

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
 24th Legislative Day
 Thursday, March 25, 2004

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

Prayer by Chaplain Warren Doersam, Waldo County Sheriff's Department, Director of Prison Ministry Vision New England, Belfast.

National Anthem by Donald Lauzier, Saco.

Pledge of Allegiance.

Doctor of the day, Christopher Stenberg, M.D., Cape Elizabeth.

The Journal of Tuesday, March 23, 2004 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships" (EMERGENCY)

(H.P. 1289) (L.D. 1767)

Majority (12) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-771)** in the House on March 19, 2004.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative NORBERT of Portland, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act To Require All Health Insurers To Cover the Costs of Hearing Aids"

(S.P. 359) (L.D. 1087)

Report "C" (2) **OUGHT NOT TO PASS** of the Committee on **INSURANCE AND FINANCIAL SERVICES READ** and **ACCEPTED** in the House on March 10, 2004.

Came from the Senate with that Body having **INSISTED** on its former action whereby Report "A" (7) **OUGHT TO PASS AS AMENDED** of the Committee on **INSURANCE AND FINANCIAL SERVICES** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-394)** in **NON-CONCURRENCE**.

Representative O'NEIL of Saco moved that the House **ADHERE**.

Representative HUTTON of Bowdoinham moved that the House **RECEDE AND CONCUR**.

Representative O'NEIL of Saco **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. This bill would require insurance companies to pay a modest portion of the costs of a hearing aid for a child 18 years or under. If passed, the cost increased for each member of a group health insurance plan would be less than 25 cents a month, the cost of a package of chewing gum. I prepared other remarks in support of this bill, but in reviewing them I realized you have heard both sides of the argument concerning health

insurance mandates this session. Instead, I would like to take this time to tell you about an e-mail I received back in November from the mother of two hearing impaired kids. The gist of it is this, her youngest deaf child is nine years old. A year ago he had the opportunity to test-drive a pair of digital hearing aids for a week. The mother said, "He loved them. It was almost painful to give them back." She went on to say that she later took her son to an audiologist to be fitted. "He was thrilled at the thought of having aids that would belong to him and that the prospect of hearing the world through his own ears." As they left the audiologist's office she was handed a price estimate for \$5,000. "Imagine having to tell this elated child that we would not be ordering the aids unless we could secure funding." She said, and this stopped me in my tracks, "spring, summer and fall have passed and my child is still without these much needed aids." She concluded her letter by pointing out that partial hearing for profoundly deaf children could change their lives. It improves their English and reading skills. It helps with lip reading and makes them more aware of their surroundings that all of us take for granted.

I tried to imagine what it would be like never to have experienced the world of sound, falling rain or music playing or kids laughing and then I tried to imagine what it would be like to have to say to my child what that mother had to say to hers. It occurred to me then that if that mother and her sons lived in Sweden, Norway or France or Germany or Britain or Canada or Denmark or the Netherlands, all countries with universal health care, she wouldn't be struggling to find a way to tell her sons, I'm sorry, we can't afford to buy you a hearing aid. It is not so here, because although we do live in the greatest country in the world today, we still have not found a way to provide access to health care for our people.

I then thought, if we can spend hundreds of millions of dollars to send a robot to Mars to learn whether water ever existed there, if we can spend hundreds of millions on weapons of war to do one another in, if we can give millions in subsidies and TIFS to wealthy corporations and if we can provide hundreds of millions in aid to foreign countries, then why can't we find a way to get every child in our own country the very basics they need to get a good start in life. Why can't we help parents in our own state who want for their children what every child starting out should have and really is entitled to, the chance to learn to communicate with others and to learn the skills they will need to meet life on its own terms and the chance to experience the sweet gift of sound.

Men and women of the House, on behalf of this mother and her sons and on behalf of every parent with a hearing impaired child in the state struggling with this issue, I would ask you to support the pending motion.

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 Phippsburg, Representative Percy.

Representative **PERCY**: Mr. Speaker, Ladies and Gentlemen of the House. I don't know how many of you may know how many deaf or hard of hearing you have in your district. This would be a good fact to investigate. I have deaf and hard of hearing in my district and in my family. Right now we can't find the money to give the Baxter Compensation Fund money. This is one way you can help the deaf and hard of hearing communities. Please support this motion.

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

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I rise just to make sure that everybody is on the same page procedurally. We adopted the Minority Report last

week, which was Ought Not to Pass. I ask that you remain in that posture by defeating the pending motion. The reasons were pretty well set forth in the respective caucuses and I don't mean to delineate all of those again, but bear in mind that the previous speaker, the good Representative from Waterville, Representative Canavan, made a salient point with which I agree. The point we are being asked to decide is whether to engage in insurance benefit design by statute. I maintain the position that that is the wrong thing to do. I ask that you vote red on the pending question. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. You now have in front of you a very emotional issue. When you argue things on emotions, often times you win, but it is not the best public policy. We all know people who need hearing aids, but there are a lot of other things people need also. I understand the costs would be minimal to insurance, to people who pay insurance, there is a lot of other insurance mandates that we can also pass based on emotions. We can get down to the very minute details on insurance mandates. The fact of the matter is, we have one of the most severe health insurance crises in the nation as far as affordability of health insurance. This is another cost on top of that. Why we are looking at \$160 million deficit in the state budget, we are trying to figure things out. We are trying to scale back, because we, as a state, cannot afford everything, just as the people who pay for health insurance can no longer afford their policies.

I know all about the emotional argument on this issue, but I also know about the practicality of what we are trying to do here. We cannot afford any more costs on the health insurance system, just like we can't afford it in our Maine Care programs that we currently have.

Ladies and gentlemen, I ask you to support the chair of the committee on this and vote against the current motion.

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

Representative **HUTTON**: Mr. Speaker, Men and Women of the House. I guess I would like to take it from the emotional realm and put it into the dollars and cents realm. We are not talking about medical costs, but talking about educational costs. What is the cost of educating a deaf child as opposed to one that can hear? What is the cost for the volume of things that you have to have for someone who can't hear as opposed to one who can? If we look at it in terms of we are choosing one method of education over another, we are allowing someone who could possibly hear and participate fully in the world as opposed to one who has to have many different kinds of aids if you can't hear. I guess I pose the question through the Chair. What is the cost to educate a deaf child as opposed to one who can hear?

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I am emotional about this and I make no apologies for it. We are the richest country in the world. It is about where we put our priorities. What do you tell a child who cannot hear that we cannot afford to do this? How do you go back home and tell people that you are not our priority? Like Representative Hutton just said, the cost of not doing it is more expensive. Please support this.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and ask that we go on to continue the posture that we had, which was one

that was good for the business climate and the people of Maine and insist on our previous posture and position of opposed to this bill. Although emotionally compelling, the reality is that Maine people simply cannot afford to have the Maine State Legislature mandate higher insurance costs. The Chamber of Commerce, the NFIB and the business community confirmed to the Insurance and Financial Services Committee what many of us in this chamber already know and that is businesses in Maine are already struggling to pay for insurance for their employees and they can ill afford to have new costs added to which they already pay. We heard a very emotional argument made in support of increasing mandates on these policies, these policies that are issued in the State of Maine. The reality is right now for groups of 20, 10.29 percent of the cost of a health insurance premium is already made up by mandates that the Legislature has enacted. With every dollar that we increase, people drop coverage all together. When people stand up and make an argument in support of adding a mandate, what you are doing is you are making an argument in support of raising the cost of health insurance and contributing to the uninsured. Ladies and gentlemen of the House, I very much came up to do something about reducing the number of uninsured people in the State of Maine. I am not going to do anything to add to their burden and have more Mainers go without health insurance. I feel it is much less compassionate for us to turn around after we have enacted legislation and raise the cost of health insurance. As a Legislature we passed Dirigo Health with the goal of reducing costs and increasing accessibility and access to health insurance for small businesses in Maine. It indeed seems contradictory for us to turn around and increase the costs and reduce affordability and access to Mainers. Please join with me in opposing this measure and support the committee chairman. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. Two thousand years ago in Greece every citizen when he went to court had to argue for himself. There were no attorneys and many countries across the world still have such a system. Every Greek citizen had to learn how to argue. He learned very quickly that there are three important parts of an argument. There is an emotional argument. There is a logical argument and there is an ethical argument. Emotional is first because we are first and foremost human beings. It is the emotional side of me that causes me to stop when I am 30 minutes late already to help someone who is need on the side of the road. The logic would tell me that I really need to be here, but I stop. We make no apologies for being human beings or for being emotional. The logical arguments have also been proposed as well. We know that these same hard of hearing children will cost us more in the long run. That is the logical argument. The logical argument is also that if we do not provide this, only the rich can provide that for their children.

