

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

August 21, 2003 – August 23, 2003

Second Regular Session

January 7, 2004 - January 30, 2004

Second Special Session

February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
11th Legislative Day
Thursday, February 26, 2004

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

Prayer by Reverend Richard A. Bamforth, Augusta (retired).

National Anthem by Alena Spanger, John Bapst High School, Holden.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act To Authorize Department of Transportation Bond Issues in the Amount of \$18,250,000 To Match Available Federal Funds for Improvements to and Development of Highways and Bridges; Airports; Ferry Vessels, Port Facilities and Marine Infrastructure; Rail Corridors and Structures; Intermodal Facilities; and Trail and Pedestrian Facilities"

(S.P. 723) (L.D. 1875)

Bill "An Act To Authorize a General Fund Bond Issue in the Amount of \$16,600,000 To Construct and Upgrade Water Pollution Control Facilities, To Remediate Solid Waste Landfills, To Clean Up Uncontrolled Hazardous Substance Sites, To Provide Municipal Stormwater Management Assistance, To Investigate and Remediate Municipal Brownfields, To Construct and Upgrade Public Water Systems and To Remediate Lead Paint in Low-income Households"

(S.P. 724) (L.D. 1876)

Bill "An Act To Authorize a General Fund Bond Issue in the Amount of \$20,000,000 To Sustain and Improve Maine's Economy"

(S.P. 725) (L.D. 1877)

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

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

Bill "An Act To Extend the Deadline for Reconsideration by Boards of Appeals"

(S.P. 720) (L.D. 1872)

Bill "An Act To Amend the Requirements for Status as Publisher of Legal Notices"

(S.P. 721) (L.D. 1873)

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

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

Bill "An Act To Amend the Charter of the South Berwick Water District" (EMERGENCY)

(S.P. 722) (L.D. 1874)

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

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

Non-Concurrent Matter

Resolve, Authorizing Germaine Bell To Sue the State

(S.P. 567) (L.D. 1613)

Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** in the House on January 29, 2004.

Came from the Senate with that Body having **INSISTED** on its former action whereby with the Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS** was **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-360)** and **ASKED** for a Committee of Conference in **NON-CONCURRENCE**.

On motion of Representative CLARK of Millinocket, the House voted to **INSIST** and **JOIN** in a **COMMITTEE OF CONFERENCE** in concurrence.

COMMUNICATIONS

The Following Communication: (S.P. 713)

STATE OF MAINE

121ST MAINE LEGISLATURE

February 23, 2004

Sen. Peggy A. Pendleton

Senate Chair, Joint Standing Committee on Judiciary

Rep. William S. Norbert

House Chair, Joint Standing Committee on Judiciary

121st Legislature

Augusta, ME 04333

Dear Senator Pendleton and Representative Norbert:

Please be advised that Governor John E. Baldacci has nominated Jadine O'Brien of Portland for appointment as a member of the Maine Human Rights Commission.

Pursuant to Title 5 M.R.S.A. § 4561, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

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

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

The Following Communication: (S.P. 714)

STATE OF MAINE

121ST MAINE LEGISLATURE

February 23, 2004

Sen. Neria R. Douglass

Senate Chair, Joint Standing Committee on

Education and Cultural Affairs

Rep. Glenn A. Cummings

House Chair, Joint Standing Committee on

Education and Cultural Affairs

121st Legislature

Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:

Please be advised that Governor John E. Baldacci has nominated Samuel Spencer Gulliver of Blue Hill for appointment as a student member of the Board of Trustees, Maine Maritime Academy.

Pursuant to Public Law 1941, c. 37, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

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

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 715)
STATE OF MAINE
121ST MAINE LEGISLATURE

February 23, 2004

Sen. Neria R. Douglass
Senate Chair, Joint Standing Committee on
Education and Cultural Affairs
Rep. Glenn A. Cummings
House Chair, Joint Standing Committee on
Education and Cultural Affairs
121st Legislature
Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:
Please be advised that Governor John E. Baldacci has nominated Victoria M. Larson of Auburn for appointment as a member of the Board of Trustees, Maine Maritime Academy. Pursuant to Public Law 1941, c. 37, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

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

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 716)
STATE OF MAINE
121ST MAINE LEGISLATURE

February 23, 2004

Sen. Neria R. Douglass
Senate Chair, Joint Standing Committee on
Education and Cultural Affairs
Rep. Glenn A. Cummings
House Chair, Joint Standing Committee on
Education and Cultural Affairs
121st Legislature
Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:
Please be advised that Governor John E. Baldacci has nominated Elizabeth C. Warren of Bangor for appointment as a member of the Board of Trustees, Maine Maritime Academy. Pursuant to Public Law 1941, c. 37, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

