

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Special Session  
April 4, 2005 to June 17, 2005

Pages 411 - 1350

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

In Senate Chamber  
Tuesday  
May 31, 2005

Senate called to order by President Beth Edmonds of  
Cumberland County.

Prayer by Reverend Jill Job Saxby of the First Congregational  
Church, UCC of South Portland.

**REVEREND SAXBY:** Let us be together in the spirit of prayer. Eternal God, we begin the work of our day by pausing to give You praise and thanks. As we contemplate the wonders of Your creation revealed to us in this beautiful part of Your world, the complexity of creatures and the interdependence of all life from sea to farm to city to mountain top, a hymn of praise rises in our hearts. For the beauty of the earth that sustains us and all life, we praise You.

We give You thanks today, our Creator, that You do not leave us alone but place Your word and Your wisdom within us and in the midst of our life together. In our dependence upon You and upon one another, in the bonds of community, we hear the whispers of Your spirit calling us to act always in loving service to lives and generations beyond our own. We remember today and give thanks that in You we find our true security, especially in times of uncertainty, trouble, and fear.

Give us courage and the commitment to see beyond conflicts, anchoring our lives on the rock of Your eternal love and Your ancient command for justice for all, especially the very young and the very old, the forgotten, and the foreigner among us. Inspired by Your spirit as revealed to humanity in myriad lives and times and faiths, may we practice a radical hospitality to neighbor and stranger so that our life together in community in our beloved State of Maine becomes the grateful praise we offer You day by day.

On this day after Memorial Day, we pray especially for those whose lives have been effected by humanities' wars, for those men and women who have died while serving our nations in uniform, for their families and friends, and for all of us effected by the pain of their absence. Help us to give meaning to their deaths, not by easy words and sentiments, but by increasing the diligence and fearlessness of our work for peace. Help us to show the world our love for our country and its best ideals by seeking and following the courageous path that turns away from violence.

Sustaining Holy Spirit, we pray today for our leaders at every level of government and especially for our Senators gathered this morning in this chamber, grateful for their dedication and their gifts. We ask that You bestow on them the wisdom and compassion needed to lead us beyond conflict to genuine community, away from division and towards dignity and justice for all. We pray for our nation, for a spirit of humility and gratitude to infuse our national life, that in our great diversity we might yet find our best strength and our true liberty. We yearn for that ultimate security of resting our common lives on Your trustworthy love and

judgment. In the day that lies before us like a great unopened gift from out of the storehouses of eternity, show us the way, oh Lord of our lives, and grant us the faith and the courage to follow it. Amen.

Pledge of Allegiance led by Senator Dennis S. Damon of  
Hancock County.

Reading of the Journal of Thursday, May 26, 2005.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.C. 362

**MAINE STATE LEGISLATURE  
COMMITTEE ON JUDICIARY  
AUGUSTA, MAINE 04333**

May 26, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 549 An Act To Expedite the Forcible Entry and  
Detainer Process in Nonpayment Cases

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

Sincerely,

S/Sen. Barry J. Hobbins  
Senate Chair

S/Rep. Deborah Pelletier-Simpson  
House Chair

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

The Following Communication: S.C. 363

**MAINE STATE LEGISLATURE  
COMMITTEE ON TAXATION  
AUGUSTA, MAINE 04333**

May 23, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1009 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow Real Estate To Be Valued Differently Based on the Residency of the Owner

S.P. 316 Joint Study Order To Study the Feasibility of Retiring the Income Tax by Use of an Endowment Fund

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

Sincerely,

S/Sen. Joseph C. Perry  
Senate Chair

S/Rep. Richard G. Woodbury  
House Chair

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

The Following Communication: S.C. 364

**MAINE STATE LEGISLATURE  
COMMITTEE ON TAXATION  
AUGUSTA, MAINE 04333**

May 26, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1068 An Act To Strengthen Maine's Small Business Economy

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

Sincerely,

S/Sen. Joseph C. Perry  
Senate Chair

S/Rep. Richard G. Woodbury  
House Chair

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

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**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator NUTTING for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Transfer Responsibility of Potato Marketing Matters to the Maine Potato Board"

S.P. 342 L.D. 1002

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-276).**

Report **READ** and **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-276) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED.**

Ordered sent down forthwith for concurrence.