My brother, Boyce, is wealthy. I will be honest with you. His grandson was born with a hearing problem. By the time he was two, he was not speaking. By the time he was three, it was clear that he needed serious help. My brother stepped up to the plate and did what any parent or grandparent would do. He paid for that expensive hearing device. Not everyone can do that. That is logical argument to me. We are all in this together.

Third, ethical arguments, it depends on who is telling you this. My brother can tell you it and you would listen to him much more quickly. That is the ethical argument. A basketball player can tell you about basketball. A nurse can tell you about health. I am a teacher and I realize that I am not the parent and grandparent of someone who is hard of hearing. We have three excellent

arguments to do the right thing here. We can lower health costs by having the plan that we have set up to take place. We can lower health costs by putting in place incentives for health maintenance. We can lower costs by doing something about not allowing the alcohol industry to insinuate itself into every factor of our economy and into our children's lives. We can lower health costs. Let's not strain at a gnat and swallow a camel here. Let's vote for the Recede and Concur.

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

Representative COLLINS: Mr. Speaker, Ladies and Gentlemen of the House. It is very passionate debate we are having here this morning. When we leave session in a few weeks we will all be on the campaign trail for those of us who seek reelection. Last campaign cycle one of the largest most common complaints that I heard from constituents going door to door, I am sure you all have heard it, the high cost of medical insurance premiums. I have constituents at home in my community of Wells that are paying upwards of \$700 to \$1,000 a month for medical insurance. That high cost of medical insurance, the premiums, were much higher here in Maine than in other parts of New England, our neighbors. I feel it is because of these mandates.

I have to tell you honestly, if my child, when I had younger children, needed a hearing aid, I would move heaven and earth to get that child of mine a hearing aid. If it required me to go out and get a second job, I would do that. I think we have to reach a point here in Maine that we can't do everything for everybody. We just can't afford it. We are approaching very soon an almost billion dollar deficit. We have some financial problems here in Maine. The financial burden on households here in Maine, if they want to provide medical insurance for their families, is the high cost of medical insurance premiums. These high costs are created by mandates. This, ladies and gentlemen, is another mandate. I don't feel as though we can afford it. I think we have to step up to the plate and say it would be really nice if the citizens of Maine could afford to do this. If we could, we would do it. A year later down the road, maybe we could somehow integrate that into Dirigo Health. I don't know, but right now we can't afford this. Thank you.

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

Representative MARLEY: Mr. Speaker, Ladies and Gentlemen of the House. I am speaking as a special education teacher at this point. I want to agree with what Representative McKee said about the costs being greater down the road when we don't have children that are employable, have lost educational time and that may be considered by some as an emotional argument, but it is also truly an economic argument. I think the other point should be, and I am doing this from my memory, but this was a three-part report. There was a Majority Report and two Minority Reports. This is Report "B," which if I remember correctly, the good Representative from South Portland, Representative Glynn was a member of that report. It put in mandate language. It wasn't that this was going to be a broad mandate. I may be incorrect on that. I would like some clarification on that. I thought this provided for people to buy the additional insurance to replace a hearing aid. If I am incorrect, please correct me on that. I would like to have some explanation on that.

I will go back to the argument of 25 cents on a policy is certainly worth making sure that a child is able to access their education and go on to be a productive paying, active citizen in the State of Maine. Thank you.

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

Representative O'NEIL: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question, the good Representative from Portland is mistaken. It is Report "B," but it is the majority of the committee, which would be a full-fledged mandate on all health insurance policies.

If I could, I would like to move people off of the costs. Indeed, 25 cents is not much. You won't hear me arguing that we can't afford this. I have always maintained and I have voted for mandates for years that one gets what one pays for when one mandates a benefit. The question is, at what point do we cease interjecting ourselves into that benefit design process, wherein insurance carriers have no incentive whatsoever to innovate. If we hadn't reached it yet, Mr. Speaker, we certainly have now. Again, it is a flat earth debate, the cost of mandates. We all know what the cost of mandates are. They are very clearly quantified. They have been for years. Remember, this would apply to private insurance policies, the state plan too, which cover a fraction of the population of Maine, which would cover a fraction of the kids out there who are in that group, less than 1 percent. The question is, do we interject ourselves into that contractual relationship and do benefit design for the companies. That is where I depart. I would love to be able to cover all things for all people, but in this day and age, Mr. Speaker, let's take a look at where the market is. We are in a market where people are buying higher and higher deductible plans. At first, they didn't like that idea. We didn't like that idea, but it has turned out to be a pretty darned neat force in the market. People are spending their own money. They have skin in the game, as it is called. There is even a mechanism in place that was passed in the Medicaid Reform Act last fall called health savings accounts, which are the wave of the future in health care finance. They provide tax benefits for people and not just rich people anymore, people of moderate and even low incomes can afford and their employers can afford to set aside these health savings account, which one can carry over. They are wealth-building tools, my friends. Those are the appropriate vehicle with which hearing aids should be purchased. That is where we are headed, well, really where we are. To adopt a mandate like this would be like buying a snorkel parka before moving to Costa Rica, Mr. Speaker. Please defeat the Recede and Concur motion.

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

Representative DUPREY: Mr. Speaker, Ladies and Gentlemen of the House. I may be comparing apples and oranges here, but sitting here listening to the debate, I was just wondering, when my son back several years ago needed orthodontist work, we had a policy that took care of that. I am wondering, what is more important? I am not trying to downplay that portion of it, but I think hearing is just as important. I would seriously consider having this program put in place. If I may, I would like to ask a question through the Chair.

The SPEAKER: The Representative may pose his question through the Chair.

Representative DUPREY: Thank you Mr. Speaker. If anyone can answer, I am wondering what the co-pays or whatever are or if this is a full 100 percent, 80/20 plan or just what the percentages are? Similar to orthodontics work, that plan was paid at 50 percent. If anyone could answer that, I would appreciate it.

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

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House. The proposal on "B" actually covers the cost of a

hearing aid up to \$1,400 every 36 months, which would be three years. Those are the limits. That will only cover part of the cost of a hearing aid. It is helping in that.

I would like to pursue this a little bit more being a member of the Insurance and Financial Services Committee and having gone through the discussion on this, there are a number of mandates that we looked at through the years. I do agree with Representative O'Neil that we do have to look at how much we add in terms of mandates. One of the things that I looked at and the reason that this mandate got moved to just those under the age of 18 is this really is about prevention and activities of daily living. We can prevent a lot greater cost to society if a hearing aid can be in place at a young age where learning is crucial and is the basis for what happens in the rest of life in terms of the choices that person will be able to make and in terms of the ability to work and contribute to society and actually be able to pay for those hearing aids later in life.

I really ask that you vote for the motion to Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

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

The SPEAKER: The Representative may pose his question.

Representative **CAMPBELL**: Mr. Speaker, Ladies and Gentlemen of the House. How do we spend 10 hours at the Civic Center totally cutting the Maine Health Care and now we are going to spend hours here debating about putting another burden on the insurance payers of the State of Maine. Thank you.

The SPEAKER: The Representative from Newfield, Representative Campbell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to attempt to answer that question. While a rhetorical one, I do understand the Representative from Newfield's question. What he is asking is, in our budget we, as the State of Maine and the Legislature through the Governor's Office, have proposed a budget that is cutting dramatically health care services. How can we at that time, turn around and require this cost burden on the business community? The answer is very simple. This is the same type of mandate that the Legislature considers for everything through mandates to municipalities and school districts.

