rewarded. Most of the large manufacturing companies in the State of Maine have purposely, with all intent and thought gone to hiring part-time employees. Either you are a defined part-time employee, which means they can schedule you and work you up to 28 hours a week or you are a full-time part-time employee. That means they can and they do schedule you to work 38 hours a week. Many times 39 and three-quarters hour a week for part-time benefits, part-time pay. If you get laid off, you can't collect part-time unemployment compensation.

Big business has made this choice that it is more profitable for them to keep 70 percent of their payroll in a part-time status. I have to tell you that I work with a lot of single parents and they have children at home. The child is coming home at 3:00 in the afternoon. Momma comes into work at 7 am and she needs to be out by 2:30 so she can go home and take care of that child. There are statistics out there if anybody wants to bother to pull them up of the vandalism and the mischief, latchkey children, get into when there is not a parent at home.

I am asking you to do the right thing. These are hardworking people and there is nobody out there that needs unemployment

compensation anymore than these single part-time parents. Thank you 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.

The Chair would inquire how the Representative from Waldoboro, Representative Trahan, wishes to be recorded.

Representative **TRAHAN**: Nay

The SPEAKER: It will be so recorded.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins. For what reason does the Representative rise?

Representative **COLLINS**: Mr. Speaker, I would like to be recorded as nay.

The SPEAKER: The Chair did not see the Representative come in.

Representative **COLLINS**: I was here.

The SPEAKER: The rules of decorum will be enforced.

The chair inquires how the Representative from Wells wishes to be recorded.

Representative **COLLINS**: Thank you Mr. Speaker. Nay.

The SPEAKER: It will be so recorded.

The Chair would remind members that you need to be in this body, in your seat to vote. I think there has been a habit lately of members entering the chamber much too late. When the bell rings, if you want to vote, get in the chamber. Get in your seats and vote.

The Chair recognizes the Representative from Westbrook, Representative Usher. Why does the Representative rise?

Representative **USHER**: Mr. Speaker, is the vote still open? I had paper hanging over my buttons and I hit the paper and hit the wrong button. I would like to be recorded as yea.

The SPEAKER: The record will so reflect. Since I gave this great leeway to the members of this side of the aisle, I will continue to give leeway to this side of the aisle. The member's vote will be recorded as yea.

The Chair recognizes the Representative from Brunswick, Representative Richardson. Why does the Representative rise?

Representative **RICHARDSON**: Mr. Speaker, I wish to have my vote recorded as nay.

The SPEAKER: The Representative wishes to be recorded as voting yes.

Representative **RICHARDSON**: Nay, Mr. Speaker.

The SPEAKER: Nay, yes or no does just fine. It will be so recorded. The Chair will close the vote and announce the total.

The Chair recognizes the Representative from Brunswick, Representative Richardson. Why does the Representative rise?

Representative **RICHARDSON**: Mr. Speaker, I wish now to have my vote recorded as yea.

The SPEAKER: The Chair understands that the Representative from Brunswick, Representative Richardson wishes to have his vote recorded as yea. The confusion around the auditory use of yea and nay continues to perplex the Speaker. The vote is closed.

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

Representative **BRUNO**: Point of order. I don't understand allowing a member to switch their vote twice. I understand that there were a couple of members that came in late, but to have a member switch once and say that is all right and then ask that same member to switch back again seems a little shady.

The SPEAKER: The Chair will attempt to clarify for the Minority Leader that any member who is in their chair, in their seat, before the vote is announced, the Chair has not announced

the vote, may change their vote. That is the rule. That is the Chair's ruling. However, any member who is not in their seat and has not voted when the vote is closed, it is then up to the discretion and the benevolence of the Chair to allow that member to vote or not to vote. That is the rules. That is how the Chair rules.

The Chair recognizes the Representative from Lincoln, Representative Carr. For what reason does the Representative rise?

Representative **CARR**: Mr. Speaker, I was out of the room. I had an important call with Eastern Paper, you know the situation, the vote was closed as I got to the door. I wish to vote if possible.

The **SPEAKER**: The Chair has closed this vote a number of times.

Representative **CARR**: I understand.

**ROLL CALL NO. 176**

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

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

**ABSENT** - Ash, Bryant-Deschenes, Carr, Cowger, Crosthwaite, Grose, Ketterer, Maietta, Mailhot, Tardy.

Yes, 71; No, 70; Absent, 10; Excused, 0.

71 having voted in the affirmative and 70 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-482)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

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Bill "An Act Concerning Retirement Benefits for State Employees"

(H.P. 730) (L.D. 1009)

(C. "A" H-441)

**TABLED** - May 22, 2003 (Till Later Today) by Representative **RICHARDSON** of Brunswick.

**PENDING - PASSAGE TO BE ENGROSSED.**

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-441)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-517)** to **Committee Amendment "A" (H-441)** which was **READ** by the Clerk.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment allows members of the Maine State Retirement System to elect whether to make the payment necessary to have their compensation for days off without pay included in their average final compensation. It still leaves it where there would be no cost to the state. Thank you.

Subsequently, **House Amendment "A" (H-517)** to **Committee Amendment "A" (H-441)** was **ADOPTED**.

**Committee Amendment "A" (H-441)** as Amended by **House Amendment "A" (H-517)** thereto was **ADOPTED**.

Representative **TREADWELL** of Carmel **REQUESTED** a roll call on **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-441)** as Amended by **House Amendment "A" (H-517)** thereto.

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 Passage to be Engrossed as Amended by **Committee Amendment "A" (H-441)** as amended by **House Amendment (H-517)** thereto. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 177**

**YEA** - Adams, Annis, Austin, Barstow, Bennett, Berry, Berube, Blanchette, Bliss, Bowen, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Craven, Cressey, Cummings, Curley, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Greeley, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, 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, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

**NAY** - Courtney, Duprey B, Kaelin.

**ABSENT** - Andrews, Ash, Bierman, Bowles, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Grose, Ketterer, Maietta, Marraché, McKenney, Moore, Peavey-Haskell, Tardy.

Yes, 132; No, 3; Absent, 16; Excused, 0.

132 having voted in the affirmative and 3 voted in the negative, with 16 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-441)** as Amended by **House Amendment "A" (H-517)** thereto and sent for concurrence.

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

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**SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-180) - Committee on LABOR on Bill "An Act To Allocate a Portion of the Reed Act Distribution of 2002 To Use for the Administration of the Unemployment Insurance and Employment Services Programs"**

(S.P. 521) (L.D. 1552)

TABLED - May 21, 2003 (Till Later Today) by Representative DUNLAP of Old Town.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (S-180)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 28, 2003.

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**HOUSE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (H-174) - Minority (5) Ought Not to Pass - Committee on LABOR on Bill "An Act To Assist Seasonal Workers with Workers' Compensation"**

(H.P. 992) (L.D. 1350)

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

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. The bill we are voting on now we have already gone through a full debate on it. What this bill is going to do is increase the weekly benefit amount for any person who is a seasonal worker who gets injured on the job. Instead of dividing that individual's salary for the preceding 52 weeks by 52 weeks, it will divide his salary for those weeks worked during the previous year. In other words, if he worked 28, 29 or 30 weeks, his salary would be divided by that number of weeks work, effectively inflating the workers' comp benefit, potentially to more than the individual actually earned during the previous year. It is not a good precedent for the system, I don't think, and I would urge that you vote against the pending motion.

