

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session (Continued)
May 21, 2003 to June 14, 2003

First Special Session
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First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Wednesday
March 3, 2004

Senate called to order by Joy J. O'Brien, Secretary of the Senate.

The Senator from Kennebec, Senator **TREAT**, was appointed to serve as President Pro Tem for the session.

The Secretary requested the Sergeant-At-Arms escort the Senator from Kennebec, Senator **TREAT**, to the Rostrum where she assumed the duties as President Pro Tem.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

Prayer by Senator Carolyn M. Gilman of Cumberland County.

SENATOR GILMAN: I'd like to share with you this morning a reading from my daily devotional. It's from First John, Chapter 5.

We have this confidence in Him that if we ask anything according to His will, He hears us, and if we know that He hears us in regard to whatever we ask, we know that we have asked Him for what is ours. Look down then from Heaven, Your holy abode, and bless Your people.

Dear Heavenly Father, we ask that You be with us in our deliberations as we come to You this day in service to the people of Maine. May the blessings of Almighty God, Father, Son, and Holy Spirit descend upon us and remain with us forever. Amen.

Reading of the Journal of Tuesday, March 2, 2004.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Joint Resolution - Memorializing The President Of The United States And The United States Congress to Seek the Resignation of the United States Secretary of Education
S.P. 745

In Senate, March 2, 2004, on motion by Senator **MARTIN** of Aroostook, **READ** and **ADOPTED**.

Comes from the House, **READ** and **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

House Papers

Bill "An Act To Make Emergency Changes to Recent Law" (EMERGENCY)

H.P. 1404 L.D. 1897

Committee on **JUDICIARY** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

READ ONCE, without reference to a Committee.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

**Pursuant to Public Law and Resolve
Joint Standing Committee on Natural Resources**

The **Joint Standing Committee on Natural Resources**, pursuant to Public Law 2003, chapter 221, section 5 and Resolve 2003, chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Protect Health and the Environment by Improving the System for the Collection and Recovery of Mercury-added Thermostats"

H.P. 1407 L.D. 1901

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 746

**STATE OF MAINE
121ST MAINE LEGISLATURE**

March 1, 2004

Sen. Michael F. Brennan
Senate Chair, Joint Standing Committee on
Health and Human Services
Rep. Thomas J. Kane
House Chair, Joint Standing Committee on
Health and Human Services
121st Legislature
Augusta, ME 04333

Dear Senator Brennan and Representative Kane:

Please be advised that Governor John E. Baldacci has nominated John R. Nicholas of Winthrop for appointment as Commissioner of the Department of Human Services.

Pursuant to 22 M.R.S.A. § 1, this nomination will require review by the Joint Standing Committee on Health and Human Services and confirmation by the Senate.

Sincerely,

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

READ and REFERRED to the Committee on **HEALTH AND HUMAN SERVICES**.

Sent down for concurrence.

The Following Communication: S.C. 476

**121ST LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

February 25, 2004

The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell
Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04330

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the Department of Administrative and Financial Services under the State Government Evaluation Act. In its review, the committee found that the Department is operating within its statutory authority.

Sincerely,

S/Senator Peggy Rotundo
Chair

S/Representative Janet McLaughlin
Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 477

**121ST LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

February 25, 2004

The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell
Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04330

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the Capitol Planning Commission under the State Government Evaluation Act. In its review, the committee found that the Commission is operating within its statutory authority.

Sincerely,

S/Senator Peggy Rotundo
Chair

S/Representative Janet McLaughlin
Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 478

**121ST LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

February 25, 2004

The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell
Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04330

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the Department of the Secretary of State (Bureau of Corporations, Elections & Commissions and Maine State Archives) under the State Government Evaluation Act. In its review, the committee found that the Department is operating within its statutory authority.

Sincerely,

S/Senator Peggy Rotundo
Chair

S/Representative Janet McLaughlin
Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

Off Record Remarks

SENATE PAPERS

Resolve, To Increase Eligibility for Consumer-directed Personal Care Assistance Services To Promote Independence for Maine Citizens (EMERGENCY)

S.P. 748 L.D. 1904

Sponsored by President DAGGETT of Kennebec.
Cosponsored by Representative KANE of Saco and Senators: BRENNAN of Cumberland, MARTIN of Aroostook, STANLEY of Penobscot, TREAT of Kennebec, Representatives: DUGAY of Cherryfield, GOODWIN of Pembroke, RICHARDSON of Brunswick, SIMPSON of Auburn.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

On motion by Senator EDMONDS of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed.