The State of Maine government wants to require people to do something, but we are not willing to stand up and pay for it. That is one of the most dangerous things about the mandates that we are looking at. We are saying that this is a good idea, but the Legislature isn't willing to open up their checkbook and pay for hearing aids. You are right, that is very hypocritical that we, ourselves, as a Legislature, don't believe that hearing aids for this population are important enough that we will fund it in our budget. What we do instead is we say it is important and somebody else ought to pay for it. By the way, figure that out. If some of you lose your health insurance coverage altogether, so be it. That is the danger with these mandates and the direction we are going.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to get emotional about this debate today. I just want to point out a few things for members of this body to keep in their mind. I am going to draw your attention to the interpreter that is standing in front of the House today. She is the second one that has been there. Without hearing aids to help our young people in their first

learning curve, which is K-3, and they absorb more in those time periods in school than in any other period in their life. This is going to be an added cost to your local municipality. The good Representative from Portland is right. When we pass a mandate, put your money where you are mandating. We are. Every year the cost of aid to education goes up and it is through programs that the school departments in your municipalities and your SADs have to provide to teach not only visually impaired, but also hearing impaired, learning impaired children. It all adds up to more money on your tax dollar. This program is going to take the very youngest of our children who, through no fault of their own, cannot hear plainly. They do not grasp what is being said in the classroom or in a preschool class. Let's give these children a chance before they enter the school system to be on a level playing field with everyone in their class. In order to learn you need to be able to hear or you have to be able to read sign language. Let's give our children a chance.

I get a little dismayed sometimes when we are talking about mandating to insurance companies. There wasn't too many years ago that some of the insurance companies thought it was so very, very vital to America's health that they agreed to co-pay Viagra. Thank you very much Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **SHIELDS**: Mr. Speaker, Men and Women of the House. I am interested in the actual statistics of the population in which this bill is serving. How many deaf children are there under the age of 18? How many of these are covered by health insurance? How many of these who are under 18 and covered by health insurance have had certifications that a hearing aid is going to help them? Does anybody have the answer to that? What numbers do we have that we are talking about?

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

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. The Record should note that this is my third trip, but the second time in answer to a query. In answer to the Representative from Auburn, Representative Shields' question, the number of insured folks in Maine who would be affected by this private coverage would be 386,000. You have to reduce that number by the number of folks in those plans that are kids. That reduces it even further. You have reduced that to the number of children who are hard of hearing and reduce it even further to number of children who are hard of hearing who will benefit from the use of a hearing aid. What you come up with, we have a study done over the summer from the Bureau of Insurance in conjunction with Mercer, an actuarial firm who does this sort of thing. The best estimate would probably be 180 to 200 kids might benefit from this.

The SPEAKER: A roll call has been ordered. The pending question before the House is Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 355

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Brannigan, Breault, Brown R, Bull, Canavan, Cowger, Craven, Cummings, Dugay, Duprey G, Earle, Eder, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Kane, Ketterer, Lemoine, Lerman, Lessard, Makas, Marley, McGlocklin, McKee, Norton, O'Brien L, Paradis, Pellon, Percy, Perry A, Perry J,

Pineau, Pingree, Piotti, Rines, Sampson, Simpson, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Wheeler.

NAY - Andrews, Annis, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Dunlap, Duplessie, Duprey B, Faircloth, Finch, Fischer, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Landry, Ledwin, Lewin, Lundeen, Maietta, Mailhot, McCormick, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Norbert, Nutting, O'Brien J, O'Neil, Patrick, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Smith N, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Watson, Wotton, Young, Mr. Speaker.

ABSENT - Bliss, Bruno, Bunker, Clark, Daigle, Dudley, Goodwin, Marraché, Mills J, Peavey-Haskell, Sykes, Woodbury. Yes, 54; No, 85; Absent, 12; Excused, 0.

54 having voted in the affirmative and 85 voted in the negative, with 12 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

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

COMMUNICATIONS

The Following Communication: (H.C. 371)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1657 Resolve, Directing the Department of Education To Amend Its Rules Regarding Child Development Services for Children of Kindergarten Age Who Are Not Attending Kindergarten

L.D. 1871 Resolve, To Provide for the Reorganization of the Student Loan Repayment and Forgiveness Programs To Better Meet the Needs of Maine Employers and the Maine Economy

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

Sincerely,

S/Sen. Neria R. Douglass
Senate Chair
S/Rep. Glenn Cummings
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 372)

STATE OF MAINE

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

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 71 An Act to Ban Strikebreakers
L.D. 550 An Act Regarding Employment of Workers' Compensation Board Hearing Officers and Mediators
L.D. 1817 An Act To Notify MaineCare of Workers' Compensation Settlements

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

Sincerely,

S/Sen. Betheda G. Edmonds
Senate Chair
S/Rep. William J. Smith
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 373)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1845 An Act To Amend the Bacteria Standard and Dissolved Oxygen Standard for Certain Waters

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

Sincerely,

S/Sen. John L. Martin
Senate Chair
S/Rep. Theodore Koffman
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 375)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

March 17, 2004

Honorable Beverly Daggett, President
Honorable Patrick Colwell, Speaker
121st Maine Legislature
State House

The Following Communication: (S.C. 529)

**MAINE SENATE
121ST LEGISLATURE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 23, 2004

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it accepted the minority Ought Not To Pass report from the Committee on Inland Fisheries and Wildlife on Bill, "An Act To Permit Small Game Hunting on Private Property on Sunday in Unorganized Territory," (H.P. 308) (L.D. 388).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Pursuant to Statute

Department of Transportation

Representative MARLEY for the **Department of Transportation** pursuant to Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 299: Highway Driveway and Entrance Rules, a Major Substantive Rule of the Department of Transportation (EMERGENCY)

(H.P. 1443) (L.D. 1943)

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

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

Sent for concurrence.

ORDERS

On motion of Representative DUPLESSIE of Westbrook, the following Joint Resolution: (H.P. 1442) (Under suspension of the rules, cosponsored by Senator HATCH of Somerset and Representatives: BARSTOW of Gorham, Speaker COLWELL of Gardiner, GERZOSKY of Brunswick, HATCH of Skowhegan, HUTTON of Bowdoinham, JENNINGS of Leeds, McGLOCKLIN of Embden, PATRICK of Rumford, PINEAU of Jay, PINGREE of North Haven, RICHARDSON of Brunswick, WOTTON of Littleton, Senators: BRENNAN of Cumberland, BRYANT of Oxford, DAVIS of Piscataquis, DOUGLASS of Androscoggin, GAGNON of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF
THE UNITED STATES, CONGRESS AND THE UNITED
STATES POSTAL SERVICE TO MAINTAIN CURRENT
LEVELS OF SERVICE**

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, most respectfully present and

petition the President of the United States, Congress and the United States Postal Service as follows:

WHEREAS, the United States Postal Service, founded in 1775, provides a means for commerce and communications and provides postal services to all communities, rich and poor, urban and rural, with uniform postage rates and it has for nearly 230 years provided dependable, affordable mail service. The United States Postal Service remains an important part of our nation's economic infrastructure through which nearly \$1 trillion of economic activity is conducted each year and in which 9,000,000 people are employed; and

WHEREAS, Americans currently enjoy the most extensive postal service at the lowest postage rates of any major industrialized nation in the world, and excessive below-cost postage discounts to large business and advertising mailers unnecessarily drain billions of dollars of revenue from the United States Postal Service and ultimately cause small businesses and ordinary citizens to subsidize those discounts through higher postage rates. Millions of older, disabled and economically disadvantaged Americans do not have easy access to the Internet or to electronic banking and bill paying and therefore are heavily dependent on the United States Postal Service for communication and the conducting of business transactions; and

WHEREAS, the President created the President's Commission on the United States Postal Service, which has recommended far-reaching changes to postal operations and services, including severing postal employees from federal employee health, retirement and workers' compensation programs, and the repeal of certain existing laws, which would pave the way towards reducing rank-and-file wages and benefits while eliminating the current salary cap on executive-level postal positions in order to raise postal executive pay on par with that of corporate CEOs and the commission has recommended a new President-appointed, corporate-style board of directors and the new Postal Regulatory Board that would give these new politically appointed governing bodies broad authority to set rates without prior approval, review and refine the scope of the United States Postal Service's universal service obligation and uniform rate structure and change and restrict the scope of services currently protected under postal monopoly regulations; and