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

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 717)

STATE OF MAINE
121ST MAINE LEGISLATURE

February 23, 2004

Sen. Neria R. Douglass
Senate Chair, Joint Standing Committee on
Education and Cultural Affairs
Rep. Glenn A. Cummings
House Chair, Joint Standing Committee on
Education and Cultural Affairs
121st Legislature
Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:
Please be advised that Governor John E. Baldacci has nominated Dale E. Hartford of Smithfield for appointment as a member of the Board of Trustees, Maine Maritime Academy. Pursuant to Public Law 1941, c. 37, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

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

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 718)
STATE OF MAINE
121ST MAINE LEGISLATURE

February 23, 2004

Sen. Neria R. Douglass
Senate Chair, Joint Standing Committee on
Education and Cultural Affairs
Rep. Glenn A. Cummings
House Chair, Joint Standing Committee on
Education and Cultural Affairs
121st Legislature
Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:
Please be advised that Governor John E. Baldacci has nominated Robert Peacock of Lubec for appointment as a member of the Board of Trustees, Maine Maritime Academy. Pursuant to Public Law 1941, c. 37, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

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

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 719)

**STATE OF MAINE
121ST MAINE LEGISLATURE**

February 23, 2004

Sen. Neria R. Douglass

Senate Chair, Joint Standing Committee on
Education and Cultural Affairs

Rep. Glenn A. Cummings

House Chair, Joint Standing Committee on
Education and Cultural Affairs

121st Legislature

Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:

Please be advised that Governor John E. Baldacci has nominated William Bullock, Jr. of Orrington for appointment as a member of the Board of Trustees, Maine Maritime Academy.

Pursuant to Public Law 1941, c. 37, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Bill "An Act To Coordinate Education, Job Training and Employers in Maine"

(H.P. 1399) (L.D. 1883)

Sponsored by Speaker COLWELL of Gardiner.

Cosponsored by Senator STANLEY of Penobscot and Representatives: AUSTIN of Gray, DAVIS of Falmouth, FISCHER of Presque Isle, SULLIVAN of Biddeford, THOMAS of Orono, Senators: President DAGGETT of Kennebec, HALL of Lincoln, SAVAGE of Knox.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

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

Sent for concurrence.

**Pursuant to Statute
Department of Audit**

Representative LEMOINE for the **Department of Audit** pursuant to the Maine Revised Statutes, Title 36, section 1604 asks leave to report that the accompanying Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2004-05" (EMERGENCY)

(H.P. 1398) (L.D. 1882)

Be **REFERRED** to the Committee on **TAXATION** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

ORDERS

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 47)

ORDERED, that Representative Donald P. Berry, Sr. of Belmont be excused Thursday, February 12th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph E. Clark of Millinocket be excused Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Randy E. Hotham of Dixfield be excused Wednesday, February 11th, Thursday, February 12th, Wednesday, February 18th and Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Deborah J. Hutton of Bowdoinham be excused Wednesday, February 18th and Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Mary Ellen Ledwin of Holden be excused Wednesday, February 18th and Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Boyd P. Marley of Portland be excused Wednesday, February 18th and Thursday, February 19th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Lisa T. Marraché of Waterville be excused Wednesday, February 18th and Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Kevin M. Muse of Fryeburg be excused Wednesday, February 11th and Thursday, February 12th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jacqueline R. Norton of Bangor be excused Wednesday, February 18th and Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Julie Ann O'Brien of Augusta be excused Thursday, February 19th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas F. Shields of Auburn be excused Thursday, February 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Russell P. Treadwell of Carmel be excused Tuesday, February 24th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Florence T. Young of Limestone be excused Wednesday, January 7th, Thursday, January 8th, Tuesday, January 13th, Wednesday, January 14th, Thursday, January 15th, Tuesday, January 20th, Wednesday, January 21st, Thursday, January 22nd for health reasons.