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Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Access to Mental Health Services" (EMERGENCY)

S.P. 411 L.D. 1183

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-279).**

Report **READ** and **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-279) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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**Divided Report**

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Governing the Board of Dental Examiners"

S.P. 419 L.D. 1205

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

BROMLEY of Cumberland  
HOBBINS of York

Representatives:

SMITH of Monmouth  
O'BRIEN of Lewiston  
AUSTIN of Gray  
ROBINSON of Raymond  
RECTOR of Thomaston  
FARRINGTON of Gorham  
BEAUDETTE of Biddeford  
JACOBSEN of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-271)**.

Signed:

Senator:

DOW of Lincoln

Reports **READ**.

On motion by Senator **BROMLEY** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Directing the Board of Trustees of the University of Maine System To Institute a Statewide Sports Program

S.P. 453 L.D. 1326

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

TURNER of Cumberland

Representatives:

FINCH of Fairfield  
EDGECOMB of Caribou  
GOLDMAN of Cape Elizabeth  
STEDMAN of Hartland  
MAKAS of Lewiston  
LANSLEY of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-273)**.

Signed:

Senators:

MITCHELL of Kennebec  
SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth  
NORTON of Bangor  
CAIN of Orono  
MERRILL of Appleton

Reports **READ**.

Senator **MITCHELL** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Wells-Ogunquit Community School District"

S.P. 486 L.D. 1397

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

MITCHELL of Kennebec  
SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth  
EDGECOMB of Caribou  
STEDMAN of Hartland  
MAKAS of Lewiston  
LANSLEY of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-272)**.

Signed:

Senator:  
TURNER of Cumberland

Representatives:  
FINCH of Fairfield  
NORTON of Bangor  
GOLDMAN of Cape Elizabeth  
CAIN of Orono  
MERRILL of Appleton

Reports **READ**.

Senator **MITCHELL** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act To Care for Families"

S.P. 361 L.D. 1044

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-280)**.

Signed:

Senators:  
STRIMLING of Cumberland  
BARTLETT of Cumberland

Representatives:  
SMITH of Van Buren  
JACKSON of Fort Kent  
HUTTON of Bowdoinham  
TUTTLE of Sanford  
CLARK of Millinocket  
DUPREY of Hampden

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:  
SNOWE-MELLO of Androscoggin

Representatives:  
HALL of Holden  
CRESSEY of Cornish

HAMPER of Oxford

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** 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** Report.

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Eliminate Term Limits in the Legislature"

S.P. 180 L.D. 572

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-278)**.

Signed:

Senators:  
GAGNON of Kennebec  
MITCHELL of Kennebec  
PLOWMAN of Penobscot

Representatives:  
FISHER of Brewer  
OTT of York  
PINKHAM of Lexington Township  
PATRICK of Rumford  
TUTTLE of Sanford  
HOTHAM of Dixfield  
MOORE of Standish  
BLANCHETTE of Bangor  
BROWN of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representative:  
VALENTINO of Saco

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** 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** Report.

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Create a Small Distillery License" S.P. 607 L.D. 1641

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-277)**.

Signed:

Senators:

GAGNON of Kennebec  
MITCHELL of Kennebec  
PLOWMAN of Penobscot

Representatives:

FISHER of Brewer  
OTT of York  
PINKHAM of Lexington Township  
PATRICK of Rumford  
TUTTLE of Sanford  
BROWN of South Berwick  
HOTHAM of Dixfield

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

VALENTINO of Saco  
MOORE of Standish  
BLANCHETTE of Bangor

(Representative MOORE of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended Report**.)

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** 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** Report.