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

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

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

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to clear up something about this bill. This does not affect all seasonal workers. Some time ago forest workers were included as defined seasonal workers regardless of the number of weeks they worked. These are forest workers and certain agricultural workers. At times loggers were provided in addition to their weekly pay or their pay by the cord were provided chainsaw allowances, mileage allowances and a lot of other things. It made practitioners of worker's compensation, like myself, it gave us a very difficult time computing the average weekly wage. The Legislature responded by deciding that all forest workers would be considered seasonal workers. Under the statute, a seasonal worker, as defined by Section 102 of the act, is a worker who does not normally work more than 26 weeks a year. That makes them a seasonal worker. Foresters in those days may not have worked typically more than 26 weeks per year. They do now. Times have changed. They no longer receive a chainsaw allowance,

because they no longer use chainsaws. They are now primarily, some 1,500 to 2,000 of them, are now operating large harvesting machines and they are working a good bit more than 26 weeks per year. Typically even with a bad mud season, a logger will work 40 weeks a year.

What is the difference about seasonal workers? A seasonal worker chooses to only work six months out of the year. If his average weekly wage were normally divided, his workers' compensation rate would be higher than it should be. In fact, the way a seasonal worker compensation rate or his average weekly wage was determined is that his 26 weeks of work is divided by 52, a full year. His compensation is based on that lower average weekly wage. There is no reason in the world why a forester or logger who works 40 weeks out of the year should have his gross earnings divided by 52.

That is what happens when he is a seasonal worker. It is artificially lower. If his average weekly wage were divided by the actual number of weeks worked, that would represent a fair representation of his average weekly wage. That is not the case these days. Just because you are a forest worker or an agricultural worker, you are automatically classed to be a seasonal worker. You work 42 weeks a year. When you are injured, your average weekly wage is determined by dividing by 52. That artificially lowers your average weekly wage, lowers your compensation rate and basically is unfair.

All this bill does, doesn't change the status of seasonal workers. A seasonal worker is still one that works less than 26 weeks. All it does is remove the logger from that statutory definition of seasonal worker. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I think what we have here is an unintended consequence again. We have several agricultural operations around the state which are considered seasonal. For the purposes of workers' compensation insurance, they are exempted if they have fewer than six employees or the accumulated hours worked is less than 240 hours a week. This bill is going to bring those seasonal workers under the rules of the bill so that their workers' comp would be computed the same way as these forestry workers that we are talking about.

In other words, they would receive an inflated workers' comp benefit based on the seasonal work they are doing.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. All the other workers in the state would have their average weekly wage computed as follows. Let me read to you the section that applies to everybody else. "The average weekly wage of an injured employee means the amount that the employee was receiving at the time of the injury for the hours and days constituting a regular full working week in the employment or occupation in which the employee was engaged when injured, if that is employment or occupation had continued on the part of the employer for at least 200 full working days."

Basically if you are figuring on a five-day week for 200 full working days, it was 40 weeks, anywhere else, any other occupation except for logging or agriculture. If you work that much, they will look to see what you are earning in a full week at the time you are injured. We do something special for loggers and for agriculture. We say that no matter if you are seasonal, if you work more than 26 weeks, this bill does not affect seasonal computations in the real sense of the word. If a person works 26 weeks or less, they are going to have their earnings divided by 52. We have done something special for loggers and those

people working longer than 26 weeks in agriculture. We said that we are going to divide your average wage by 52, no matter if it is 40 weeks, 30 weeks, 48 weeks, 45 weeks or whatever. We will divide it by 52 and we will give you less than we give someone else working as long as you do in the state. That isn't fair. It isn't right. There is no reason for it. There was a reason in 1989, apparently that swayed some people. In 1989 there were a lot of injuries in the woods. Since then the injuries have come down dramatically. It used to be for people working in the woods, 17.1 people per hundred were injured. Now it is down to 4.3. The injury rates have come down dramatically. It is time to give these people the compensation with workers' compensation like the rest of the state. We don't need second-class treatment for the people working in the woods, nor should it be in the agriculture industry.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to say, as was mentioned earlier, 1989, this special exemption was put in for people who worked in the logging industry. This bill is not something new. It is the way it used to be. At that time some of the workers' comp rates were as high as 48 percent on a dollar. The reason they were that high is because there were a lot of injuries. The industry wanted people to work on a production basis. As the rates dropped, it created a hurry up mentality where people cut corners and consequently got hurt because of it.

With the exemption in 1989, people that originally were making \$600 a week, if they did get injured, they made \$400 a week on workers' comp. Most of these people are getting around \$200 a week. It is \$200 that you should be grateful for, but if you have a life that you are used to making \$500 or \$600 a week, a family that is counting on you for that and all of a sudden you do get injured, the \$400 was going to be hard enough to make it on, but then you go ahead and cut that in half again to \$200. I have seen a lot of men that were seriously injured and didn't want to be on workers' comp and because of this low rate had to go back to work while they were still injured and made it even worse.

I can tell you that I have never been on workers' comp in my life. I have been working in the woods for 14 years, I believe. I have never been on workers' comp. I am not trying to get a free ride, but I do see this as something that is very unfair. For construction workers you take an estimated amount. They are not covered like that. If they work 45 weeks, they figure out their benefit on 45 weeks. You turn around and you take that same estimator and start building roads in the woods and they call you a forestry worker, well all of a sudden you are seasonal. There are all kinds of industries that are like that. If we are going to count hours and days and all that, well you take 200 weeks at 40 hours and that is full-time, but you take loggers that maybe work 60 or 70 hours a week and do that for 40 weeks, he's seasonal. I am sure the hours are going to add up in his favor that he has probably put in more hours in more days in a year than the person that is full-time. In 1989, workers' comp rates were awful high. I am not going to blame that on the loggers. I am going to blame that on the industry. They decided to fix that so that people that did get hurt wasn't going to get a benefit that they should have had in the first place.

I would ask you to support this. I think now with the way that the logging industry is, it is mechanical harvesting. People are inside the enclosed cabs. There has been a lot of education already. There is nowhere near the people getting hurt. I can go out today and get workers' comp at 10 percent now. It is because of the change in the industry. There are still, every once

in a while, someone that does get hurt. I feel it is extremely unfair for an occupation that has been in this state for 150 years to turn around and call that seasonal. It is the mainstay of a lot of people. There have been many times in my life that I have worked three years continuous. Because it was something that was going to save money in an extremely tough time, they found a way to call full-time workers seasonal. I would ask you to correct that problem today. It is not the doom and gloom that some people might make it out to be. Thank you Mr. Speaker.

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. In response to the Representative from Carmel, Representative Treadwell, he made a valid point and I would raise a concern about agricultural employers with six or fewer employees. There is an exemption in the act, Section 401, that allows those employers to opt out of the Workers' Compensation System. They have to buyout employer's liability policy, but nonetheless they can opt out. This has no impact on those employers at all. The agriculture exemption for the employers who elect to opt out of workers' compensation is still in place. This does not affect those.

One final point, if, in fact, the logger, forest worker or agricultural worker we are talking about only works 26 weeks a year typically or less and is injured, he is still going to be treated as a seasonal employee. This is only going to come into place if they work over 26 weeks a year. Thank you.

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

Representative **HEIDRICH**: Mr. Speaker, Ladies and Gentlemen of the House. During our committee debate there was quite a bit of discussion on this. I just wanted to let you know that the deputy superintendent of insurance is opposed to this bill. He was in opposition.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. I would also like to say that obviously this was my bill or is my bill. It was my intent to correct the problem in the logging industry. The Potato Board and John Olsen of the Farm Bureau approached me on it. They thought there was something that would hurt the agricultural industry. It was never my intent to do that. We worked with them and came up with an amendment that I believe both of them thought was okay. It was a logging bill and that is all it was intended to be. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Bath, Representative Watson, is correct. Agricultural employers can opt out provided they have fewer than six employees and their accumulative work hours are less than 240 hours a week. Most of the larger employers of the State of Maine exceed that limit and therefore they can't opt out and therefore they are going to be subject to this law.