Ordered sent down forthwith for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide for the 2004 and 2005 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

H.P. 1364 L.D. 1838

Reported that the same **Ought to Pass.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Provide Funding for the Maine-Canada Trade Ombudsman"

H.P. 464 L.D. 634

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-722).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-722).**

Report **READ** and **ACCEPTED**, in concurrence.
READ ONCE.

Committee Amendment "A" (H-722) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Ensure that Emergency Medical Help is Available to All School Children and Personnel"

H.P. 136 L.D. 177

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-723).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-723).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-723) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act Regarding Child Support Collection Practices"

H.P. 1293 L.D. 1771

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-721).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-721).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-721) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Provide Equity in Veterans' Property Tax Exemptions"

H.P. 1268 L.D. 1746

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-725).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-725) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Expand Maine's Homestead Exemption for the Blind"

H.P. 1316 L.D. 1794

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-724).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-724).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-724) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Facilitate the Recovery of Stolen Property"

S.P. 647 L.D. 1715

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-407).**

Signed:

Senator:

SHOREY of Washington

Representatives:

ROGERS of Brewer
SMITH of Monmouth
JACOBSEN of Waterboro
PELLON of Machias
BERUBE of Lisbon
AUSTIN of Gray
DUPREY of Medway
RECTOR of Thomaston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-408).**

Signed:

Senator:

BROMLEY of Cumberland

Representatives:

SULLIVAN of Biddeford
O'BRIEN of Lewiston

Reports **READ.**

On motion by Senator **BROMLEY** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-407)** Report **ACCEPTED.**

READ ONCE.

Committee Amendment "A" (S-407) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Encourage Cost Savings by State Employees"

S.P. 618 L.D. 1686

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-409)**.

Signed:

Senators:

ROTUNDO of Androscoggin
LAFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth
KETTERER of Madison
BARSTOW of Gorham
SUSLOVIC of Portland
SUKFORTH of Union
BUNKER of Kossuth Township

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-410)**.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth
STONE of Berwick
BOWEN of Rockport

Reports **READ**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-409)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-409)** Report.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

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

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act to Expand Funding and Services to Students of Limited Proficiency in English"

H.P. 149 L.D. 190
(C "A" H-701)

Bill "An Act To Provide an Exemption to the Laws Governing Patient Confidentiality Regarding Certain Former Patients of the Augusta Mental Health Institute"

H.P. 1219 L.D. 1642
(C "A" H-719)

Bill "An Act To Honor Maine's First Peoples"

H.P. 1254 L.D. 1732
(C "A" H-717)

Bill "An Act To Clarify the Requirements of the Behavioral Treatment Review Team for Persons with Mental Retardation or Autism"

H.P. 1261 L.D. 1739
(C "A" H-720)

Bill "An Act To Amend the Information Disclosure Requirements of Some Competitive Electricity Providers"

H.P. 1263 L.D. 1741
(C "A" H-718)

Bill "An Act To Provide Residents of the United States with Timber Harvesting Jobs on Land Managed by the Department of Conservation, Bureau of Parks and Lands"

H.P. 1304 L.D. 1782
(C "A" H-714)

Bill "An Act Requiring Blood Testing of All Drivers Involved in Fatal Accidents"

H.P. 1325 L.D. 1803
(C "A" H-712)

Bill "An Act To Increase the Amount of Restitution Allowed for State and Municipal Fire Service"

H.P. 1344 L.D. 1821
(C "A" H-713)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate

Bill "An Act To Allow Communications Towers on Land of the Maine Turnpike Authority"

S.P. 608 L.D. 1676

READ A SECOND TIME.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**.

Senate As Amended

Bill "An Act To Amend Transportation Laws"

S.P. 605 L.D. 1654
(C "A" S-406)

Bill "An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program"

S.P. 634 L.D. 1702
(C "A" S-403)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Amend the Maine Consumer Credit Code Regarding Balloon Payments

S.P. 602 L.D. 1638
(H "A" H-706 to C "A" S-378)

The Chair noted the absence of the Senator from Kennebec, Senator **DAGGETT** and further excused the same Senator from today's Roll Call votes.