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

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### SECOND READERS

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

#### House As Amended

Resolve, To Encourage Parents To Choose To Dedicate a Portion of Child Support Payments to College Investment Accounts

H.P. 47 L.D. 51  
(C "A" H-495)

Bill "An Act To Increase the Property Tax Exemption for Veterans"

H.P. 70 L.D. 74  
(C "A" H-529)

Bill "An Act To Amend the Laws Pertaining to Temporary Guardianship"

H.P. 81 L.D. 105  
(C "A" H-541)

Bill "An Act To Change Nonresident Income Tax Filing Requirements"

H.P. 175 L.D. 236  
(C "A" H-530)

Bill "An Act To Amend the Laws Governing Mechanics Liens"

H.P. 199 L.D. 260  
(C "A" H-540)

Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

H.P. 255 L.D. 332  
(C "A" H-404)

Bill "An Act To Limit the Liability of Ambulance Services in Maine"

H.P. 287 L.D. 385  
(C "A" H-543)

Bill "An Act To Amend the Laws Governing the Student Code of Conduct"

H.P. 419 L.D. 564  
(C "A" H-333)

Bill "An Act Regarding Divorce and Marital Property"

H.P. 454 L.D. 621  
(C "A" H-496)

Bill "An Act To Require Notification prior to Suspension of a Driver's License for a Nonmotor Vehicle Violation"

H.P. 460 L.D. 627  
(C "A" H-497)

Bill "An Act To Amend the Electronic Insurance Cancellation Notification Law" (EMERGENCY)

H.P. 467 L.D. 634  
(C "A" H-518)

Bill "An Act To Increase Retired Teachers' Health Insurance Benefits"

H.P. 535 L.D. 758  
(C "A" H-410)

Bill "An Act To Allow a Landlord To Discover Whether Sewer and Water Bills Have Been Paid"

H.P. 557 L.D. 780  
(C "A" H-539)

Resolve, To Establish the Blue Ribbon Commission on the Future of MaineCare

H.P. 594 L.D. 835  
(C "A" H-523)

Bill "An Act To Implement Recommendations of the Family Law Advisory Commission"

H.P. 1054 L.D. 1502  
(C "A" H-500)

Bill "An Act To Provide Greater Civil Relief Protection for Members of the Military"

H.P. 610 L.D. 859  
(C "A" H-538)

Bill "An Act To Update Professional and Occupational Licensing Laws"

H.P. 1071 L.D. 1524  
(C "A" H-522)

Bill "An Act To Increase Access to Information Regarding Referendum Questions"

H.P. 621 L.D. 870  
(C "A" H-505)

Bill "An Act To Amend the Uniform Health-care Decisions Act Concerning Personal Representatives under Federal Law"

H.P. 1105 L.D. 1567  
(C "A" H-501)

Bill "An Act To Require Alcohol Retailers To Post Signs Regarding the Laws Governing Alcohol"

H.P. 738 L.D. 1085  
(H "A" H-485 to C "A" H-455)

Resolve, Regarding Legislative Review of Chapter 920: Maine Model Building Energy Code, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 1127 L.D. 1591  
(C "A" H-510)

Bill "An Act To Promote Stability in Labor Relations"

H.P. 776 L.D. 1123  
(C "A" H-492)

Bill "An Act To Retain Maine's Theater Teachers" (EMERGENCY)

H.P. 1167 L.D. 1656  
(C "A" H-520)

Bill "An Act To Protect Children from Toxic Chemicals in Schools"

H.P. 800 L.D. 1157  
(C "A" H-489)

Resolve, Regarding Legislative Review of Chapter 11: PBX/Multiline Telephone System (MLTS) Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 1174 L.D. 1665  
(C "A" H-509)

Bill "An Act To Amend the Laws Regulating Street Rods and Custom Vehicles"

H.P. 806 L.D. 1163  
(C "A" H-517)

Bill "An Act To Allow Lincoln and Sagadahoc Counties an Exemption from the Limitation on County Assessments" (EMERGENCY)

H.P. 1176 L.D. 1667  
(C "A" H-537)

Bill "An Act To Create State Drug Schedules and Place Additional Restrictions on Prescribing Benzodiazepines"

H.P. 819 L.D. 1190  
(C "A" H-521)

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

Bill "An Act Regarding the Initiation of Cases of Murder and Class A, B and C Crimes in Superior Court by Complaint"

H.P. 866 L.D. 1248  
(C "A" H-498)