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. 178**

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

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

ABSENT - Andrews, Ash, Bowles, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Goodwin, Grose, Ketterer, Maietta, Marraché, McKenney, McLaughlin, Moore, O'Brien L, Peavey-Haskell, Perry J, Tardy.

Yes, 63; No, 69; Absent, 19; Excused, 0.

63 having voted in the affirmative and 69 voted in the negative, with 19 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Representative RICHARDSON of Brunswick moved that the House **RECONSIDER** its action whereby the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

On further motion of the same Representative, **TABLED** pending his motion to **RECONSIDER** whereby the Majority **Ought to Pass as Amended Report was NOT ACCEPTED** and later today assigned.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-520)** on Bill "An Act To Restrict Fingerprinting of Educational Personnel to New Hires"

(H.P. 667) (L.D. 890)

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

GAGNE-FRIEL of Buckfield

DAVIS of Falmouth

FINCH of Fairfield

CUMMINGS of Portland

NORTON of Bangor

MURPHY of Kennebunk

THOMAS of Orono

FISCHER of Presque Isle

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

Signed:

Senators:

MITCHELL of Penobscot

BRENNAN of Cumberland

Representatives:

LEDWIN of Holden

ANDREWS of York

**READ.**

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

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Ledwin.

Representative LEDWIN: Mr. Speaker, Ladies and Gentlemen of the House. I just would like you to notice that I am on the other side of this. I would like to give my reasons why. There are only one-fifth of the school personnel who will still be fingerprinted. Four-fifths of the school personnel in Maine have already gone through fingerprinting and those people did it willingly knowing that they were helping protect the children.

It seems to me that we are not giving them very much respect when we cancel what we have and do just new hires. I would like you to know that 41 states have an active legislation requiring fingerprinting. The fingerprinting has become the national standard. Fingerprinting provides the most accurate, least costly method of conducting both Maine and interstate criminal records. Without fingerprinting, a background check is typically conducted with a name and date of birth. This method allows for inaccuracies because it is dependent on the information supplied by the applicant. Interstate checks are costly and time consuming because it involves contacting each state to determine whether a conviction history exists. This method also allows for possible inaccuracies. Before you vote for this, I would just like you to think about the history of the fingerprinting bill as we know it and remember those who have already gone before us and complied. Thank you.

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

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. As we approach somewhat trepidatiously this long and arduous debate, let me just briefly explain the rational for the overwhelming majority of the Education Committee members who believe that Maine teachers are not criminals. They ought to. We believe that we ought to have applied a more thoughtful and intelligent method of making our children safe. If we had done so, we wouldn't have been in this quagmire that we are now in.

At the fundamental core of this debate is a very ill founded assumption that the less free we are, the more safe we are. Let me tell you, ladies and gentlemen, I strongly believe that our safety in this country emanates out of our freedom in this country. What you have in front of you is an intelligent thoughtful approach to the problem. It balances what has become a statewide insult to some of Maine's best employees with a need to appropriately secure safety for our children. This bill says that if you are a new applicant to the Maine teaching profession, you will be screened. You will be fingerprinted if you are a new applicant, whether you are from out of state or in state. Suspicionless fingerprinting of those who have proven year after year after year that they are not only worthy to be with Maine kids, but they have proven excellence in being with Maine kids, those individuals will be free. You might argue, as Representative Ledwin has argued, that many Maine teachers have been fingerprinted. In fact, several thousand have not been, about 20 percent have not been fingerprinted at this time.



This is an opportunity for this Legislature to make an important statement to Maine teachers, Maine school employees, that we respect their work, we trust their work and more importantly, if they had violated the trust, then let the people who directly supervise them, their local communities, their administrators, be the one to make the decision about whether or not they have violated that trust. Let us not create a society in which we have to assume that everyone must be tracked by data, not based on what they are worth, their integrity, their character, but instead they must be tracked on an automatic suspicion. We have done great damage in this state. You have an opportunity to switch something around.

If you care about child abuse, then fingerprint stepparents. That is where 90 percent of our child sexual abuse occurs from parents, stepparents and friends of the family. In fact, Maine teachers who may be under 1 percent of the problem are the most likely profession to report potential child abuse. If you want to do something smart, let's think about where we have inappropriately implemented a policy that has become a statewide insult and time for us, no matter how late, for us to change it.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. This is a compromise bill. I have a bill to completely abolish it, but this is a compromise. This gives background checks to new hires. I agree with everything Representative Cummings has said. I won't repeat that. It has cost a lot of money, \$3 million. We have a financial crisis. It gives a false sense of security, but at least this way it is a compromise. The people coming in, new to the system, will be fingerprinted. I don't think that makes kids any safer, but nevertheless it was a compromise. Eventually down the road you will have everybody fingerprinted if that is your desire. This gives the teachers and the bus drivers and the people who work in the cafeteria a little bit of light. I really believe, as Representative Cummings has said, this has been an insult to the people who work for the public school system. If you do new hires, you will have everybody eventually. Let's at least compromise. We couldn't settle this in the 119th Legislature. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House. As Yogi Berra once said, "It is deja vu all over again." We apparently are back to square one, almost exactly where we were two years ago. The only major difference is the number of school personnel who have already been fingerprinted. Two years is enough time to weigh the pros and cons of this controversial fingerprinting law. It is time to submit the fingerprinting law to a scorecard to be assessed by solid multiple criteria. The law was enacted to prevent pedophiles from working with children, focusing especially on teachers because they have daily opportunities to abuse children. How many of these pedophiles has fingerprinting detected? We don't know, because of the secrecy clause in the statute. Only the Commissioner of Education and certain Department of Education personnel know. I suspect that any discovered sexual abuse, if any, are few in number. No more than the .5 of 1 percent that existed before the law was passed. The fact that DOE unilaterally expanded the list of past abuses or infractions leaves me to conclude that the Department is not finding too many cases of child abuse and has to justify its comprehensive fingerprinting program by adding on street violations, protesting

or violating a city curfew some 25 years ago. The department's disingenuous interpretation of the fingerprinting statute gives it its first failing grade. The cost of this misguided and misapplied statute, the costs are considerable. Besides the \$3 million plus already expended in fingerprinting school personnel, the state has suffered the following losses.

First, over 70 teachers, most of them experienced, and among the very best, including the Teacher of the Year whose only crime was strong belief in their constitutional rights and their revulsion of statute that would deprive them of those rights.

The second loss, the high quality of education that these teachers would have provided to their students. I heard that expressed by school boards across the state.

Third loss, the trust between teacher and students that is essential for effective teaching. This was allowed to be eroded by putting a cloud of suspicion on school personnel.

Fourth loss, the loss of innocent teachers whose reputation is ruined by unscrupulous accusers and held by this statute. Just in the last year, two young men were falsely accused and later to be found innocent, but their reputation is tarnished and probably destroyed.

Fifth loss, the reputation and good standing of the teaching profession, clouded by an assumption of sexual abuse of students, reversing the most revered abilities of the judicial system, innocent until proven guilty.

Sixth loss, the reputation and credibility of the Department of Education itself, now considered an arm of the law enforcement agencies and the Attorney General's Office by a growing number of teachers.

Again, the fingerprinting statute gets a failing grade, resulting in serious, negative consequences. The fingerprinting statute has seriously compromised the future of education in Maine. Combined with the demands of the learning results and the further imposition of the federal program, No Child Left Behind, the teaching profession cannot afford to have competent teachers resign or retire early or have potential great teachers never get to teach because of the onerous legislation that demeans and devalues the work of educators.