READ and **PASSED**.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

John Patrick Conroy, of Portland, beloved husband of Mary McCann Conroy, an outstanding athlete and a well-known and respected teacher, coach and counselor. Mr. Conroy was fondly known as "the Giant," a nickname that represented the esteem in which he was held by both teammates and adversaries during his years of competition in football, basketball, baseball and track. Highly regarded for his athletic accomplishments and for his effective leadership, he was an original member of the Fordham University legendary "seven blocks of granite," one of the greatest lines in all of intercollegiate football history. He was named an Honorable Mention All-American and was elected to the Maine Sports Hall of Fame and to the Fordham University Sports Hall of Fame. Upon his retirement from Portland High School, where he spent 43 years of his life, an award was established in his name. The Award is presented annually to a Portland High School graduate who has been active in athletics, has maintained good grades and has rendered service to the school. Mr. Conroy, "the Giant," will be greatly missed by all who knew him;

(HLS 1007)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator BRENNAN of Cumberland, Senator STRIMLING of Cumberland, Representative ADAMS of Portland, Representative BRANNIGAN of Portland, Representative CUMMINGS of Portland, Representative DUDLEY of Portland, Representative EDER of Portland, Representative MARLEY of Portland, Representative NORBERT of Portland, Representative SUSLOVIC of Portland.

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

READ.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. John "Giant" Grant Conroy, teacher and coach at Portland High School for over five decades, was an all-American football Honorable Mention at Fordham University, 1927-1931. John played left end on the original seven blocks of granite-one of the greatest lines in all intercollegiate football history.

A 1943 movie about John Conroy's coach, Frank Cavanaugh, entitled "The Iron Major" featured footage from Conroy's touchdown catches before 100,000 spectators in New York City.

John taught Math and was a guidance counselor at Portland High for a teaching career that spanned five decades.

Portland High's historian, Peter Gribbin, said, "Everyone knew him. He was one of the most respected people ever to graduate and teach at Portland High School."

Above and beyond the eulogies of this great American who has passed from our lives-I can still see John Conroy in my mind's eye striding down the corridors of Portland High-his exuberant personality was felt by all who came in contact with him. He was a charismatic person full of grace, charm, leadership and power to bring out the best in people.

My father died when I was 15 years old and I came in contact with John Conroy on a daily basis. When I was 23 and began teaching at Portland High School. I have been very blessed in my life to have had two wonderful fathers. John advised me, encouraged, admonished when necessary and gave unconditional support to my life.

William Wordsworth in his "Intimations of Immortality" expresses my feelings: "Feel the gladness of May.
What though the radiance which was once so bright.
Be now forever taken from my sight
Though nothing can bring back the hour
Of splendor in the grass, of glory in the flower;
We will grieve not, rather find
Strength in what remains behind."
When I finally cross the river into the trees of eternity, I hope to see John "Giant" Conroy playing on a celestial football field. I am sure he will be waiting. Thank you very much.

I hope my brief message will express my feelings to John's friends and especially to his wife, May, and daughter, Anne.

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

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

REPORTS OF COMMITTEE

Ought to Pass as Amended

Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Improve the Property Boundary Marking Laws for Purposes of Timber Harvesting"

(S.P. 625) (L.D. 1693)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-385)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-385) AS AMENDED BY SENATE AMENDMENT "A" (S-393)** thereto.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-385)** **READ** by the Clerk. **SENATE AMENDMENT "A" (S-393)** **TO COMMITTEE AMENDMENT "A" (S-385)** **READ** by the Clerk and **ADOPTED**. **COMMITTEE AMENDMENT "A" (S-385) AS AMENDED BY SENATE AMENDMENT "A" (S-393)** thereto **ADOPTED**.

The Bill was assigned for **SECOND READING** Tuesday, March 2, 2004.

Divided Report

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-391)** on Bill "An Act To Support Maine's Franco-American Heritage and the Kennebec-Chaudiere International Corridor"

(S.P. 373) (L.D. 1149)

Signed:

Senators:

CATHCART of Penobscot
ROTUNDO of Androscoggin

Representatives:

BRANNIGAN of Portland
MAILHOT of Lewiston
COWGER of Hallowell
DUDLEY of Portland
PINGREE of North Haven
FAIRCLOTH of Bangor
MILLS of Cornville
O'BRIEN of Augusta

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

Signed:

Senator:

TURNER of Cumberland

Representatives:

ROSEN of Bucksport

MILLETT of Waterford

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-391)**.
READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-391)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 2, 2004.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act To Require That a Directory Listing of a Commercial Toll-free Number Include an Address"

(S.P. 643) (L.D. 1711)

Signed:

Senators:

HALL of Lincoln

YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset

LUNDEEN of Mars Hill

MOODY of Manchester

BERRY of Belmont

GOODWIN of Pembroke

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-398)** on same Bill.