Bill "An Act Allowing Liquor Tasting Events"

H.P. 886 L.D. 1289  
(C "A" H-506)

Bill "An Act To Allow Insurers To Limit Their Uninsured Motorist Coverage to Persons Listed on the Policy"

H.P. 98 L.D. 122  
(C "A" H-512)

Bill "An Act To Assist in the Investigation and Prosecution of Theft Offenses"

H.P. 973 L.D. 1409  
(C "A" H-499)

**READ A SECOND TIME.**

Bill "An Act To Address the Constitutionality of Maine's Resident-only Lobster License"

H.P. 985 L.D. 1421  
(C "A" H-544)

On motion by Senator **MAYO** of Sagadahoc, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act To Strengthen the Animal Welfare Laws"

H.P. 1036 L.D. 1473  
(C "A" H-502)

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**Senate As Amended**



Bill "An Act To Clarify Warranty Practices between Manufacturers, Distributors and Dealers of Power Equipment, Machinery and Appliances"

S.P. 208 L.D. 653  
(C "A" S-258)

Bill "An Act To Restore Fair MaineCare Payments to Critical Access Hospitals" (EMERGENCY)

S.P. 231 L.D. 694  
(C "A" S-262)

Bill "An Act To Provide Tax Benefits for Sale of Leased Land Used as a Primary Residence"

S.P. 237 L.D. 700  
(C "A" S-267)

Bill "An Act To Implement the Recommendations of the Commission To Study Public Health That Concern Schools, Children and Nutrition"

S.P. 263 L.D. 796  
(C "A" S-268)

Bill "An Act To Promote Parity in the Laws Governing Smoking in the Workplace"

S.P. 294 L.D. 886  
(C "A" S-261)

Bill "An Act To Clarify the Laws Governing Agricultural Composting Operations"

S.P. 381 L.D. 1064  
(C "A" S-256)

Bill "An Act To Add Value to Maine Agricultural Products" (EMERGENCY)

S.P. 462 L.D. 1335  
(C "A" S-263)

Bill "An Act To Amend the Motor Vehicle Laws"

S.P. 468 L.D. 1341  
(C "A" S-255)

Bill "An Act To Improve Campaign Financing and Reporting and the Administration of the Maine Clean Election Act"

S.P. 518 L.D. 1500  
(C "A" S-264)

Bill "An Act To Amend the Laws Governing the Manufactured Housing Board"

S.P. 525 L.D. 1509  
(C "A" S-260)

Bill "An Act To Amend the Laws Concerning Registration of Engineers"

S.P. 537 L.D. 1548  
(C "A" S-257)

Bill "An Act To Exempt Internet Sales from the Definition of 'Auction'" (EMERGENCY)

S.P. 618 L.D. 1670  
(C "A" S-259)

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

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

#### REPORTS OF COMMITTEES

Senate

#### Divided Report

Eleven members of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Procedure by Which the York Sewer District May Be Dissolved"

S.P. 137 L.D. 413

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-281).**

Signed:

Senators:

BARTLETT of Cumberland  
COWGER of Kennebec  
WESTON of Waldo

Representatives:

BLISS of South Portland  
BABBIDGE of Kennebunk  
CURTIS of Madison  
BRAUTIGAM of Falmouth  
FLETCHER of Winslow  
ADAMS of Portland  
RICHARDSON of Skowhegan  
RINES of Wiscasset

One member of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-282).**

Signed:

Representative:

FITTS of Pittsfield

One member of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass**.

Signed:

Representative:  
McLEOD of Lee

Reports **READ**.

On motion by Senator **BARTLETT** of Cumberland, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281) ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-281) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281)**.

Sent down for concurrence.

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Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 11:15 in the morning.

After Recess

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **NATURAL RESOURCES** on Bill "An Act To Clarify and Harmonize State Policy on Groundwater Management"

H.P. 1158 L.D. 1643

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-547)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-547)**.

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

**READ ONCE**.

Committee Amendment "A" (H-547) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Divided Report**

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote the Use of Public Safety Telecommunications Equipment by the Deaf and Hard-of-hearing Community"

S.P. 595 L.D. 1613

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-285)**.