The fingerprinting statute gets another failing grade for its impact on the future of education in Maine. The fingerprinting statute was born in a climate of criminalization and erroneous thinking that existed before 9-11. I think it went like this. If one pedophile exists, then many more must be lurking out there ready to find some innocent children, somewhat like the weapons of mass destruction that we are looking for in Iraq. We are spending a lot of money on very little substantial evidence.

The strongest argument that fingerprinting advocates can muster is, if the law prevents one child from being abused, then it is worth all the money and a tax on a whole group of people and the dilution of their constitutional rights.

I am not by any means demeaning the severity of sexual abuse on children. If we use the same argument in other areas, we would take most drivers off the road, enact stringent gun laws that would erode responsible hunter's rights, restrict TV to Walt Disney Productions or public TV offerings on and on, for there in lies the potential of physical and mental abuse.

Furthermore, we would install monitoring devices, 1984, to spy on all parents and relatives for the sexual deviation of the few. Some have said today that to stop fingerprinting now would be unfair to those school personnel who have already been fingerprinted. This is like keeping the war going out of fairness to those who have already been killed or wounded, no matter how many lives could be saved by ending an unjust war.

Twice in the last few years this Legislature has voted overwhelmingly in true bipartisan fashion to curb the

fingerprinting of school personnel, only to have our efforts thwarted by the veto of the Chief Executive. Is that any reason to give up the fight because of failed and unjust policy? No. It is time to do what is right. Vote out or limit this most divisive and unproductive of statutes. Vote for the right of children to have teachers who believe in our constitutional rights and who have the courage to speak out against abuse. Vote for this fair compromise vote for LD 890. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DUNLAP**: Thank you Mr. Speaker. My first question is, I heard some discussion about the fiscal cost of fingerprinting of school personnel. If we have 20 percent of our school personnel who have not yet been fingerprinted, my question would be, what would be the state's fiscal liability if even one of those 20 percent turned out to be a violent sexual predator who could have been thwarted by a statute such as this that we are talking about repealing? We are not talking about repealing. We are talking about amending, which leads me to my second question. If the current statute so horrifically delimits and exfoliates the tree of liberty, then why is it okay for new hires?

The SPEAKER: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I will speak to the second question first. No, I won't. I remember the Speaker once saying to me, "Please don't help me." I guess I am not going to help you on this occasion.

I would like to address this issue just for a moment and why I have always been opposed to his policy. Across our history when a group of people have been fingerprinted, the courts have ruled that it is reasonable to fingerprint someone in a business like real estate or brokers. The reason why it is constitutional and it is reasonable is because it is at the time of hire. Our history has shown that at the time of hire our courts uphold that. This is a different case. This is a state government saying to an entire group of people, 50,000 people, that you are going to be fingerprinted or you are going to lose your job. That is where I believe government overstepped its responsibilities. I think it is reasonable to say to someone when you go to work for somebody, especially with children, that it is reasonable to have a fingerprint and background check. I don't believe it is reasonable to say to someone who has served in the education system for 20 years that you are going to give up your 20 years in the school system or be fingerprinted. That is exactly what this policy does. That is why I have always had a problem with it. That is why I hope that we, today, make a statement for those people who resisted this infringement and amend this law. Mr. Speaker, when the vote is taken, I request a roll call.

Representative **TRAHAN** of Waldoboro **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 Orono, Representative Thomas.

Representative **THOMAS**: Mr. Speaker, Men and Women of the House. I want to actually address a point that was made first thing in this debate. It was made by the good Representative from Holden, Representative Ledwin. I want to do that by telling you a little bit, briefly, about myself. Six years ago I was a

freshman at the University of Maine. I wanted to be a teacher. I wanted to teach somewhere in Maine. I wanted to teach Spanish. I only lasted two years in the College of Education. I would be lying if I stood here and told you that the reason I am not a teacher today is because of the fingerprinting law. I would be lying just as much if I said it wasn't a factor. It was one of many factors, but it was a factor.

I made that choice not to teach. The problem is so many other teachers in the middle of their careers or at the end of their careers, wherever they may have been, weren't given that choice. They weren't given the information ahead of time. I think that is where the fundamental difference lies. I guess the point of all this is that we are not like other states. We are actually more restrictive than other states. We require current personnel to be fingerprinted. As you will see, I don't have it before me, but on a piece of paper that was distributed by the good Representative from Portland, Representative Cummings, we are more restrictive than any state in the northeast. Even if this were to pass we are still at least as restrictive because we have already fingerprinted 80 percent of our current personnel.

I keep hearing, think about the children. I am thinking about the children. I am thinking when we don't fingerprint those several thousand people who have yet to be fingerprinted, we should use whatever money or time that we save, whatever trivial amount that is and go after the real problem here, which is the 99.5 percent of the other sexual abuses that happen and not waste a million dollars a year going after this one. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Here we go again. Those of you that are here for your third term, third time to vote on this and discuss this. Nothing has changed for me. We just did a bill earlier about shortage of teachers in certain areas. Let me give you some quick reasons why you may not want to be a teacher here. We changed the retirement system in 1993. You now must, even though all of the statistics say you will make about five different career choices in your life, stay until you are 62 in classroom. I suggest you try visiting a classroom at the age of 54 and you will find that those eight years seem a long ways away. It says that if you retire early you will take a 6 percent penalty. Fifty-five is an age that a lot of people let you retire. Fifty-five to 62 is seven years times 6 percent, even though math wasn't my major, I would say that is 42 percent of your retirement lost forever, because you chose to retire at 55. On top of that, you will never get a COLA, cost of living increase, because of this.

On **POINT OF ORDER**, Representative **MUSE** of Fryeburg asked the Chair if the remarks of Representative **SULLIVAN** of Biddeford were germane to the pending question.

The Chair reminded Representative **SULLIVAN** of Biddeford to stay as close as possible to the pending question.

Representative **SULLIVAN**: Thank you Mr. Speaker. I certainly will Mr. Speaker. I am just unsure why talking about fingerprinting is not part of this. I do not understand that, except maybe the good Representative from Fryeburg didn't hear me.

Here we are three terms later and the reason we say, why can't we get teachers to stay here? Why do we have to change the standards? You can go along with the retirement system, the lack of pay raises because there is no money in the state and there is no money at the local level either. No child left behind, 1,200 paid examples for us and we are the largest social agency going within the schools. On top of that we say to teachers now, you are guilty until proven innocent. That turns us right back on why we are sitting here. It is the exact opposite of why we are sitting here. We were promised that there was the technology

available and they would only be looking for domestic abuse and child molestation. No, we have some teachers in small communities, because when they were in college they actually dared to protest government, the Vietnam War in fact. They dared to protest. They ended up being reported back that they probably aren't fit to teach, because our technology was not we was promised. I know that for a fact.

In the past few weeks we talked about privacy. We shouldn't give our social security number out. Let me tell you about privacy. Privacy is standing here or being in a classroom and teaching the Constitution and finding out that those teachers are insulted by having to prove that they are innocent. That is wrong. Because it has happened for 80 percent, it doesn't make the last 20 percent okay. Because something has happened for five years, doesn't make it okay. In fact, the United States of America decided that was true when we went to Iraq. It is not okay just because we have done it so let's continue.