WHEREAS, this broad authority would allow post offices to be closed without community input and prices to be set with a complicated postage rate structure or would even turn over postal operations to private for-profit enterprises despite a recent survey whose respondents had an overwhelmingly favorable view of the United States Postal Service, with 3 out of 4 saying no major changes are needed and 3 out of 10 saying the United States Postal Service works extremely well as is; and

WHEREAS, replacing the United States Postal Service's public service obligation with a profit-seeking mandate would undermine the United States Postal Service's historical "universal service" obligation, weaken its national infrastructure and divide our nation politically and economically, and here in the District of Maine, the United States Postal Service has unilaterally implemented a cost-saving reduction of hours and access that restricts customer service by curtailing hours; and

WHEREAS, this program has reduced hours of service at over 50% of post offices in Maine, severely affecting customer service, without regard to customers' input and complaints. Maine is a rural state and our elderly and disabled citizens depend on postal services; now, therefore, be it

RESOLVED: That We, your Memorialists, request that the President of the United States, Congress and the United States Postal Service continue to maintain affordable, dependable mail

service at current levels because of its social and economic importance to our nation; and be it further

RESOLVED: That we oppose any effort to undermine the United States Postal Service's universal service obligation and its uniform rate structure, that the service hours be returned to where they were before the report of the President's Commission on the United States Postal Service and prior to the implementation of the Small Post Office Reviews and Standardization Program and that any recommendation from the presidential commission that curtails public services related to our current postal service be rejected; and be it further

RESOLVED: That We, your Memorialists, go on record against any changes that would harm the workers of the United States Postal Service, including legislation to close small offices, take away or modify the collective bargaining system of postal workers or change the current bargaining system for employee benefits; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the Postmaster General, United States Postal Service; the Honorable Richard Cheney, President of the United States Senate; the Honorable Dennis Hastert, Speaker of the United States House of Representatives; and each Member of the Maine Congressional Delegation.

READ.

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on **ADOPTION**.

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

ROLL CALL NO. 356

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McKee, McLaughlin, 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, Trahan, Twomey, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

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

ABSENT - Bliss, Bruno, Bunker, Daigle, Marraché, Millett, Mills J, O'Brien J, Peavey-Haskell, Sykes, Treadwell, Usher, Woodbury.

Yes, 79; No, 59; Absent, 13; Excused, 0.

79 having voted in the affirmative and 59 voted in the negative, with 13 being absent, and accordingly the Joint Resolution was **ADOPTED**.

Sent for concurrence.

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

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 51)

ORDERED, that Representative Philip R. Bennett, Jr. of Caribou be excused Tuesday, March 9th and Wednesday, March 10th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Joan Bryant-Deschenes of Turner be excused Tuesday, March 2nd, Wednesday, March 3rd, Thursday, March 4th and Wednesday, March 17th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roderick W. Carr of Lincoln be excused Friday, March 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative John Eder of Portland be excused Thursday, March 18th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Louis B. Maietta, Jr. of South Portland be excused Tuesday, March 16th, Wednesday, March 17th, Thursday, March 18th, and Friday, March 19th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Elaine Makas of Lewiston be excused Wednesday, March 17th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Gary W. Moore of Standish be excused Wednesday, March 17th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anne C. Perry of Calais be excused Monday, March 22nd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Gary E. Sukeforth of Union be excused Wednesday, March 17th for health reasons.

READ and PASSED.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Financial Institutions from Requiring a Fingerprint or Thumbprint To Complete a Transaction"

(H.P. 1406) (L.D. 1898)

Signed:

Senators:

LAFOUNTAIN of York
DOUGLASS of Androscoggin
MAYO of Sagadahoc

Representatives:

VAUGHAN of Durham
PERRY of Calais
BREault of Buxton
WOODBURY of Yarmouth
O'NEIL of Saco
GLYNN of South Portland
SNOWE-MELLO of Poland
YOUNG of Limestone
PERRY of Bangor

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

Signed:

Representative:

CANAVAN of Waterville

READ.

On motion of Representative DUNLAP of Old Town, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-792)** on Bill "An Act To Improve Subdivision Standards"

(H.P. 1195) (L.D. 1617)

Signed:

Senators:

MARTIN of Aroostook

EDMONDS of Cumberland

SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor

TWOMEY of Biddeford

HUTTON of Bowdoinham

MAKAS of Lewiston

SAVIELLO of Wilton

THOMPSON of China

ANNIS of Dover-Foxcroft

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

Signed:

Representatives:

TOBIN of Windham

JOY of Crystal

READ.

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

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I hope that you have checked both the amendment and the bill, because everything has been taken out after the title. This is a bill that is in complete opposition to the ability of a person to use their own property the way that they would like to. The bill has been yo-yoed back and forth between the Forestry Committee and the Natural Resources Committee. This portion of it wound up in the Natural Resources Committee by mistake. It never should have been in front of the Natural Resources Committee in the first place for the simple reason that it is a forestry issue. You will hear a little bit more later on about the fact that we are putting the bills in place. The rules are being drafted by someone else. I won't go into that right now. It doesn't make any difference how large a parcel you have. If you clear-cut or violate a forestry regulation on a small portion of that land, that whole land is then subjected to these laws, rules and regulations that prohibit any development that might come on that land. I won't belabor the issue, but I hope you will defeat this motion and go on to pass the Ought Not to Pass. Thank you.

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

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House. I wish to speak in opposition to LD 1617 today and

I would like to take just a moment to run over some of the reasons. LD 1617 came about as a result of a Joint Order through the Agriculture, Conservation and Forestry Committee dealing with liquidation harvesting. Liquidation harvesting, the short version, is it is a purchase of woodlands, cutting without an approved harvest plan, more than 40 percent of the timber on a parcel that the harvester plans on selling within a five year period. As a result of this Joint Order there was a working group put together made up of stakeholders and the Maine Forest Service.

The Maine Forest Service worked jointly with a group to establish a road map dealing with the issue. After several meetings there was a semi-consensus, at least, and a conclusion of the working group to set a plan in place. The Maine Forest Service to write rules that would deal with liquidation harvesting and that those rules would come back for approval to the Agriculture, Conservation and Forestry Committee.

LD 1617 creates a problem for me in two areas. The bill sets out criteria that all planning boards reviewing a subdivision application would have to make a determination whether or not a parcel of land had been subject to liquidation harvesting. They would have to establish if the land to be subdivided had been purchased within a five-year period. If it was purchased within a five-year period, had the timber been harvested since the date of purchase? In addition, the optional rules before the Planning Board to review would be to determine if the property falls within any of the exemptions in the Maine Forest Service rules, which are not written yet. The reason I bring this to your attention is that these rules are not written yet, so we are putting the cart before the horse. We are passing LD 1617 prior to the rules being written. I testified in opposition to this before the Natural Resources Committee for that very reason. I also asked before the Agriculture, Conservation and Forestry Committee if anyone knew and if they could find a situation where we had actually passed a law that would have rules written after. Thus far, I still haven't received any indication where that might have been.

As a result of this, it is not that I am necessarily opposed to what LD 1617 does, what I am opposed to is that we are passing a bill without the rules having been written. I am concerned about that. Ladies and gentlemen, you should be concerned about that as well.

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

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

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I would like to point out that the title of the bill in no way goes with what is included in the bill. It is one of those bills that has a title that throws up a smoke screen and actually deals with something else. It also requires that the planning boards adopt a function for which they are not really qualified. The code enforcement officer should be the one who is out there determining whether or not there has been a violation of the law. We also have lots of representatives of the forestry department whose duty it is to go out and check as well. This is a bad bill and to support Representative Carr from Lincoln's position, it should never have been passed. It should never have gone through the committee. Thank you.

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

Representative KOFFMAN: Mr. Speaker, Ladies and Gentlemen of the House. I am pleased to speak on this bill, which achieved a 10 to 2 Majority Report. It achieved that

because it offers a prudent remedy to a well-identified problem. Liquidation harvesting is a timber harvesting and real estate transaction practice that is aimed at short-term profit, but it has many unfortunate consequences for the future management of the forestlands that are the foundation of many rural Maine communities. Liquidation harvesting can have negative affects on forest regeneration and stand quality, wildlife habitat and many other forest values. Liquidation harvesting also fosters an economic climate that places practitioners of long-term forest management at a competitive disadvantage.