Signed:

Senators:  
**BARTLETT** of Cumberland  
**COWGER** of Kennebec

Representatives:  
**BLISS** of South Portland  
**BABBIDGE** of Kennebunk  
**BRAUTIGAM** of Falmouth  
**ADAMS** of Portland  
**RINES** of Wiscasset

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-286)**.

Signed:

Senator:  
**WESTON** of Waldo

Representatives:  
**FITTS** of Pittsfield  
**CURTIS** of Madison  
**FLETCHER** of Winslow  
**RICHARDSON** of Skowhegan  
**McLEOD** of Lee

Reports **READ**.

Senator **BARTLETT** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-285)** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. I'm going to urge you to not support this particular motion for two reasons. The need certainly was presented and perhaps I'll go into some detail. This bill subsidizes pagers for those in the deaf community who will need to be alerted to emergencies. There was full agreement that the pagers certainly would help. The issue that there was division on was the eligibility of that subsidy and how it was to be funded. In the bill that you have before you it would allow anyone earning 225% of poverty to get \$10. I see some shaking of the head. There were several versions, but you certainly can correct me. As far as I can tell, the last version, the majority report, is at 225% of poverty. The bigger difference is that it is funded automatically through the universal service fee on everyone's phone bill. We found that a stream of money is always enticing but not everything should be funded in that manner. The disagreement is that we believe it should be funded by the General Fund and we believe the eligibility level should start 125% of poverty. Other than that, we had full agreement. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I'm just pulling out the committee amendment now. My understanding is we did revise it to the 135% eligibility to try to meet that concern. We also did another important thing, which was to cap the amount of money that could be spent each year. I think a \$60,000 maximum amount that could be spent the first year, \$90,000 the second year, and \$120,000 the third year. The idea was to place a limit so we are not just driving up people's phone bills unnecessarily.

Another important point is that, given the state of the fiscal situation in this state, sending this to the Appropriations Table is sending it to its death. The reality is that we felt this was an important enough issue given that those who are deaf and hard of hearing do not have access to other forms of news and information that the rest of us do. We felt it was so important that they get those emergency updates. If there is a serious problem, whether it's some terrorist incident, that they be given the same information that everybody else has access to. That is what drove us to go to the USF fund, thinking that was an appropriate tool, given that those resources are used for other similar purposes in terms of providing information to everybody. We also, although we hate to raise any rate, understood that there is another bill that we passed this year that expands the USF fund. Where it is currently just on your land-line telephone, it will now be on your cellular telephones. That will result in a reduction in the percentage, the amount charged on the USF fund. Where more and more people are getting cell phones instead of land-lines, this will make sure the cost is spread as thin as possible. We believe that there will be a reduction even with the passage of

this slight added cost. It's a very small cost. I believe the USF fund is around \$1.2 million or \$1.3 million. We're talking about \$60,000 next year as a maximum. The deaf and hard of hearing community actually thought they wouldn't spend that much the first year. It will be more like \$30,000 or \$40,000. For those reasons I would urge you to support the majority report.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I'm glad to see that they have reduced that. As far as the cap, I think that what we have to do here is make decisions every day about what we can afford to fund and what we can't. It is easy to simply have a stream of money that you can just tap into. I think it's not the area we should go for this. I think that if we think it is worthy, and those of us on the committee thought it was, we ask for it to be funded through the Appropriations process.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bartlett to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (S-285) 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 (#199)**

**YEAS:** Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COURTNEY, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

**NAYS:** Senators: **ANDREWS, CLUKEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **BARTLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-285)** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-285) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass**

Senator HOBBS for the Committee on **JUDICIARY** on Resolve, To Study the Accessibility of Birth Certificates and Other Vital Records

S.P. 416 L.D. 1202

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

Report **READ** and **ACCEPTED**.

**READ ONCE.**

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**.

Ordered sent down forthwith for concurrence.

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

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled Unassigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require a 10-day Waiting Period for the Purchase of Firearms by a Person under 22 Years of Age"

H.P. 234 L.D. 310

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-264)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 12, 2005, by Senator **DIAMOND** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 11, 2005, Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**.)