You want democracy, let's start in our classroom with teachers. You want privacy, let's let fingerprints for either all Americans, they were when I was a child, or for those who know about it before they are hired. For many people in this room it is obvious that this is not important. I question if there is even a quorum here. It is boring without a doubt, but to the teachers who teach your children and your lack of support and interest in this sends messages. It is really sad that the democracy here cannot work because we do not believe you are innocent until proven guilty. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative LESSARD: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to try and convince any one to vote either way on this. I have heard the rhetoric involving a stigma because you are being fingerprinted. Well, let's face it, the only positive identification you have is your fingerprints. If you are going to run a background check on an individual, you need their fingerprints. I can show you ways of how people can get out of things showing up on their record. I was in administrative in the police department for a long time. All were fingerprinted at one time when they became police officers. Some went through the polygraph, psychological examinations. Every once in a while you would have an opening in the department and when you wish to fill that opening with perhaps a qualified individual, time and time again qualified police officers already on someone's payroll would apply. After their first interview, I would indicate that all members here will be polygraphed. Needless to say not many showed up again. Why is that? We are all human. We are all susceptible to things in our lives that nobody knows about. Policemen are no different than teachers. I hold the highest esteem for the teachers in our society. They work long hours, short pay, but my concern is that if you are going to do a background investigation, then do it correctly.

I asked the administration what they thought about this fingerprinting. He indicated to me that the school board told me to oppose it. I asked him personally what he felt about it? He said that as an administrator if I have to check the people that work here, includes custodians, cafeteria workers, teachers, everybody connected with the school system, my first responsibility is to those parents of those children that are going to be attending here and to make sure that I do the background and the investigation correctly. That means a set of fingerprints. Any time a record check goes in for an inquiry, lacking fingerprints, they can't tell you if this individual has got a record or not. He indicated to me that I do my homework on it and now the school board has told me to back off. My indication to him was ,

of course my kids are all out of school, but I do have grandkids, the first thing I would look for with an individual who has committed an act in school, why wasn't the investigation complete and done correctly? That includes a set of fingerprints. Lacking that, I have recourse from the legal system. I have recourse. That individual did not take the time to do it correctly. No, we hold our teachers in the highest esteem, but all of a sudden this is something that has been placed on a pedestal. Why not a policeman? Why are our military people placed on pedestals? We are all human, but what is in their background? You don't know that until you check it out. That is the only way you are going to check it out.

Vote your conscience. I will be voting against this bill. The system is going to work. It makes you wonder why some people have not been rehired the second year round after being fingerprinted for whatever reason. Some people have not been rehired. Remember that. I am not going to go into it any further. Please think about the parents, think about the kids. We are responsible for them. Those school people there are responsible for them also. Thank you Mr. Speaker.'

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I would like to respond just briefly to my friend from Old Town. I have been hearing from the teachers here and I think I feel this way, I taught 36 years at Portland High School that when I started there was a covenant between myself and the community. I didn't violate it. I think if any group of the state is to be trusted it was teachers. There was very, very little abuse in the State of Maine. We have a great record. I agree with Representative Sullivan from Biddeford that it is an ex post facto law. You have taught 20 or 25 years, now prove you are not a pedophile. What I fear about all else is we are going to fingerprint everybody and have more pedophiles in the school. It gives a very false sense of security when it is not there. Constant vigilance is the price of having a good school system. The due process was violated. Prove you are not a pedophile over and over and over again. That is why I urge you to vote for this compromise bill. You have proven you are not a pedophile once, that should be enough. They are including other things in this as I understand.

I think for the veteran teachers who are still out there teaching out there day in and day out, you have violated a covenant and they feel violated. If we can do anything at all, let's vote for this bill and get this behind us. Thank you.

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

Representative JACOBSEN: Mr. Speaker, Ladies and Gentlemen of the House. I have worked for a school district for 20 years. I don't mind being fingerprinted. I don't care if they take my fingerprints. I have a clear conscience. Every day I have gone to work I have had a clear conscience. I can tell you one thing, one of the best secrets in my school district is when there is a problem. If you walk down the street and ask somebody if there has been a problem in SAD 57, they would say no. I can tell you that not only in SAD 57, but other districts in my area have had numerous problems, numerous lawsuits, numerous disgrace, and numerous children hurt. If fingerprinting is going to make you lower your head so you can't look at people and you feel unwanted or disgraced, there is something else wrong, especially if you are a teacher. You should be a leader. You should be able to give a little, stand high and look everybody in the face and say, I am clean. I don't have a problem. If there is a problem in my district, I want it found. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative DUDLEY: Thank you Mr. Speaker. The Representative from Portland, Representative Cummings, made reference to the fact that this bill would only delay or do away with fingerprinting for 20 percent of teachers, existing teachers that have yet to be fingerprinted. I was wondering what we have found from the 80 percent that have been fingerprinted? What percentage of them have we found problems with and what types of problems were there?

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne-Friel.

Representative GAGNE-FRIEL: Mr. Speaker, Ladies and Gentlemen of the House. We have an opportunity here and yes, I will answer the question. This already began within four terms since I was here. I want to review that a little bit. In the 118th when I first came here, I was brand new and this bill came through like April or May and all the way through it was bang, bang, bang and nobody thought anything about it. Even the MEA hadn't talked to the teachers about it. I thought that was astounding and I was a new legislator and I hadn't heard it and presently teaching at that time. When they finally heard that summer, you want to believe they were wild. By the 119th we tried to appease them by paying for it. In the 120th, which is the last one, we did pass the new hires bill and that would have been at least 50 percent would have gotten that way. Here we come this year and now I am on the Education Committee so I had the opportunity to ask a lot of questions and that question did come up that you asked. Unfortunately they will not tell us. There is no way that we can get the answer. There is no way that we will ever get the answer because it is supposed to be private. Considering the fact that just two people who basically know this, the ones who get the information back from the police and they may share this with the commissioner. That is about it. No one will ever know. We won't know. The public won't know. The only other one who will find out is the person's whose file they will have returned an answer to and say, no, you are not going to be rehired. There haven't been a slew of cases about it. This is the real thing. They won't even give us a percentage or a general figure. They won't tell us nothing about whether this is working or not. Here we have, finally, an opportunity, at least, to say to the teachers out there and to the personnel that we work with that maybe we do not feel that that is the situation, but if you change your, go to another district, then you get fingerprinted. If you quit teaching because you didn't want to get fingerprinted, but you would like to come back, you have to get fingerprinted.

We are not doing anyone any major favors here. We are finally, maybe, giving some of them the view that we up here in Augusta have heard how you have felt and here is the opportunity now to give you a positive response by just passing this bill and saying new hires. Yes, of those 80 percent, we don't know.

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

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. To respond the Representative Dudley's question, let me just say that it would take a very interesting person to know that they had child perpetration on their record and are convicted and walk in and put their fingerprint down. If they were stupid enough to do that, quite frankly, on that reason alone I wouldn't want them near my kids.

Therefore, the whole issue of aggregate data and can we find the numbers and who did what and is it the bus drivers, maintenance workers, is it an OUI, forgery, domestic violence? Those are not the issues. The issue is, can we create safety and still respect Maine teachers? I believe this bill is the best we have seen on doing that. If we had done that five years ago, we would be having supper now.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Mr. Speaker, Men and Women of the House. I hope we will end this debate very quickly. The real issue is to come. The real issue is whether approve of fingerprinting or not. Let's face it, if we enact new hires in 10 years I am a veteran teacher who was a new hire who has shown my community that I am an outstanding citizen. New hires are going to go on to become veterans like the good Representative from Kennebunk, Buckfield and the many teachers who are here who are known in their community as upstanding citizens who don't need to be fingerprinted. This new hires is simply a ruse. We may as well not even talk about it. The real issue is, do we fingerprint or do we not?