This bill was submitted a year ago, long before the Governor's bill on liquidation forestry. It stands alone. It is independent of that process, but it compliments that process. We already have in statute legislation that clearly defines liquidation harvesting and this bill responds to that statute. When the rulemaking is done, there will many other incentives and disincentives for liquidation harvesting.

I want to point out to members of the House that there are numerous exemptions that were put into the rulemaking that will hold harmless well-managed forestlands. Some of those exemptions include sales or gifts to relatives, sales of common and undivided land, sales for roads and rights of way, sales of parcels that are less than 20 acres, landowners who have less than 100 acres, but their land is managed by a certified forester, third-party certification of lands and lands that are less than 500 acres, but harvested by master loggers. There are more. This bill does its very best and that is why it is generally supported. It does its very best to avoid collateral damage to sound forest practices. It is a bill that supports the forest products industry in its long-term, we hope, sustainable management and contribution to our economy. Thank you.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative **PINEAU**: Mr. Speaker, Ladies and Gentlemen of the House. I also am on the Agriculture Committee and dealt with the liquidation foresting issue over and over again. The committee identifies a group of individuals, a very small group of individuals now, that are using this liquidation harvesting tactic of coming in, maximizing their profits by removing all of the wood on the properties, subdividing and then leaving and leaving the state in a mess. This bill does exactly what it says it is going to do. It improves the subdivision standards. Right now one of the problems that we are having in the State of Maine is in the industry that I work in, the paper industry, the lands are being fragmented into smaller and smaller pieces where they used to be owned by one or two of the larger paper companies.

This bill will give us in the LURC or in the organized or in the planning boards, an opportunity to watch this process as it is just beginning to take place. I would urge you to support this bill. Thank you.

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

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. I don't wish to debate whether liquidation harvesting is the right thing to do or not. That has been established. The point that I want to make, Mr. Speaker, is the problem that we have before us today is that the rules have not been written to which this bill applies. The Representative from Bar Harbor was going through some of the different issues and he was going through recommendations that the working group had made, not of the rules that will be going into effect because the public hearing has not been held. It has not come back before the committee of jurisdiction and we have not dealt with that yet. We do not have those rules in place. I don't think it is proper for us to circumvent the system by saying that these are

the rules that we are going to have. It certainly doesn't give much interest in people going before a committee or before a department to listen to the issue and testify in a public hearing if they already know what the rules are going to be. Once again, I am not debating the issue of liquidation harvesting, only that LD 1617 is putting the cart before the horse. 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.

ROLL CALL NO. 357

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

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

ABSENT - Bliss, Bunker, Daigle, Lundeen, Mills J, Sykes, Treadwell, Woodbury.

Yes, 76; No, 67; Absent, 8; Excused, 0.

76 having voted in the affirmative and 67 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" (H-792)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 26, 2004.

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-791)** on Bill "An Act To Reclassify Certain Downeast Waters"

(H.P. 1401) (L.D. 1891)

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor
TWOMEY of Biddeford
HUTTON of Bowdoinham
MAKAS of Lewiston
SAVIELLO of Wilton
THOMPSON of China
TOBIN of Windham

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

Signed:

Representatives:

JOY of Crystal

ANNIS of Dover-Foxcroft

READ.

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

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

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

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit Financial Institutions from Requiring a Fingerprint or Thumbprint To Complete a Transaction"

(H.P. 1406) (L.D. 1898)

Which was **TABLED** by Representative DUNLAP of Old Town pending **ACCEPTANCE** of either Report.

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This is my bill. I would like to tell you why I brought it forward. I needed to cash a check, which I usually don't do, because I deposit my checks. I had a car problem and I needed to pay for it. Jackie, my best friend, Representative Lundeen, said, come with me and you can cash your check at People's Bank. That is where our check is drawn on, People's Bank. I agreed. When we got out of the car, she knows how I am, and she said, "I should tell you Joanne, that this bank is going to ask you for your fingerprint." I looked at her and said, "You are kidding, right?" She said, "No, they are going to ask you for your fingerprint." I said, "No, I don't believe it." We walked into the People's Bank and Jackie had been there before and that particular day the inepad was right there and they did not ask me for my fingerprint, because I apparently was a State Representative. That left me saying, what is the policy? Do they or don't they? I started investigating it. What I learned was that this started in Texas. I think it is fitting to have all the bankers here today. It was not planned. This started in Texas. A bank thought this would be a good deterrent and they instituted the program in Texas and then they sold the program to other banks. This is not a federal law. This is just bank practice.

When I looked into it, I really started to get scared. This is just the beginning. When the Banking and Insurance Committee heard the bill, they had a police officer from Skowhegan and when Representative Canavan asked him if this procedure had helped to deter bank fraud or any kind of fraudulent checks, he said no. When I investigated it, I read about profiling. I read about discrimination. It really bothered me. Boris Melnocoff testifying on behalf of the American Bankers Association before the US House Banking Committee, conceded that taking fingerprints is effective in reducing check fraud mostly as a deterrent, not because they are actually using it in court, it is just a deterrent.

Aside from the deterrents, from reasons ranging from the practical to the technical, it is unlikely that bank fingerprinting will not generally be useful in actual prosecutions. From a practical perspective, taking proper fingerprints is a skill that requires training to do properly. Criminalists get extensive training in the proper way to take fingerprints in order to ensure that a good set is taken. In contrast, bank tellers have no training in fingerprinting. Indeed, according to the American Civil Liberties Union, fingerprinting will not even necessarily be administered by the teller. The ACLU reports that tellers will keep inkless pads. The ink does not leave a residue on the finger next to pens or send them to motorists though drive thru vacuum tubs. Legal problems prevent bank fingerprints from being used in prosecution as well. It is highly unlikely that such prints would be admissible in court. No means exist to establish a chain of custody from an evidence standpoint. How can it be established that the check with your print on it is the check you submitted to the teller? How can a bank establish how many people or who handled the check prior to its processing? Too many holes appear for bank fingerprinting to be valid evidence in court.

Fingerprinting of non-account holders is inherently prejudiced to low-income customers. These customers tend not to have bank accounts. Indeed when income, race and ethnic are considered together, the penetration of bank accounts is found to be quite low. Given the ineffectiveness of fingerprinting in the first place as well as the availability of reasonable alternatives, quite aside from privacy concerns, many low income and civil rights advocates believe that fingerprinting should not be allowed. Not all banks in the State of Maine do fingerprinting. My bank does not. When my bank decides that they want to fingerprint me instead of asking for my license and all kinds of other identification that I can provide, I will have to leave my bank and I will have to go to the credit unions because they don't do it.

I am asking for your support. I know that the committee voted in support of this. I think it is an infringement in our privacy. I think it is the beginning of what I have read, about them going next to a brain scan so they can actually know how your waves go up and down and how you think. I think that the literature that the Banking Association distributed, if you read the bottom line, it says that it is part of the Patriot Act. This frightens me. I don't think this is necessary. I think we can be leaders and we don't have to sign onto this. Thank you very much.

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

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

Representative **EDER**: Mr. Speaker, Men and Women of the House. I am very appreciative that the Representative from Biddeford, Representative Twomey, brought this issue before the body. I have something that I would like to share, some anecdotal evidence that indeed profiling is happening in the financial institutions that choose to fingerprint. The story goes like this. We had two interns working for us in the House Green Minority Office this past year. One of those interns was a lovely woman by the name of Stephanie who had a beautiful Lexus. I would often ask her to drive me to the bank so that I could cash my check. When going to the bank to cash the check with Stephanie in the Lexus, I was never asked to put my thumbprint on the check. As the Representative from Biddeford mentioned, they pass these little thumbprint circles through the vacuum tubes. Never once was I asked for that when riding with Stephanie. When riding with Eric, a poor law student from

Portland who drives an older model Lincoln, I was always asked for my thumbprint. I submit that profiling on economic status is going on in the banks that are asking for thumbprints.

I called around to the Bureau of Banking Services in the state to ask what happens to these thumbprints. Are they cataloged? Are they filed? Where do they go? There was no clear answer. I think we really need to look at this practice and ask some tough questions. What is this for and what is next? Thank you Mr. Speaker.

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

Representative LESSARD: Mr. Speaker, Men and Women of the House. This is one area that I know something about. In my duties with the Maine State Police as a Criminalist in dealing with crime scenes and photography and blatant fingerprint work, identification of fingerprints, etc., this is one area that I know something about.