(In Senate, May 12, 2005, Reports **READ**.)

Senator **DIAMOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On motion by Senator **WOODCOCK** of Franklin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. In May 2004, Laurier Belanger Jr. of Lewiston, who as 18 at the time, went to a local department store, bought a shotgun, came home and killed himself with the gun. Everyone who knew Larry knew him as a kind, intelligent young man who had a bright future ahead of him. This bill was brought before us to help prevent other teens from impulsively purchasing a gun and using it to commit suicide. The amended report before you simply requires that those younger than 18 have parental permission before a firearm can be transferred to them. We have a high rate of teen suicide in this state and this bill tries to take a small step in saving lives and reducing that high rate. I hope you will support the majority Ought to Pass as Amended report.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. The good Senator from Androscoggin, Senator Rotundo, did lay out the reason how this bill got to us. The committee spent an inordinate amount of time on this, more than maybe we have any other bill, because of the circumstances. The committee felt very, very concerned about what happened. They did not treat this lightly at all. We really tried to focus as much as we could to try to find a way to get something done that would partially address the issue. What we've done is we've made this law be applicable to those under 18, which makes it coincide with the feds, and would require parental consent. For the people who would like to do something about this issue of the teenagers, this will make an attempt to do that. The original bill, of course, had under 22 and no one on the committee felt that this was workable. Again, understanding the circumstances, the majority of the committee's strong feeling is that we would like to do something in this area. Remember this is for private sales only because people who are federally licensed have their own federal guidelines they have to follow anyway. This is for private sales. It's under 18 and parental consent. I would appreciate and urge your support for the majority report. Thank you.

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

Senator **TURNER:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **TURNER:** Thank you, Madame President. I appreciate the explanation from the good Senator from Cumberland, Senator Diamond. I'm trying to fathom how such a law would be

enforced? I'm wondering if the committee deliberated on that aspect of this bill?

**THE PRESIDENT:** The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. The good Senator from Cumberland, Senator Turner, poses a good question. The answer is that the committee did deliberate on that quite extensively and felt that there are already existing laws. The current law is 16. We felt that this could be enforced. Remember this is for private sales and I believe most people who deal with guns and selling and buying are honest, law abiding citizens. I think that this will put it on the books and it would, in fact, make somewhat of a difference. As has been said, I think it does begin the first step. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Hobbins.

Senator **HOBBS:** Thank you, Madame President. I'd like to pose a question through the Chair to anyone on the committee that might want to answer.

**THE PRESIDENT:** The Senator may pose his question.

Senator **HOBBS:** Thank you, Madame President. What was the position of the Sportsman's Alliance of Maine with respect to the bill as amended?

**THE PRESIDENT:** The Senator from York, Senator Hobbins poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President. The question is did the Sportsman's Alliance of Maine endorse or what was their position. They endorsed the majority committee report. That kind of told us something because having the Sportsman's Alliance of Maine on the side of this majority report reflects on how much diligence was given to try to find a workable solution on both sides of these gun issues, which are very sensitive. The answer is, the Sportsman's Alliance of Maine endorses this majority report.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose her question.

Senator **SNOWE-MELLO:** Thank you, Madame President. I'd like to find the information on how the National Rifle Association felt on this bill.

**THE PRESIDENT:** The Senator from Androscoggin, Senator Snowe-Mello poses a question through the Chair to anyone who

may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President. The answer to that question is, the National Rifle Association opposes the majority report.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Diamond to Accept the Majority Ought to Pass as Amended 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 (#200)**

**YEAS:** Senators: BARTLETT, BRENNAN, BROMLEY, COWGER, DIAMOND, GAGNON, HOBBS, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, HASTINGS, MARTIN, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **DIAMOND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/3/05) Assigned matter:

**SENATE REPORTS** - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Ensure Sufficient Staffing To Properly Enforce the Laws and Rules of the Manufactured Housing Board"  
S.P. 87 L.D. 267

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-114)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 3, 2005, by Senator **BROMLEY** of Cumberland

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

(In Senate, May 3, 2005, Reports **READ**.)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I'm urging you to oppose the Ought Not to Pass report, which is the minority report. This bill was proposed by the manufactured housing industry, which you may know is one of the success stories in western Maine, employing nearly 1,000 people in my district. The industry and the Manufactured Housing Board, which governs the industry here and is made up of both industry representatives and consumer representatives, has sought and asked for the funding for one further inspector for manufactured housing.