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Amend the Laws Concerning Automobile Dealer Registration Plates

S.P. 609 L.D. 1677
(C "A" S-382)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Directing the Department of Human Services To Adopt Rules To Reduce Regulatory Burdens on Home Health Agencies while Maintaining Budget Neutrality

H.P. 987 L.D. 1341
(C "A" H-695)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Acts

An Act Regarding Standard Contracts for Assisted Living Services

H.P. 1145 L.D. 1563

An Act To Rename the Former Vocational-technical Secondary Education Schools, Now Called Applied Technology Centers and Regions, Career and Technical Education Centers and Regions

H.P. 1227 L.D. 1649
(C "A" H-685)

An Act To Strengthen the Charitable Solicitations Act

S.P. 623 L.D. 1691

An Act To Amend the Maine Turnpike Authority's Budget for Calendar Year 2004

S.P. 636 L.D. 1704
(C "A" S-387)

An Act To Amend the Law Providing Restitution to Victims of Timber Theft

H.P. 1260 L.D. 1738
(C "A" H-690)

An Act To Clarify the Educational Requirements for Counselor
Licensure

H.P. 1279 L.D. 1757

An Act To Simplify the Finance Authority of Maine Act

H.P. 1288 L.D. 1766
(C "A" H-686)

An Act To Authorize the Commissioner of Administrative and
Financial Services To Execute Easements

H.P. 1299 L.D. 1777
(C "A" H-668; H "A" H-716)

An Act To Clarify the Standards for Granting a Name Change

H.P. 1319 L.D. 1797
(C "A" H-682)

PASSED TO BE ENACTED and having been signed by the
President Pro Tem were presented by the Secretary to the
Governor for his approval.

An Act To Join the Interstate Insurance Product Regulation
Compact

S.P. 630 L.D. 1698
(C "A" S-389)

On motion by Senator **CATHCART** of Penobscot, placed on the
SPECIAL APPROPRIATIONS TABLE, pending **ENACTMENT**,
in concurrence.

Resolve

Resolve, Directing the Department of Conservation To Implement
a Pilot Project To Evaluate Outdoor Playground Surface Materials

H.P. 927 L.D. 1253
(C "A" H-693)

FINALLY PASSED and having been signed by the President Pro
Tem was presented by the Secretary to the Governor for his
approval.

All matters thus acted upon were ordered sent down forthwith for
concurrence.

Off Record Remarks

RECESSED until the sound of the bell.

After Recess

Senate called to order by President Pro Tem
SHARON A. TREAT of Kennebec County.

Out of order and under suspension of the Rules, the Senate
considered the following:

PAPERS FROM THE HOUSE

House Paper

**Pursuant to Public Law and Resolve
Commission to Improve the Sentencing, Supervision,
Management and Incarceration of Prisoners**

The **Commission to Improve the Sentencing, Supervision,
Management and Incarceration of Prisoners**, pursuant to
Public Law 2003, chapter 451, Part K, section 2 and Resolve
2003, chapter 101, section 3 asked leave to report that the
accompanying Bill "An Act To Further Implement the
Recommendations of the Commission To Improve the
Sentencing, Supervision, Management and Incarceration of
Prisoners" (EMERGENCY)

H.P. 1409 L.D. 1903

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND
PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **REFERRED** to the Committee on **CRIMINAL
JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to
Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED**
to the Committee on **CRIMINAL JUSTICE AND PUBLIC
SAFETY** and ordered printed pursuant to Joint Rule 218, in
concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate
was engaged at the time of Adjournment had preference in the
Orders of the Day and continued with such preference until
disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later
(2/12/04) Assigned matter:

SENATE REPORTS - from the Committee on **INSURANCE AND
FINANCIAL SERVICES** on Bill "An Act To Create the
Comprehensive Health Insurance Risk Pool Association"
(EMERGENCY)

S.P. 394 L.D. 1190

Majority - **Ought Not to Pass** (9 members)

**Minority - Ought to Pass as Amended by Committee
Amendment "A" (S-384) (4 members)**

Tabled - February 12, 2004, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ACCEPT** the Majority
OUGHT NOT TO PASS Report

(In Senate, February 12, 2004, Reports **READ**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Madame President, men and women of the Senate. I rise and encourage you to support the majority Ought Not to Pass report. If I am not mistaken, this is the forth bill that was heard by the Joint Standing Committee on Insurance and Financial Services that was addressed by the Health Reform Committee in the context of passage of the Dirigo Health law. What the committee did with Dirigo Health is include provisions for high risk pools within that legislation. It essentially did two things. Within Dirigo Health is a high risk pool for persons whose care costs over \$100,000 per year and those with certain named diagnoses. It also required Dirigo Health to develop disease management protocol in the high risk pools. An additional thing it did was require Dirigo to report to the legislature its experience with this high risk pool. After three years, if Dirigo Health under performs to average premium rates and average rates of uninsured within the high risk pool, the board of directors for Dirigo Health is charged with submitting legislation on or before January 1, 2008 to create a high risk pool here in the State of Maine. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Blais.