Signed:

Representatives:

FLETCHER of Winslow

ADAMS of Portland

BLISS of South Portland

RICHARDSON of Skowhegan

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

On motion of Representative RINES of Wiscasset, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 1364) (L.D. 1838) Bill "An Act To Provide for the 2004 and 2005 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(H.P. 136) (L.D. 177) Bill "An Act to Ensure that Emergency Medical Help is Available to All School Children and Personnel" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-723)**

(H.P. 464) (L.D. 634) Bill "An Act To Provide Funding for the Maine-Canada Trade Ombudsman" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-722)**

(H.P. 1268) (L.D. 1746) Bill "An Act To Provide Equity in Veterans' Property Tax Exemptions" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-725)**

(H.P. 1293) (L.D. 1771) Bill "An Act Regarding Child Support Collection Practices" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-721)**

(H.P. 1316) (L.D. 1794) Bill "An Act To Expand Maine's Homestead Exemption for the Blind" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-724)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 606) (L.D. 1655) Bill "An Act To Amend Certain Laws Administered by the Department of Environmental Protection" (C. "A" S-390)

(H.P. 1301) (L.D. 1779) Bill "An Act Concerning the Boundary Line of the Town of Unity"

(H.P. 1219) (L.D. 1642) Bill "An Act To Provide an Exemption to the Laws Governing Patient Confidentiality Regarding Certain Former Patients of the Augusta Mental Health Institute" (C. "A" H-719)

(H.P. 1254) (L.D. 1732) Bill "An Act To Honor Maine's First Peoples" (C. "A" H-717)

(H.P. 1261) (L.D. 1739) Bill "An Act To Clarify the Requirements of the Behavioral Treatment Review Team for Persons with Mental Retardation or Autism" (C. "A" H-720)

(H.P. 1263) (L.D. 1741) Bill "An Act To Amend the Information Disclosure Requirements of Some Competitive Electricity Providers" (C. "A" H-718)

(H.P. 1304) (L.D. 1782) Bill "An Act To Provide Residents of the United States with Timber Harvesting Jobs on Land Managed by the Department of Conservation, Bureau of Parks and Lands" (C. "A" H-714)

(H.P. 1325) (L.D. 1803) Bill "An Act Requiring Blood Testing of All Drivers Involved in Fatal Accidents" (C. "A" H-712)

(H.P. 1344) (L.D. 1821) Bill "An Act To Increase the Amount of Restitution Allowed for State and Municipal Fire Service" (C. "A" H-713)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "B" (H-639) - Minority (5) Ought Not to Pass - Committee on LABOR on Bill "An Act To Encourage Workers' Compensation Dispute Resolutions"

(H.P. 438) (L.D. 575)

TABLED - January 29, 2004 (Till Later Today) by Representative WATSON of Bath.

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. I have to say a few words about this bill. First of all, let me explain how the Workers' Comp Board is funded. In the 118th Legislature when I first came here, the Workers' Comp Board had an assessment cap of \$6 million per year. The first session of the 121st, last year, we increased that cap by 25 percent to slightly over \$8.5 million. That money is totally provided by the employer's of the State of Maine. The Workers' Comp Board functions on money that is assessed against all of the employers of the State of Maine. This bill, LD 575, penalizes the employers any time they exercise their due process rights by contesting a workers' comp claim. What it would do is provide a user fee, so called, of \$1,000 that would go into the Workers' Comp System for any case where the employee received any benefit above what was originally offered by the employer. We have a case where the employer is going to pay twice. They are paying for the functioning of the board, number one, and then they are going to pay an additional \$1,000 if they exercise their due process rights. I don't think that is fair. I don't think the employers of the State of Maine frivolously contest workers' comp cases. I would urge you to vote against the pending motion. Mr. Speaker, I request a roll call.

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 Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. This bill seeks to try and reduce the budgets and costs of the system. What we need to know in this case is that the Workers' Compensation Board budget, at the present time, is assessed upon all of the insurance companies, regardless of how much they dispute cases, how well they adjust and resolve their cases. When a case is brought before the board, the first thing that happens is there is troubleshooting. If that doesn't resolve, then it goes to mediation. Mediation is the key to successful resolution of these disputes. Unfortunately the State of Maine, we have a very, very high percentage of disputes that go to hearing. It is at the hearing level that we reach the cost of the advocate system and the cost of the hearing officers. Now, the board budget, that has been presented to us over the last number of years has gone up each year. There is a reason for it. The reason for it is the Employee Advocate Division, which we have created to give representation to employees, the cost of that

system has been increasing every year and you can expect that they will increase every year for two reasons. The first, they represent employees injured since 1992 and the number of those employees goes up every year just as a matter of course. The second reason is we have a high number of disputes, much higher than we should have.

I want you to take a look at the handout you received this morning, the letter of the Executive Director of the Workers' Compensation Board, Paul Dionne. Mr. Dionne indicates again they are running short of money for the Advocates Program. Again, they are not going to have money to fund four positions within the Advocate Program after June of this year. Attached to Mr. Dionne's letter is what he calls an Advocate Summary. Take a look at that because there are some very significant numbers there that show the essence of this problem.