I need to tell you a couple of facts about this. First, this is something I didn't realize, the installation of manufactured housing throughout Maine, which is now 25% of our housing industry, is beyond the jurisdiction of the local building inspectors. They have no jurisdiction, whatsoever, beyond the septic system and the foundation. Putting that building together is solely within the purview of the Manufactured Housing Board. At this time, the Manufactured Housing Board has 1 ½ inspectors for the entire state. In addition to being required to inspect the installation of manufactured housing, they must also inspect all of our mobile home parks throughout the state. They have a huge burden. The industry, over the last ten years, has grown 500% and is now approximately 25% of our new home construction in Maine. The Manufactured Housing Board does inspect the construction of these units within the factories, the construction of the components, but the installation can take what is a wonderful product and really ruin it if it is not done well or if done by an unlicensed installer, if done by an inexperienced installer improperly. It can ruin what is otherwise a wonderful product.

The Board itself, as I've told you, is very desirous of needing another inspector. What I really haven't told you is that I think if this was going to cost the General Fund any money, I'd be a little hard-pressed to come before you today and argue in favor of this or opposing the motion. This position will be entirely funded by funds paid by the industry in connection with its licensing process and in connection with a fee paid with each unit constructed. There was much more money than necessary to cover this position already within a dedicated fund within the Manufactured Housing Board's account. This position will not cost the General Fund one dollar. This position will be entirely funded by the industry. The industry very much wants to act in a pro-active manner and protect the consumer against shoddy installation. As I'm told, the only thing the inspectors are able to do now is deal with complaints. There is no regular course of inspection of installation. To me, it makes perfect sense. We have an industry that wants to protect the public. They want to enhance their image. They are a growing industry. They are providing a huge number of jobs in the state. They are willing to pay for it. They are not asking for one dollar from the public to do this. Therefore, members of the Senate, I strongly urge that we oppose the pending motion and then move forward to the Ought to Pass report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. The good Senator from Oxford, Senator Hastings, is right. We are very interested in protecting this wonderful industry in the western part of the state. I think he referred to them as well built homes and they are well built homes. In fact, they are the most inspected homes in the state. As we all know, we just recently passed a statewide building code that is voluntary, but manufactured housing has been inspected to the International Building Code for years. They are the only homes currently built that are inspected thoroughly before they ever leave the factory.

This doesn't impact the General Fund but it does impact fees. For those of us who are concerned in general about the cost of government and fees, we ought to be concerned about the \$80,000 fiscal note in 2007 and the \$84,000 fiscal note in 2008. For those of you who don't serve on the Business Research and Economic Development Committee, all boards and commissions are funded by fees. This is not unique to this board. I should say that we don't simply add staff willy-nilly. We have a mandate to have at the core of our decision about whether or not we add staff. Does this issue protect the public? Do we need to protect the public? Do we need to increase fees and increase the number of human resources in a department to protect the public? The department said no, that there were sufficient resources and staff to protect the public interest. There has been increase in the total of complaints.

The issue of installing, which the Senator mentioned, the committee asked, 'Are there shoddy installers? Should we be worried about that?' We learned that installers of manufactured housing are also licensed. If unlicensed installers are installing manufactured homes, that is an issue that can be well taken care of by manufacturers simply handing a piece of paper to the buyer saying, 'You have just made a major purchase, be sure that you have a licensed installer install it.' In our search for some common ground, because we do agree that this is an important industry, we tried to find amendments that might work. We weren't able to do that. I heard from one of the lobbyist who said, 'If this bill passes, it will not enhance anyone's income or competitive position except perhaps the competitor who is intentionally cutting all corners.' Often we see, in the committee, issues of this nature that are about turf, about protecting a market share from another competitor. I just wonder about that. The client is prepared to see the demise of this bill, they are interested in finding other ways of making the public aware of this unlicensed installer issue. I urge you to support the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I was on the majority Ought to Pass vote. This is a bill brought forth by the industry, an industry that has grown substantially over the last few years except the number of inspectors hasn't grown. The industry wants another inspector. They are going to pay for it themselves. I don't believe the fees are going to have to go up at all because the fees are paid by the manufacturers as they produce the homes. A fee comes from each home and the number of homes that are