Senator **BLAIS:** Thank you very much, Madame President, men and women of the Senate. I appreciate the remarks from the Chair of the committee, the good Senator from York, Senator LaFountain. Coming into this legislative session we all were very much involved in the debate over healthcare costs in our state. I think it's critically important and really incumbent upon us that we deal with the high cost of healthcare, the affordability of healthcare, as soon as we possibly can. The good Senator from York, Senator LaFountain, just mentioned that we are looking at the possibility of implementing a high risk pool in our insurance system, under the Dirigo plan, some three years out. I think we have an opportunity to get at affordability right now. The cost of insurance in our state has been driving people out of the private insurance market. The high cost that we have, I think, arguably are to some of the mandates that we have in place and that this legislature put in place in the early 1990's that guaranteed issue, community rating, things that we are all familiar with. You have a hand-out on your desk that I asked to be placed there earlier today. In Portland, a family plan with a \$500 deductible costs \$14,120 annually. By contrast, a similar plan can be found in other states that don't have the guaranteed issue and has high risk pool provisions for around \$4,920. That is an enormous difference. You can read the rest of that.

Looking at Maine's rates versus high risk pool rates. High risk pool means people who are a very high risk with catastrophic situations in their lives. At 20 years old our normal monthly rate

for a healthy person, not a high risk 20 year old, is \$421. A high risk individual in Mississippi pays only \$191. In North Dakota it's only \$219. In New Hampshire it's \$164. In Kentucky it's \$174. I think we really can help those high risk folks who are truly in need by having a high risk pool in place. This legislation will help us to do that now.

Maine is only one of five states that guaranteed issue. I certainly understand why that is in place and the idea of protecting people. Our community rating is designed to help people who are paying extremely high rates and help reduce those rates. What that has done is drive our young people out of our insurance system in this state, and I think with that, driving our young people out of this state period. I would appreciate it if you would all give some consideration to keeping this alive. Please vote against the motion on the floor, the majority Ought Not to Pass report, and give us a chance to move on and pass the minority report. Thank you very much.

On motion by Senator **BLAIS** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I, too, rise and ask you to vote against the motion before us. I think high risk pools have a place in our mix of offerings. It is interesting to look back ten years ago, Maine instituted guaranteed issue and flattened its community ratings. Over the ensuing ten years, the number of providers of individual insurance went down while the cost of insurance coverage skyrocketed. It doesn't take much to recognize the benefits that they have enjoyed with high risk pools. Over 30 of them have such offerings today, all of them have insurance costs that are less. I do believe it is possible for high risk pools to co-exist with Dirigo Health as it goes forward. I think we could benefit with all of our insurance purchases if we had a high risk pool in place now. Some have suggested that individual rates would drop by at least 30% if such a provision were provided to purchasers in our market. I would urge that you vote against the pending motion and let us move on to accept the minority report. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. While I do not, basically, disagree with what has been said by either the Senator from Kennebec, Senator Blais, or the Senator from Cumberland, Senator Turner, I would remind this body that as they Dirigo Health Plan was developed there were many trade offs, compromises, and agreements made. One of the discussion points throughout that whole process, which ended up very late one evening, was the issue of L.D. 1190. That came before the special group and was discussed at length. Unless my declining years are causing problems with my mind, and they may be, my memory serves me to believe that one of the trade offs and one of the decisions that was made was that we would not move forward at this point with the totality of L.D. 1190. We placed in Dirigo, as was mentioned by the good Senator from York, Senator LaFountain, a number of points here.

It is also in that legislation that if, after a period of time, Dirigo does not do what we anticipate that it is going to do, the board of Dirigo has to establish a high risk pool. That is in statute currently as the result of that particular piece of legislation. I think we made a giant step when we passed Dirigo. It is about to get up and running. I think to start messing with that before the first policy is written is not where this chamber should be. Therefore, I would urge you to accept the majority Ought Not to Pass report. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from York, Senator LaFountain to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#248)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM – SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: SHOREY, WESTON

EXCUSED: Senator: DAGGETT

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/24/04) Assigned matter:

SENATE REPORTS -from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require All Health Insurers To Cover the Costs of Hearing Aids"

S.P. 359 L.D. 1087

Report "A" - Ought to Pass as Amended by Committee Amendment "B" (S-394)

Report "B" - Ought to Pass as Amended by Committee Amendment "C" (S-395)

Report "C" - Ought Not to Pass (2 members)

Tabled - February 24, 2004, by Senator **LAFOUNTAIN** of York

Pending - motion by same Senator to **ACCEPT** Report **"A"**, **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-394)**