Ladies and gentlemen, fingerprints are your personal identification. It is your personal identification. It is yours. It is nobody else. I would rather have a fingerprint on a document than my handwriting that can be forged. Photographs are not always accurate. Handwriting can be forged. It can be used for many purposes. My experience in the past whenever you had a question on a document, handwriting, for example, they usually had to send it to the FBI to get some expert testimony on what and who this was purported to be on this document. Usually they came up with, in all probability. Well, that is not good enough for me. If you will notice on the bulge of your feet, your palms and your fingers, you have a ridge formation. This is unique. There is no two people that have ever had identical fingerprints. This is your personal identification, no one else's. I submit to you, what better form to protect you, your identity, than to have a thumbprint. In the future in documents that you hold dear, especially in financial transactions, if someone questions in the future, 20 or 30 years from now on a document that someone proposes to be you, all you need is that thumbprint to establish identification.

Many fingerprint examiners in the private sector is also in the crime laboratory that can immediately tell the identification of whatever you are trying to get at. I would submit to you that this is a personal identification issue. No one is intruding on your privacy. I would rather give my fingerprint than handwriting.

You talk about privacy. Your handwriting, you don't know where it is going and who is going to forge it, you don't know. A fingerprint, never. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative McNeil.

Representative MCNEIL: Mr. Speaker, Ladies and Gentlemen of the House. I was going to pose the question to you to see if I look like a suspicious person. As the debate went on, I think I have solved my own dilemma. I think I have been profiled by the same bank that Representative Twomey went to. I understand now why I was profiled. I always have to put my fingerprint on there. Every week I cash my check at the same bank, the People's Bank up here. Now I understand that they couldn't even see my profile so if I had to put my thumb up high and get it printed.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Majority Ought Not to Pass Report, the 12 to 1 position of the committee. This bill or this law is a nationally recognized tool to combat check fraud. I think it is important for those listening to realize that currently 33 states in our nation use the Thumbprint Signature Program as a deterrent

to identify theft and check fraud. Check fraud and identity theft represent a significant financial problem and cost the customers in banks millions of dollars every single year. The Thumbprint Signature Program is one of the small tools that these financial institutions are using to prevent financial crimes against the bank customers.

One of the things that bothers me most about the bill when it was presented to the committee is the basic misunderstanding of banking law. Simply put, LD 1898 does not do what the good Representative from Biddeford, Representative Twomey, thinks it does. This bill only affects Maine chartered banks. The banks that have mostly been talked about, Key Bank, Bank North, for example, are all federally chartered institutions. They would not be limited by this proposed state legislation. Therefore, the prohibition would only extend to Maine State chartered financial institutions and passage of this bill would lead to unintended consequences in an increase in fraudulent activity of state chartered banks. Everybody that wants to write a bad check and do signature fraud are going to go to a state chartered bank. They are not going to the national ones. They are going to go to the mom-and-pop banks. It is just the opposite. It is not going to work.

This program is an excellent deterrent. I have to say that I was quite surprised that the Legislative Council let this in as an after deadline bill. I can't believe when it was presented to the Legislative Council that they voted to let this bill in. I find exception with that.

I urge you to move on.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Dunlap. For what reason does the Representative rise?

Representative DUNLAP: Point of order.

The SPEAKER PRO TEM: The Representative may state his Point of Order.

Representative DUNLAP: Thank you Mr. Speaker. I believe the actions of other members are not relevant to the Debate.

On POINT OF ORDER, Representative DUNLAP of Old Town objected to the comments of Representative GLYNN of South Portland because he was questioning the motives of other members of the House.

The SPEAKER PRO TEM: The Chair would agree with the Representative's comment and reminds members to refrain from that.

The Chair reminded all members that it was inappropriate to question the motives of other members of the House.

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

Representative BOWLES: Mr. Speaker, Ladies and Gentlemen of the House. It seems to me that lost in this debate is the real issue and that issue is one of choice. One of the wonderful things about our free enterprise system in this country is there is a great deal of competition and competition affords choice. I believe that we have over 36, I'm not sure of the exact number, but over three dozen financial institutions, community banks, not counting credit unions, and they have branches all over the state. I doubt seriously that there is very many towns in Maine, of our 490 towns, that don't have at least two or three institutions within a convenient drive of nearly every citizen. I would suggest that the appropriate remedy for anyone who feels that any policy is inconvenient or an imposition, the appropriate remedy is to take your business somewhere else where perhaps you don't feel imposed upon or threatened. I believe that is the appropriate remedy rather than legislation. Thank you Mr. Speaker.

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

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

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

Representative **DUDLEY**: Mr. Speaker, Ladies and Gentlemen of the House. I was listening very carefully to the comments of the Representative from Topsham, Representative Lessard. I agree with him that a fingerprint or a thumbprint is certainly very personal information and very personally identifying information, which leads me to the question, once the thumbprint is taken, where is it filed and how is it secured and how does the bank care for that fingerprint once the bank is in possession of it?

The **SPEAKER PRO TEM**: The Representative from Portland, Representative Dudley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question from the good Representative from Portland, Representative Dudley, this was an enlightening experience for me. I would consider sharing that enlightenment with everybody else. If we had a rule that required three votes out of committee, we wouldn't be enlightening such. I appreciate the fact that the good Representative from Biddeford brought this to our attention. It was an enlightening measure. I had seen these things. We had lots of these same questions. In answer to the question, typically the thumbprint is applied right onto the check. As most of you may know, Mr. Speaker, more and more banks do not actually return the physical check at the end of the month with the statement, but a facsimile of same does come with the statement. It is put right onto the check. The thumbprint and the check, which has the routing number and the account number on it also are also subject to a myriad of laws and rules and regulations in terms of the security thereof. It is no less a threat to one's privacy if I might guess where the Representative was going with that.

You have heard lots of reasons why we gave this bill a thumb down recommendation, Mr. Speaker, and would hope that we would could continue along that path. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. Your thumbprint, my thumbprint, is, in fact, a unique identifier. I can remember my own father's humiliation and embarrassment when because he couldn't write in cursive, he had left school after the second grade, was forced to put his thumbprint every time he "signed" a document. It made him assure all of us that he would do anything he could to make sure that we have a good education and all six children do. That sticks in my mind and it weighed heavily in mind when we debated several years ago the use of our fingerprints for the educators of this state. As many of you know, I did vote for that fingerprinting after much deliberation and consideration. I remember what my father would have said, I would cut off my thumb if I could save children from sexual abuse or predators in the classroom. I would gladly give my thumbprint again. It is a unique identifier. It is something that says to the world that we are willing to give it away. I am not willing to give that away. I just asked at my own bank, Fleet Bank, as I went though the other day in a pretty nice new car, if I could cash my check, a local check. They said, yes, absolutely. I asked, do you ask for fingerprints? The person said no. Fleet Bank I think is one of those international large banks that I have often considered

leaving because of that and going to my own local bank, but since I have accounts in both, I have remained there. I think that I will. I will also ask my other local bank, Kennebec Savings, if they do. I think we do have personal choice here and we can leave a bank that asks for our fingerprints.

I have a feeling as more of us across the state realize what we are being asked for, that more of us will make that choice. I hope it is not one of the those opt in/opt out things. I say that in a pejorative tone, because I have such great difficulty sorting through all that mail to figure out with whom do I correspond in order to opt out or opt in depending on what the particular situation is.

It seems that money rules in our state and it rules in our country. I just worked on a bill that had to do with identity theft and with the release of your social security number, which is not supposed to be a unique identifier. However, it has become a ubiquitous request from every group that you go to. How about your social security number? It used to be, how about your phone number? I have learned to say no to that. I have learned to say no to the second also, because there are only a few people who can actually ask you for that social security number. Guess who it is? The banking industry can. I have given it to them, because by federal law they are allowed to ask for that. I can't tell you how difficult it has been to try to preserve the sanctity of that social security number here in our state. We have some legislation that was just passed, rather meaningless, quite frankly, it mirrors federal law and it has on sentence that I think actually expands the whole deal, but it was all that we could actually get out of it.