My brother in South Carolina owns a chain of daycare centers. In South Carolina every daycare worker has to be fingerprinted. South Carolina has been rapidly growing. The population has been growing and daycare centers are everywhere. I can tell you every parent I talk to that came through one day when I was visiting was very happy to know that those daycare workers had been fingerprinted. I can tell you today that Maine is no longer an outpost of America. It is part of mainstream America and people are moving in and out of this state as we speak. It must give school boards comfort to know that all the people who are working for them are being fingerprinted.

My son who went to Oregon got a job immediately because he had been working at Dover-Foxcroft and had been fingerprinted. He was a good teacher. He had taught there for five years. He had a job within a very few weeks thanks to the fact that he had been fingerprinted. My other son is a lawyer and my son-in-law is a lawyer. They are married to lawyers. They have all been fingerprinted. My husband is a military veteran. He has been fingerprinted. Yet, I stand here to say that I respect privacy too. I will be voting against new hires. I will be voting to continue the program that we have begun. As I said at the outset of this, the rank and file that I know, maybe they are not the ones you know, I can only speak for my district, have not opposed fingerprinting. What they did oppose was the \$49 they had to pay initially. We clarified that. We paid for that. I think it is time to move on.

In my own district we have had problems. I would hate to think that if there were convictions and these people went on to other places to work in other parts of America that someone there would know what had happened in our district. I think it is a common sense approach to a new America. I hope that you will reject this new hires. How can people stand here and say they are opposed to fingerprinting, but this is a compromise. I respect the person who is opposed to fingerprinting. I hope that you respect me. Let's get on to that issue. This compromise is simply not the way to go. Thank you.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I really believe that LD 890 regarding fingerprinting for our educational personnel and teachers is really the way to go. I believe that fingerprinting only those teachers who are new employees and for personnel and new hires is fair.

It is very fair. I have always thought that. It really, really, truly bothers me that we take good teachers who have taught our children, have been dedicated to our children, who have helped our children and have really devoted their entire lives to our kids. We put our trust and our faith into these teachers and we hope and we pray that they will be good and that they will do the right thing.

My sister and my sister-in-law and one of my best friends are teachers. I have many friends who work in the school system. I know that my sister and my sister-in-law are great teachers. I do take this a little personally. I know how much they dedicate their lives to children.

I believe that our teachers and those that work in our schools devote much of their time in ensuring that our children have the necessary tools in life to prepare them for the future. Why do we always seem to craft laws around those few people who are truly bad actors? They are pedophiles. We also mandate at the same time that our teachers, who have taught our children, who are innocent, must suffer under the same law. I ask that you rectify the situation and please vote in favor of LD 890. Thank you.

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

Representative **NORTON**: Mr. Speaker, Ladies and Gentlemen of the House. I truly was not going to rise on this issue. However, I must because of my good friend, Representative McKee from Wayne. I simply want to make sure where she seemed to be speaking for rank and file. Being a member of the rank and file for 38 years, you do need to know that I do not feel the way she does. In fact, we got some information on our desk today about Maine placing in among the best public schools in the country and yet we have the most invasive personnel policy. Of the New England schools, Maine is the only one that has fingerprinted current personnel. The other New England states either don't require it or have laws around new hires only.

I also want to make sure that you do ponder the fact that teachers are the ones who most report problems, pedophile problems. We are the ones who most report the number of kids who are abused and I feel that I am personally insulted that, although I have reported pedophiles in my life, now I am, in my mind, treated as one.

I simply want to make sure that you don't think that the entire rank and file think fingerprinting is okay. I don't. I urge you to vote for this bill. I see it as a true compromise. It is plain and simple. It doesn't allow reinstatement of any of the people that have gone out or anything. It is clean and clear and just new hires.

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

Representative **DUPREY**: Mr. Speaker, Ladies and Gentlemen of the House. A couple of points to ponder on this particular issue. I know of an individual who had 30 plus years in a school district. Two years ago, a couple of brave junior high girls came forward and released his name. Investigation ensued and this had been going on for several years prior. I ask you, would this fingerprinting have prevented that? I doubt it. Now a question for each and every one of you here in the House, when we were sworn in a few months back, what would your objection have been had we asked to be fingerprinted? Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. When the gentleman from Topsham got up to speak, I listened very carefully. I have a state trooper that sits behind me and I listen very carefully when the good Representative

speaks. He gave the examples of police officers and military. Another Representative that got up that I respect quite a bit talked about lawyers and daycare centers. Indirectly while arguing against this bill, they made a case for the bill. In each and every one of those instances that fingerprinting was done at point of entry, as a new applicant or a new hire.

I don't think the good Representative went to his officers after they had been on the force for 10, 15 or 20 years and said, give me your digits. Let me ink them. I am going to fingerprint you now as you are halfway through your career.

In some of the arguments that we have heard here this afternoon or this early evening are actually, indirectly, arguments in favor of this bill. This has been a long road that we have traveled. I think that many of us in the past originally had worked to repeal it. We felt that it was such a mess and it hadn't started yet that a lot of us very strongly believed that it had to be repealed, step back gather the facts and then look to see if there had to be a modified plan. That is why in the 120th as this program started, several of us worked at a compromise. When we looked beyond the statistics at what was happening in other states, we saw that where that screening occurred, it was at point of entry, when you got our initial certification or when you transferred to this state or when you were a new hire as a non-certified personnel as a bus driver, cafeteria staff or support staff within a school system.

We brought that compromise forward. It passed both chambers with very strong votes. I know the new members are not bound by previous Legislatures. The debate was almost as lengthy as it is this afternoon. The people looked for a compromise. How can we bring reason to this? We came together across party lines and ironically both ends of the hall worked together, but the previous Governor vetoed it. An hour before that veto, Senator Murray and I had met with the Governor. I had tried to make it very clear and Senator Murray was speaking as a spouse of a teacher, that this really is very personal for teachers. It is very personal for the staff involved. Little did we know that the veto message was written already. When it came up 30 minutes after that meeting, there was a paragraph added, different type, strike, that said no way was this veto a reflection upon the profession or any individual. It was there as an afterthought. I think when the two of us were down there, it was probably one of the first times that our previous Governor, previous Chief Executive, had had a face-to-face meeting with people who saw that it was very personal and it was up very close.

This has been a very emotional issue. The last time we debated this, I had indicated that I had had scarlet P on my chest that as far as the law was concerned, I was a pedophile until I proved my innocence. At that meeting I had also told the Governor that probably I was going to retire early. One of those factors was the fingerprinting. I felt very strongly that when laws are passed here, even if you are personally opposed and you have argued time after time, that you need to obey the law. Within weeks of that veto, I went to Bonnie Eagle, waited three hours in line with other teachers and went thought the fingerprinting. I guess because it was so personal for me having been wound up in it for three or four years, he just couldn't get my fingers to work. I was perspiring. I think he thought that we have one here. Look at the palm sweating. Bring the van up. We are going to haul him out of here. Luckily the son of one of our pages, usually assigned to the Governor was there and he came over and reassured me. He took it over and finished it up.

In the hall I had a former student, now an elementary school teacher in Kennebunk come up to me and she had just gotten

finished as well. She said, "I don't know who I am most embarrassed for today, you, me, her?" We both felt that that day.

I listened to the arguments two years ago and I heard arguments that if we don't have any type of screening, then pedophiles are going to flock here from elsewhere. That is why this compromise is before you. If someone has had problems in other states and they apply for certification in the State of Maine, it is just like an initial certification. They have to do the fingerprints and the background check. Someone through the university system deciding to become a teacher, they know that as a condition of certification up front, the fingerprinting and the background check is part of that. In almost every other profession we have heard today, it was with knowledge and at entry or a new applicant, not after you had been at the desk or before the bar or working in daycare 10 or 15 years after the fact.