In the year 2000, cases that went to formal hearing were 597 cases. In the year 2003 there were 920. That is an increase of over 50 percent of cases going to hearing. These cases going to hearing require advocates. They cost more. The budget will go up because of that. There is room to put some incentives towards settling cases and that is what we have to do in this case. If this bill is passed, the insurance company that has had a case that has gone to hearing and the insurance company has lost, they will then put \$1,000 into the cost of the Advocate Program. What does this do? It doesn't add more money into the system, it shifts the costs. It makes the insurance companies that are putting more cases to hearing, pay more and losing, pay more. It makes the insurance companies who are settling their cases eventually have to pay less for the cost of the Advocate Program. We need to discourage the unnecessary disputes. We need to shift the costs away from the insurance companies that are reasonably resolving their cases onto the ones that are pushing these cases towards hearing. We have a problem that is going to be with us year after year with regard to the increasing cost of the Advocate Program and it is time to put some disincentives in there so that the insurance companies can have a financial incentive to settle these cases that should be settled. This is the bill. Its time has come. Let's not wait for a crisis. I ask you to vote in favor of this.

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. 309

YEA - Adams, Ash, Beaudette, Blanchette, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hutton, Jackson, Jennings, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McKee, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry J, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Smith N, Smith W, Sullivan, Suslovic, Thomas, Twomey, Watson, Wheeler, Mr. Speaker.

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

ABSENT - Barstow, Bennett, Bliss, Craven, Dugay, Earle, Hatch, Kane, Lewin, Maietta, McGlocklin, McLaughlin, Pellon, Perry A, Shields, Simpson, Usher, Walcott.

Yes, 64; No, 69; Absent, 18; Excused, 0.

64 having voted in the affirmative and 69 voted in the negative, with 18 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.

Joint Order Authorizing the Joint Standing Committee on Education and Cultural Affairs to Report Out a Bill Regarding the Continued Provision of Free and Appropriate Public Education for Eligible Children of Kindergarten Age

(S.P. 680)

- In Senate, **READ** and **PASSED.**

TABLED - February 25, 2004 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - PASSAGE.

Subsequently, the Joint Order was **PASSED** in concurrence.

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

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

SENATE PAPERS

The following Joint Order: (S.P. 738)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, March 2, 2004, at 10:00 in the morning.

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

READ and **PASSED** in concurrence.

ORDERS

On motion of Representative McLAUGHLIN of Cape Elizabeth, the following Joint Order: (H.P. 1400)

ORDERED, the Senate concurring, that the Joint Standing Committee on State and Local Government report out, to the House, a bill repealing certain boards and commissions.

READ and **PASSED.**

Sent for concurrence.

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

SENATE PAPERS

Bill "An Act To Authorize a General Fund Bond Issue in the Amount of \$1,200,000 for the Downeast Institute for Applied Marine Research and Education"

(S.P. 734) (L.D. 1888)

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

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

Bill "An Act To Amend the Boiler and Pressure Vessel Law"

(S.P. 727) (L.D. 1879)

Bill "An Act To Amend the Laws Governing the Loring Development Authority of Maine" (EMERGENCY)

(S.P. 728) (L.D. 1880)

Resolve, Directing the Maine Municipal Bond Bank and the Finance Authority of Maine To Work Cooperatively with the Lincoln Water District Regarding Financing of the District

(S.P. 732) (L.D. 1886)

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

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

Bill "An Act To Ensure Competitive Bidding for Maine's School Systems"

(S.P. 731) (L.D. 1885)

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

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

Bill "An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization"

(S.P. 730) (L.D. 1884)

Bill "An Act To Ensure Disclosure of Prescription Drug Prices"

(S.P. 736) (L.D. 1890)

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

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

Bill "An Act To Amend the Law Governing the Storage of Spirits"

(S.P. 729) (L.D. 1881)

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

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

Resolve, To Reduce the State Valuation for the Town of Lincoln

(S.P. 733) (L.D. 1887)

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

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

Resolve, Directing the Public Utilities Commission To Implement Universal Rural Broadband Internet Access Statewide

(S.P. 735) (L.D. 1889)

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

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

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

On motion of Representative DAVIS of Falmouth, the House
adjourned at 11:20 a.m., until 10:00 a.m., Tuesday, March 2,
2004 pursuant to the Joint Order (S.P. 738) and in honor and
lasting tribute to John Patrick Conroy, of Portland.