(In Senate, February 24, 2004, Reports **READ**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Madame President, men and women of the Senate. I rise to encourage you to support the majority Ought to Pass as Amended report, which is Report A. In past years I have been reluctant to support many mandates that have come before this chamber. However, this is a mandate that I feel is truly important, given the importance of hearing in childhood development. When this bill came before us initially I did not support it because of the fiscal note, together with what would be a significant increase in premiums. However, by working with the committee, we were able to develop an amendment that brought on the support of seven members. What this report does is requires all health insurance carriers to cover hearing aids for persons age 18 or under at a cost of up to \$1,400 per hearing aid every 36 months. Several other states have mandates relative to hearing aids. I believe there are seven. This is an extremely conservative approach compared to some of the other states that do have this mandate. I encourage you to support the majority report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I would appreciate your consideration of this bill before you. I brought the bill to the Insurance and Financial Affairs Committee hoping that we could get a mandate that would allow us to cover all hearing aids because, I don't know about you, but I'm getting older and I think lots of our constituents and folks around are realizing that the cost of hearing aids are quite challenging. I know that my sisters and brother and I bought a pair for my mom and that was about five years ago. It was \$3,000. She's 88 years old but needs another pair now. We'll probably do the same thing again. It seems that this would be a good way to go. I realize that the committee, in its wisdom, could not see their way clear to do that. I appreciate the financial constraints they were concerned about. What they have done is reduce the benefit to young people under the age of 18. The reason it's a \$1,400 hearing aid benefit every 36 months is because, as you can imagine, young people grow. Their ear size changes and they need those every 36 months.

The Senator from York, Senator LaFountain, has alluded to the fact that child development is a real important piece here. I'm sure you would agree that young people who are having challenges hearing can't, in fact, participate in school and life the way they should. I think that this is an important detail.

I guess the other question that has come up in the hearing is that many folks asked why people can't just save their money and pay for these. As you can imagine, \$1,400 a hearing aid every 36 months is a challenging amount. I talked to a number of parents who said they don't want to be begging for assistance. They want

to be paying their insurance premium like everyone else and able to get this benefit. I believe I'm correct in noting that the fiscal note said that would add 25¢ per month to everybody's insurance policy. I, for one, am happy to pay that. I hope you will join me.

Same Senator requested a Roll Call.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. While those of you who have been in this or the other body know, I have tended to support many of the mandates that have come before us in the last few years. That has not been the case this year with this single exception. What swayed me to support this particular mandate were conversations I had with people teaching in K-12 in the school systems in my Senate district. They, to a person, indicated that it is very difficult in the classroom for those children who are hearing impaired to keep up with their peers. The reason that we made the changes in the legislation brought forward by the good Senator from Cumberland, Senator Edmonds, is that the committee felt that this was an area that we should tackle and that we should make it possible for students in K-12 to be able to hear and to be able to move forward with their education. By the time they are 18, hopefully, they will be able to work in the summer and after school and be able to purchase what they need as far as a hearing aid is concerned. Hopefully that will assist them in going on to higher education. This is aimed towards the youth of this state. I think it is a good piece of legislation. I would urge you to support the majority Ought to Pass report. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. This appears to be the day when we try to rail against increasing insurance costs for the people of Maine. If you look back on the recent history of insurance coverage in this state, going back to the early 1990's. We had 80% of our people covered by private pay insurance. A host of things have transpired over that decade. We talked about guaranteed issue and community rating standards going into place in 1993. We've had a host of mandates imposed upon providers of insurance coverage for the private market. Each of these are but a blade of grass that onto the scale. As that scale becomes burdened, more and more people drop their private pay insurance. Today only 65% of our people are covered by private pay insurance. You can stand here, sit here, or go outside this hall and talk about a thousand things that would be good and beneficial for insurance. Every time you add those things you make the cost of it more burdensome to people and you, irrevocable, reduce the number of people who are able to participate in this market as a private payer. I would urge that you defeat the pending motion so we can move on and accept Report C of this committee's offering. Thank you.

On motion by Senator **EDMONDS** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from York, Senator LaFountain to Accept Report "A", Ought to Pass as Amended by Committee Amendment "B" (S-394). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#249)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CATHCART, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, SAVAGE, STANLEY, STRIMLING, WOODCOCK, THE PRESIDENT PRO TEM – SHARON A. TREAT

NAYS: Senators: BLAIS, CARPENTER, DAMON, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAWYER, TURNER, YOUNGBLOOD

ABSENT: Senators: SHOREY, WESTON

EXCUSED: Senator: DAGGETT

20 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT Report "A", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-394), PREVAILED.**

READ ONCE.

Committee Amendment "B" (S-394) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

Off Record Remarks

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, to Thursday, March 4, 2004, at 10:00 in the morning.