I think this is a good compromise that has been brought to us. It helps protect our children. It recognizes that we made a mistake.

One other thing that hasn't been discussed here today is that under the current law you have a conditional P on your chest. Once you have gone through the fingerprinting and you have gone through the background check, five years later you have to go through it again and five years later again. It is not only the distress the first time through, but every five year segment that you are up for recertification you have to submit to a background check. You are basically on probation. This new hires repeals that aspect of it as well. I would ask the members of this chamber to come together like your colleagues did in the previous Legislature and send a very positive message in terms of our teaching profession and the men and women who work in our schools.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Ledwin.

Representative LEDWIN: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to remark on a few things that have been said. The first thing is it has been insinuated because I am on the minority side of this report that I believe that Maine teachers are criminals. I do not believe that Maine teachers are criminals. I have the utmost respect for Maine teachers and teachers in any other part of this country. I am a teacher. I am very proud to be a teacher and I am very upset about that insinuation.

Two, this is not a teacher's bill. It is a school personnel bill. We need to qualify that. This is not just about teachers. It is about school personnel.

Three, the reason we don't have numbers or anything is because in the original statute there is confidentiality. We have tried to have that changed and it just hasn't happened, as we all know.

Four, fingerprinting is not unconstitutional. The Maine Attorney General has researched the constitutionality of the fingerprinting of school personnel and he determined that the constitutional precedent clearly permits preventative measures like fingerprinting and background checks as a condition of licensure. Fingerprinting does not violate the employers or the applicant's right to do process, privacy or protection from unlawful search and seizure. 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. 179

YEA - Adams, Annis, Barstow, Bennett, Berry, Bierman, Blanchette, Bliss, Bowen, Breault, Brown R, Canavan, Carr, Churchill J, Clark, Courtney, Craven, Cressey, Cummings, Davis,

Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Hatch, Hotham, Hutton, Jackson, Jennings, Joy, Kaelin, Kane, Koffman, Laverriere-Boucher, Makas, Marley, McCormick, McGlocklin, McGowan, McLaughlin, McNeil, Mills J, Murphy, Norton, O'Neil, Paradis, Patrick, Percy, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Sampson, Saviello, Sherman, Simpson, Smith W, Snowe-Mello, Sullivan, Thomas, Trahan, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Berube, Bowles, Brannigan, Bull, Bunker, Campbell, Churchill E, Clough, Collins, Curley, Dudley, Dunlap, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, McKee, Millett, Mills S, Moody, Muse, Norbert, Nutting, O'Brien J, Perry A, Richardson M, Rogers, Rosen, Shields, Smith N, Stone, Sukeforth, Suslovic, Sykes, Thompson, Tobin D, Tobin J, Twomey, Usher, Vaughan, Young.

ABSENT - Andrews, Ash, Browne W, Bruno, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Dugay, Goodwin, Grose, Ketterer, Maietta, Marraché, McKenney, Moore, O'Brien L, Peavey-Haskell, Pellon, Perry J, Tardy, Treadwell.

Yes, 75; No, 54; Absent, 22; Excused, 0.

75 having voted in the affirmative and 54 voted in the negative, with 22 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-520) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Wednesday, May 28, 2003.

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

#### UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-481) - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act To Repeal the Fingerprinting Requirement for Teachers and School Employees" (H.P. 483) (L.D. 653)

TABLED - May 21, 2003 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT NOT TO PASS Report.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. I didn't realize this was coming up this evening. I probably should have. This is my bill. I thought that the abolition of it would be the best thing. I still do. However, I do realize that schools may be more trouble than when I first started teaching. If I had my wish, I would make public schools more disciplined, as they used to be. I don't know how to do that for 2003. That is what I would do. This is my bill and I urge you to pass it. I will understand if you don't. This originally was in the 119th and it passed the House. We were going to abolish fingerprinting and the Governor vetoed it. Vote your conscience. Thank you.

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

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. The bill, "An Act To Repeal the Fingerprinting Requirement for Teachers and School Employees"

received a majority Ought Not to Pass. I am one of those who do not believe that the full repeal is a wise choice. I strongly supported new hires. I thank people for the previous vote.

In this issue, however, I do think there are people unknown to the profession. Representative Dunlap has asked a very important question. What is the issue with freedom when you still argue that you can screen new hires? My response to that is very simple, the tree of liberty is, in fact nurtured by the soil of freedom of choice. You have the choice to openly and knowingly enter a profession, then you will have the option, you will be fingerprinted. To me, that is a world of difference. It is a constitutional difference between those who have proven their integrity and are not assumed to be guilty. In this case, I would not support and the majority of the committee did not support the full repeal under the assumption that some may, in fact, unproven and enter the teaching profession for the wrong reasons.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I cosponsored this legislation because in the 119th, I totally believed that we should repeal fingerprinting because it was cost effective, the numbers were not there. I did my homework. It was less than 1 percent. Pedophiles were parents, aunts and uncles or neighbors. It was not teachers. I have four grandchildren and two are in the school system. I really researched this before I took a stand on this. It was a terrible message and a terrible thing we did to single out teachers when, in fact, after school they go to Sunday School and we know what has happened since then. It was a terrible message to send to teachers. It is still a terrible message. We can't protect everyone all the time. I still believe this is a good bill. I did not vote for the last bill because I agreed with Representative McKee that if you believe that this is unconstitutional, which I do, I understand we have the Attorney General's decision, I still want to believe in America. You are innocent until you are proven guilty. I believe this goes against everything we believe in. I still will be supporting that thought. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the comments of my good friend from Portland, Representative Cummings, especially in regards to my previous question about the tree of liberty. However, I would dare to remind the member that the actual quote went something along the lines of, the tree of liberty is occasionally nurtured with the blood of martyrs. I guess my question before the body is, which ones, the martyrs who happen to consider themselves martyrs with the sensitivities of what they consider their unalienable freedoms or those martyrs who could be the lives of broken children. I would urge you to accept the Ought Not to Pass report.

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

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. The martyrs, to answer Representative Dunlap's question are the 167 teachers, idealists, who quite their jobs. I met many of them and I thought they were very good teachers. Let's go to supper. I ask for a roll call.

Representative **DAVIS** of Falmouth **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought

Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 180**

**YEA** - Austin, Barstow, Berry, Berube, Bowen, Bowles, Brannigan, Breault, Brown R, Bull, Bunker, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cummings, Curley, Dudley, Dunlap, Duplessie, Duprey B, Earle, Faircloth, Fischer, Fletcher, Gerzofsky, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Kane, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, McGlocklin, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Nutting, O'Brien J, O'Neil, Perry A, Pineau, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Stone, Sukeforth, Suslovic, Sykes, Tobin D, Treadwell, Usher, Vaughan, Wheeler, Wotton, Young, Mr. Speaker.

**NAY** - Adams, Annis, Bennett, Bierman, Blanchette, Bliss, Campbell, Canavan, Clark, Craven, Cressey, Davis, Duprey G, Eder, Finch, Gagne-Friel, Hutton, Jackson, Joy, Koffman, Makas, Marley, McCormick, McGowan, Norton, Paradis, Patrick, Percy, Pingree, Piotti, Rector, Smith W, Snowe-Mello, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Woodbury.

**ABSENT** - Andrews, Ash, Browne W, Bruno, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Dugay, Goodwin, Grose, Jennings, Ketterer, Maietta, Marraché, McKenney, Moore, O'Brien L, Peavey-Haskell, Pellon, Perry J, Sullivan, Tardy, Tobin J.

Yes, 87; No, 40; Absent, 24; Excused, 0.