Back to the thumbprints and the fingerprints, I think that the people of the State of Maine are simply not aware of this. Maybe I am wrong, but I think that the good Representative from Biddeford, Representative Twomey, was quite right to go before the Legislative Council and ask for this after deadline bill. I would make no apologies for a 12 to 1 report. One of my first great experiences here was watching the good Representative from Lewiston, Representative Lillian O'Brien, stand up on a 12 to 1 report and argue for the poor people of Lewiston who, in her opinion, were being discriminated against in that situation. I apologize, I know what you are going to say.

A 12 to 1 report is perfectly acceptable. I didn't vote for the three-member rule and I would continue not to. I think that there are many cases where this is important. It is important today. I hope that you will vote to vote against the Majority Ought Not to Pass Report and move on for acceptance of the report. Thank you.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Some things never change. Here we are today looking at a fingerprinting bill. This fingerprinting bill, however, is different from the one before. Just to save everybody today, I am going to say it right up so you don't have to listen. Yes, I am a teacher. Everybody looks forward to my saying that. I was a little concerned when I had to give fingerprints for that in order to have a job. The difference is, I had to. In order to make a living, the pursuit of happiness, I had to be fingerprinted. I was assumed guilty, but in this case it is free enterprise. I can choose to go to a bank that does or doesn't ask me for my fingerprints. It is up to me. I probably would not be asked for my fingerprints in the bank that I do my banking with, because everybody knows me anyway and I usually take up too much of their employee time talking about kids and families.

This is simply a choice bill. If you don't like the bank that is asking you that, then don't go to that bank. If you don't like the

TV program, then turn off the TV. I will tell you on Banking and Insurance on my first term here, we had a bill that said if you didn't have a savings account with more than \$100 in it, they were going to charge you an interest fee for keeping that. I was appalled by that and I voted against it. You know what, that has stopped. Society said that we won't do business like that, much like drinking. Society deems that enough people say no, I won't give you my fingerprints or my thumbprint, then the business makes a business decision that this is not good. We do not need legislation. Let society do it. More people like Representative Twomey should stand up and say no. If that is how they feel, then the bank will make a business decision, but it should not be coming from here. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House. I look at this as a consumer protection piece in terms of the thumbprint. Having been a victim of stolen checks, if those checks had been checked with a thumbprint, then I could have proved that I did not write them. I actually am delighted when I go and use a credit card and the person at the desk is looking at that card while I am signing the sheet for the credit card. I want assurances that my identity is not stolen and that I would gladly give my thumbprint because it would verify that I am the person writing that check. If that is my check and somebody else's thumbprint on it, I want that verified as well.

The other thing that the thumbprint offers, I think we have to look at this as well, if it allows us to cash checks in banks that we don't do business with. It gives the bank a safety net also. That is the piece that is part of the reason why the thumbprint is helpful for us. I live in Calais. I do business in Calais. My banking is in Calais. I live for four days a week here in Augusta. If I need access to cash a check, to have the ability to go to a bank that is not in my community and pass that check, I would gladly give my thumbprint. I consider that my protection. 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. I would like to reiterate that legal problems prevent bank fingerprints from being used in prosecution. These fingerprints are not protecting you at all. Thank you.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative CARR of Lincoln **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 PRO TEM: 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. 358

YEA - Andrews, Annis, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Davis, Dugay, Dunlap, Duplessie, Duprey B, Earle, Faircloth, Finch, Fischer, Fletcher, Glynn, Greeley, Grose, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Maietta, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Norbert, Nutting, O'Brien J,

O'Brien L, O'Neil, Pellon, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Watson, Wheeler, Woodbury, Young, Mr. Speaker.

NAY - Adams, Ash, Canavan, Clark, Craven, Dudley, Duprey G, Eder, Gagne-Friel, Gerzofsky, Hatch, Hutton, Jennings, Lundeen, Mailhot, McKee, Norton, Paradis, Patrick, Peavey-Haskell, Percy, Rines, Smith W, Twomey, Walcott, Wotton.

ABSENT - Bliss, Bunker, Daigle, Goodwin, Mills J, Smith N, Sykes.

Yes, 118; No, 26; Absent, 7; Excused, 0.

118 having voted in the affirmative and 26 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 678) (L.D. 921) Bill "An Act To Enact the Uniform Trust Code" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-795)**

(H.P. 1353) (L.D. 1830) Resolve, Regarding Legislative Review of Portions of Chapter 16: Foster Home Licensing Rule Regarding Smoking by Foster Parents, a Major Substantive Rule of the Department of Human Services (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-798)**

(H.P. 1388) (L.D. 1865) Resolve, Regarding Legislative Review of Portions of Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-797)**

(H.P. 1390) (L.D. 1870) Bill "An Act To Prohibit the Sale of Gasoline Containing MTBE" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-793)**

(H.P. 1411) (L.D. 1907) Bill "An Act To Govern and Regulate Life Settlements" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-796)**

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. 627) (L.D. 1695) Bill "An Act To Ensure Compliance with Federal Medicaid Requirements" (C. "A" S-433)

(S.P. 631) (L.D. 1699) Bill "An Act To Establish the Maine Military Family Relief Fund" (C. "A" S-438)

(S.P. 733) (L.D. 1887) Resolve, To Reduce the State Valuation for the Town of Lincoln (C. "A" S-440)

(S.P. 741) (L.D. 1895) Resolve, To Reduce the State Valuation for the Town of East Millinocket (C. "A" S-439)

(H.P. 1246) (L.D. 1670) Bill "An Act To Include Disability Retirement Income in Retirement Income Eligible for Tax Exemption" (C. "A" H-787)

(H.P. 1415) (L.D. 1914) Resolve, Regarding Legislative Review of Chapter 302: Rules for the Maine Microenterprise Initiative, a Major Substantive Rule of the Department of Economic Development (EMERGENCY) (C. "A" H-785)

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

(H.P. 1332) (L.D. 1810) Bill "An Act To Amend the Laws Concerning Optional Membership for Participating Local Districts in the Maine State Retirement System" (C. "A" H-790)

On motion of Representative SMITH of Van Buren, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

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

BILLS IN THE SECOND READING
House as Amended

Bill "An Act To Expand Property Tax Exemptions for Veterans to Cooperative Housing"

(H.P. 1250) (L.D. 1674)
(C. "A" H-786)

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

Bill "An Act To Encourage Financial Efficiency of Facilities for Persons with Mental Retardation" (EMERGENCY)

(S.P. 613) (L.D. 1681)
(C. "A" S-434)

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

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

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

Bill "An Act To Establish the Maine Jobs, Trade and Democracy Act" (EMERGENCY)

(H.P. 1337) (L.D. 1815)
(C. "A" H-783)

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

On motion of Representative SMITH of Van Buren, was **SET ASIDE**.

The same Representative **PRESENTED House Amendment "A" (H-801)**, which was **READ**.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. Briefly, this amendment addresses LD 1815, "An Act to Establish the Maine Job Trade and Democracy Act." It strikes the emergency preamble.

Representative **TREADWELL** of Carmel **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-801)**.

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-801). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 359

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Brannigan, Breault, Bull, Canavan, Carr, Churchill E, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jacobsen, Jennings, Kaelin, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Rosen, Sampson, Saviello, Simpson, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

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

ABSENT - Bliss, Bunker, Daigle, Goodwin, Mills J, Smith N, Sykes.

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 **House Amendment "A" (H-801)** was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-783)** and **House Amendment "A" (H-801)**.

On motion of Representative **TRAHAN** of Waldoboro, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended**.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. When this bill came before us yesterday I had hoped that we would eventually have an opportunity to vote on an amendment or for the Minority Report. Absent that opportunity, I do support the concept behind this and I wanted an opportunity to say that and to have a vote on the record. Mr. Speaker, when the vote is taken, I request a roll call.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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 Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 360

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Brannigan, Breault, Bull, Canavan, Carr, Churchill E, Collins, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kaelin, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rines, Rosen, Sampson, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin J, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill J, Clough, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Landry, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Moore, Murphy, Muse, Nutting, O'Brien J, Rector, Richardson E, Richardson M, Rogers, Sherman, Shields, Snowe-Mello, Stone, Tobin D, Treadwell, Vaughan, Young.

ABSENT - Bliss, Bunker, Clark, Daigle, Duprey G, Goodwin, McLaughlin, Mills J, Richardson J, Sykes.