87 having voted in the affirmative and 40 voted in the negative, with 24 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Provide an Exception to the Laws Governing Fingerprinting of Educational Personnel" (EMERGENCY)

(H.P. 924) (L.D. 1250)

Signed:

Senators:

DOUGLASS of Androscoggin  
BRENNAN of Cumberland  
MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland  
GAGNE-FRIEL of Buckfield  
NORTON of Bangor  
THOMAS of Orono  
FINCH of Fairfield  
FISCHER of Presque Isle  
MURPHY of Kennebunk  
ANDREWS of York  
LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:  
 Representative:  
 DAVIS of Falmouth  
**READ.**

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

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**ENACTORS**  
**Emergency Measure**

Resolve, To Prepare Maine's Students for Active Citizenship  
 (H.P. 333) (L.D. 425)  
 (C. "A" H-239)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 9 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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**Acts**

An Act to Amend the Membership of the Propane and Natural Gas Board

(S.P. 49) (L.D. 126)  
 (H. "A" H-503)

An Act To Create a Uniform Approach to the Determination of Child Support When Parents Provide Substantially Equal Care for Children

(H.P. 189) (L.D. 234)  
 (C. "A" H-499)

An Act To Assist Regional Transportation Providers To Comply with the Booster Seat Law

(H.P. 474) (L.D. 644)  
 (H. "A" H-407 to C. "A" H-161; S. "A" S-226)

An Act To Ensure the Safety of Children Touring Incinerator Facilities

(H.P. 510) (L.D. 693)  
 (C. "A" H-492)

An Act To Amend the Laws Relating to Medical Certification of the Cause of Death and the Medical Examiner Act and To Create the Maine Elder Death Analysis Review Team

(H.P. 885) (L.D. 1211)  
 (C. "A" H-493)

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.

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An Act to Require Disclosure of Retail Prescription Drug Prices

(H.P. 111) (L.D. 102)  
 (C. "B" H-463)

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

On motion of Representative CAMPBELL of Newfield, 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. 181**

**YEA** - Adams, Austin, Barstow, Bennett, Berube, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Carr, Churchill E, Churchill J, Clark, Collins, Courtney, Craven, Cummings, Curley, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Hatch, Heidrich, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Norbert, Norton, Nutting, O'Brien J, O'Neil, Paradis, Patrick, Percy, Perry A, 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, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

**NAY** - Annis, Berry, Campbell, Clough, Cressey, Honey, Joy, Lewin, McCormick, Sykes, Treadwell, Vaughan.

**ABSENT** - Andrews, Ash, Bierman, Browne W, Bruno, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Dugay, Goodwin, Grose, Ketterer, Maietta, Marraché, McKenney, Moore, Muse, O'Brien L, Peavey-Haskell, Pellon, Perry J, Tardy, Tobin D, Tobin J.

Yes, 114; No, 12; Absent, 25; Excused, 0.

114 having voted in the affirmative and 12 voted in the negative, with 25 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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An Act To Establish the Pine Tree Development Zones Program

(S.P. 456) (L.D. 1385)  
 (S. "C" S-231 to C. "A" S-68)

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

On motion of Representative **WOODBURY** of Yarmouth, was **SET ASIDE.**

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

Representative **WOODBURY**: Mr. Speaker, Men and Women of the House. This is a bill that creates a substantial financial obligation to the state for the next 15 years. I feel uncomfortable enacting this without somebody having expressed their reservations on the floor. With your permission, Mr. Speaker, I would like to express that.

There is no question that we need economic development in this state. We need jobs. We need jobs with a higher level of income. The question is, how to do it? I have real reservations about an approach that provides substantial financial benefits to some companies over other companies that may have little or nothing to do with their relative contributions to the Maine economy.

This bill provides benefits to companies that are expanding now over companies that have already expanded. It provides benefits to companies that are hiring new employees over companies that are trying to avoid layoffs of workers that they are already employing. This bill provides benefits to companies that happen to be located on one side of the economic development



zone over companies that may be 100 yards down the street that are just on the other side of the economic development zone. This bill provides benefits to companies who may be in one type of business over companies that may be in another type of business. I believe that all of these Maine companies are contributing importantly to the Maine economy. It seems unfair to me to provide such substantial benefits to some Maine companies over others simply because they meet the specific requirements of the Pine Tree Zones.

I also have reservations about our committing today to such a program that has such large costs for the next 15 years. This is a very long and costly commitment.

These are the reservations I have. I am planning to vote against this bill. I ask for a roll call vote.

Representative WOODBURY of Yarmouth **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. 182**

YEA - Adams, Annis, Austin, Barstow, Bennett, Berube, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Bull, Canavan, Carr, Clark, Collins, Craven, Cummings, Curley, Dudley, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kane, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, Marley, McCormick, McGlockin, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Norbert, Norton, Nutting, O'Brien J, O'Neil, Paradis, Patrick, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sullivan, Suslovic, Thomas, Thompson, Trahan, Treadwell, Usher, Vaughan, Walcott, Wheeler, Wotton, Young, Mr. Speaker.

NAY - Berry, Campbell, Churchill E, Churchill J, Clough, Courtney, Cressey, Davis, Duprey B, Eder, Hutton, Kaelin, Koffman, McGowan, McKee, Percy, Piotti, Sukeforth, Sykes, Twomey, Watson, Woodbury.

ABSENT - Andrews, Ash, Bierman, Browne W, Bruno, Bryant-Deschenes, Bunker, Cowger, Crosthwaite, Daigle, Dugay, Goodwin, Grose, Ketterer, Maietta, Marraché, McKenney, Moore, Muse, O'Brien L, Peavey-Haskell, Pellon, Perry J, Tardy, Tobin D, Tobin J.

Yes, 103; No, 22; Absent, 26; Excused, 0.

103 having voted in the affirmative and 22 voted in the negative, with 26 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act Relating to the Protection of Whistleblowers

(H.P. 1044) (L.D. 1425)  
(C. "A" H-395)

An Act To Change the Time Requirement for Mental Retardation Evaluations

(H.P. 1085) (L.D. 1480)  
(C. "A" H-471)

An Act To Effectively Separate Children's Homes from Adult Residential Care Facilities Regarding Fire Safety

(H.P. 1131) (L.D. 1542)  
(C. "A" H-487)

An Act To Expedite the Drilling of Private Drinking Water Wells

(S.P. 558) (L.D. 1604)  
(C. "A" S-224)

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, Allowing Christy Reposa To Sue the State

(H.P. 536) (L.D. 730)  
(H. "A" H-383 to C. "A" H-356)

Resolve, Directing the Department of Human Services To Enact Rules To Reduce the Health Risks Associated with Latex Gloves

(S.P. 262) (L.D. 767)  
(S. "A" S-225 to C. "A" S-177)

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1198) (L.D. 1619) Bill "An Act To Provide Equitable Treatment to State Employees" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-531)**

(H.P. 1199) (L.D. 1620) Bill "An Act to Amend the Charter of the New Portland Water District" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-530)**

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.

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

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mailhot who wishes to address the House on the record.

Representative **MAILHOT**: Mr. Speaker, Ladies and Gentlemen of the House. In regard to Unfinished Business 12, LD 240, "An Act to Ensure that Maine's Unemployment is Responsive to the Needs of Today's Workforce," if I would have been in the halls of the House, I would have voted yea.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Rogers who wishes to address the House on the record.

Representative **ROGERS**: Mr. Speaker, Men and Women of the House. In reference to Roll Call 159 on LD 798, I was recorded as yea. I intended nay. Thank you.

LEGISLATIVE RECORD - HOUSE, May 27, 2003

On motion of Representative CARR of Lincoln, the House adjourned at 7:14 p.m., until 9:00 a.m., Wednesday, May 28, 2003.