Yes, 86; No, 55; Absent, 10; Excused, 0.

86 having voted in the affirmative and 55 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-783) and House Amendment "A" (H-801)** and sent for concurrence.

ENACTORS

Emergency Measure

An Act To Make Emergency Changes to Recent Law

(H.P. 1404) (L.D. 1897)

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

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 360: Responsibilities of Manufacturers, Distributors, Dealers and Redemption Centers under the Returnable Beverage Container Law, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources

(H.P. 1354) (L.D. 1831)

(C. "A" H-758)

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

On motion of Representative SULLIVAN of Biddeford, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Acts

An Act To Amend the Laws Governing Growth Management

(H.P. 1244) (L.D. 1668)

(H. "A" H-766 to C. "A" H-759)

An Act To Clarify the Law Regarding Interpreting Services for People Who Are Deaf or Hard-of-hearing

(S.P. 620) (L.D. 1688)

(C. "A" S-430)

An Act To Control Adult Entertainment Establishments

(H.P. 1323) (L.D. 1801)

(C. "A" H-733)

An Act To Improve the Viability of Railroads Operating in Maine

(S.P. 757) (L.D. 1918)

(H. "A" H-779)

An Act To Implement the Recommendations of the Joint Standing Committee on State and Local Government Pursuant to the State Government Evaluation Act

(H.P. 1426) (L.D. 1926)

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

Resolves

Resolve, To Direct the Public Utilities Commission To Examine Certain Issues Relating to Energy Efficiency

(S.P. 407) (L.D. 1261)

(C. "A" S-424)

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

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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 Tuesday, March 23, 2004, 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 (11) **Ought Not to Pass** - Minority (2) **Ought to Pass** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Reestablish the Great Ponds Act" (EMERGENCY)

(H.P. 1251) (L.D. 1675)

TABLED - March 16, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - ACCEPTANCE OF EITHER REPORT.

On motion of Representative DUNLAP of Old Town, the Bill and all accompanying papers were **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and sent for concurrence.

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

Bill "An Act To Authorize the Town of Millinocket To Annex a Certain Parcel of Land"

(S.P. 774) (L.D. 1941)

- In Senate, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

TABLED - March 23, 2004 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **REFERENCE IN CONCURRENCE**.

Subsequently, the Bill was **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence. **ORDERED SENT FORTHWITH**.

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 to Pass as Amended by Committee Amendment "A" (H-794)** on Bill "An Act To Recruit and Retain College Graduates through Loan Repayment"

(H.P. 1387) (L.D. 1864)

Signed:

Senators:

DOUGLASS of Androscoggin

MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland

GAGNE-FRIEL of Buckfield

DAVIS of Falmouth

FINCH of Fairfield

LEDWIN of Holden

NORTON of Bangor

MURPHY of Kennebunk

ANDREWS of York

THOMAS of Orono

FISCHER of Presque Isle

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

Signed:

Senator:

BRENNAN of Cumberland

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-794)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 26, 2004.

SENATE PAPERS

The following Joint Resolution: (S.P. 776)

JOINT RESOLUTION RECOGNIZING THE MAINE BANKING COMMUNITY

WHEREAS, the members of the Maine Bankers Association and the Maine Association of Community Banks have been serving the needs of the people of Maine for over 175 years; and

WHEREAS, the associations' members and their employees continue to demonstrate their commitment to children and the communities they serve through more than 232,000 volunteer hours and almost \$7,000,000 in community contributions in 2003; and

WHEREAS, the commitment to volunteerism and assisting Maine's youth is represented here today by the 2004 America's Promise Volunteers:

Charles Ault, Union Trust Company; Marge Barker, Peoples Heritage Bank; Brenda Blackman, The First National Bank of Damariscotta; Peggy Bugbee, Katahdin Trust Company; Carolyn Crosby, Camden National Bank; Philip Giordano, Fleet Bank; Ray Hews, First Citizens Bank; Sonja Hubbard, Bar Harbor Bank Shares; Mark Jones, Saco & Biddeford Savings Institution; Deborah Jordan, Merrill Bank; Karen Knight, Sanford Institution for Savings; Patricia Lane, Bath Savings Institution; Monique McRae, Bath Savings Institution; Catherine Moore, UnitedKingfield Bank; Gail Nason, Biddeford Savings Bank; Darrin Riley, Skowhegan Savings Bank; Tracey Russell, Key Bank; Linda Seeley, The First National Bank of Bar Harbor; Andrew Silsby, Kennebec Savings Bank; Anne Singleton, Maine Bank & Trust; Joan Smith, Acadia Trust Company; Cindy Spencer, Franklin Savings Bank; Linda Varrell, Northeast Bank; Kim Vieira, Kennebunk Savings Bank; and Robert Wood, Machias Savings Bank; and

WHEREAS, the members of the Maine Bankers Association and the Maine Association of Community Banks are also giving back to their communities through a commitment to provide financial literacy programs to Maine's youth and young adults, including the joint American Bankers Association and Maine Bankers Association annual "Teach Children to Save Day" program, which will reach students in over 100 schools in April; the FDIC's Money Smart program; Junior Achievement; the Maine Council on Economic Education programs; and individual bank programs; and

WHEREAS, these financial literacy programs are providing a financial education that is essential to forming a lifetime of positive habits such as saving, the wise use of credit and fiscal responsibility; and

WHEREAS, Maine's banking industry continues to be an important supporter of the Maine Bar Association's Interest on Lawyers' Trust Accounts program, which provides legal services for all of Maine's disadvantaged citizens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, take this occasion to recognize the Maine Bankers Association and the Maine Association of Community Banks for their continued commitment and contributions to their communities and for their supporting Maine's long tradition of service to others and to recognize this industry's commitment to providing needed financial literacy programs and support for the Interest on Lawyers' Trust Accounts program; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Bankers Association and the Maine Association of Community Banks and the 2004 America's Promise Volunteers.

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

READ and **ADOPTED** in concurrence.

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

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

(S.P. 775) (L.D. 1942)

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

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TAXATION** and the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-799)** on Bill "An Act Regarding Wildlife Habitat Conservation" (H.P. 604) (L.D. 827)

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland
NASS of York
BRYANT of Oxford
CARPENTER of York
KNEELAND of Aroostook

Representatives:

LEMOINE of Old Orchard Beach
PERRY of Bangor
McGOWAN of Pittsfield
SIMPSON of Auburn
LERMAN of Augusta
SUSLOVIC of Portland
CLOUGH of Scarborough
COURTNEY of Sanford
McCORMICK of West Gardiner
TARDY of Newport
TOBIN of Dexter
DUNLAP of Old Town
McGLOCKLIN of Embden
TRAHAN of Waldoboro
WHEELER of Kittery
WOTTON of Littleton
WATSON of Bath
MOODY of Manchester

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

Signed:

Representatives:

RICHARDSON of Greenville
HONEY of Boothbay

READ.

Representative LEMOINE of Old Orchard Beach moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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**: 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. 361

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Davis, Dudley, Dugay,

Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Greeley, Grose, Hatch, Heidrich, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, 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, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Honey, Joy.

ABSENT - Bliss, Bunker, Daigle, Faircloth, Mills J, Sherman, Sykes.

Yes, 142; No, 2; Absent, 7; Excused, 0.

142 having voted in the affirmative and 2 voted in the negative, with 7 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-799)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, March 26, 2004.

SENATE PAPERS

The following Joint Order: (S.P. 780)

ORDERED, the House concurring, that when the Senate adjourns Thursday, March 25, 2004 it does so until Monday, March 29, 2004, at 10:00 in the morning and when the House adjourns Friday, March 26, 2004, it does so until Monday, March 29, 2004, at 9:00 in the morning.

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

READ and **PASSED** in concurrence.

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

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Dudley who wishes to address the House on the record.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I was absent for the roll call on LD 1087. Had I been present, I would have voted yea.

On motion of Representative **YOUNG** of Limestone, the House adjourned at 12:05 p.m., until 9:00 a.m., Friday, March 26, 2004 in honor and lasting tribute to Homer R. Ward, Jr., of Limestone, JoAnn Engel Pike, of Auburn and Carmen "Carnie" Brigalli, of Millinocket.