produced today is substantially higher than it was several years ago. There is a slush fund to take this out of, which will more than take care of the fees needed. They want to have an extra inspector so that they don't have to react to complaints so that they can go out and do some inspections on their own as a spot check, and therefore, make this industry, which is a great industry and a growing industry, even better than it is today. It's a bill put forth by them and they want to pay for it. I really think that we ought to allow them to do this. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. I want to reiterate, there will be no fees assessed to anybody, even within the industry. There are more than sufficient fees being collected now to fully fund this position.

One other thing I did not mention, and is of great concern to the Manufactured Housing Board and the industry, is that new regulations that the federal government is imposing with regard to what they call 'HUD Homes'. HUD homes are what we always thought of as the mobile home, the double wides and the single wide. Those are regulated by HUD because they are often financed by HUD. The new regulations, which will go into effect this fiscal year, will require the Manufactured Housing Board to inspect somewhere between 15% and 20% of these each year. This will add at least 200 inspections each year. The best I have heard from the department with respect to this is that they hope to obtain a waiver from having to do this inspection. The industry, along with the department representatives, has been to Washington and been told this program will start within the next year, sometime around January 1<sup>st</sup>. This is a reality.

To the good Senator from Cumberland, Senator Bromley, I agree that we should not expand these positions on a willy-nilly basis. I would point out that there has been no expansion for over ten years. I don't consider that willy-nilly when the growth has been 500%.

One final thing I would mention, many of our manufactured homes are built out-of-state and even out of our country. They come in from Canada. They come in from other states. I think there is a special concern that those coming in from Canada are being installed by people without licenses and without the skills. This additional inspector would certainly allow for a more proactive approach in that regard. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I know it was a long weekend but I'm a little amazed here. We're either looking at a fee increase or we are looking at using some type of slush fund or we're over-collecting fees. I don't know where we are heading these days.

We have a department that doesn't feel like they need these positions. We've got a Taxation Committee that says the difference between a tax increase and a fee increase is that the tax increase is going to the Taxation Committee and the fee increase is done in every other committee. We've always said, when I was in Tax, that if it walks like a duck and quacks like a duck, it's a duck. This sounds like a fee increase to me. I know we're interested in what special interest groups are doing these

days, so I'm hoping that the Maine Economic Research Institute is carefully monitoring this bill. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I'm a little confused. First I heard from one Senator that said there is fee increases. Then I've heard from another Senator that there aren't any fee increases. I'd like to have that clarified. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President. Regarding the fees, currently there is sufficient funds to fund this additional position through 2006 - 2007. The way these boards work is the fees are levied on the licensees and when things increase they have to come to our committee and ask for a fee cap increase. I suspect that in 2008 we will be asked to have a fee cap increase.

**THE PRESIDENT:** The Senator from Oxford, Senator Hastings, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **HASTINGS:** Thank you, Madame President. On the fee increase, I have to reiterate. There is no fee increase proposed. It's paid on a per-unit basis. I've been warned not to say this but I'm going to say it anyways, there is approximately \$750,000 accumulated in this fund because of the success of the industry. It's primarily accumulated through a per-unit fee paid in by the manufacturer. This fund, which is more than adequate to fund this for the foreseeable future, will grow as the industry grows and the fees collected will grow because they are collected on a per-unit basis. We anticipate absolutely no fee increase rate whatsoever as a result of this position. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Madame President. It's interesting to note that the industry has been so successful that it accumulated such a large amount of money. I would speak to my good colleague from Kennebec, Senator Gagnon, that it sounds to me like it does walk like a duck and it quacks like a duck and that we ought to support this request from the industry.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bromley to Accept the Minority 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 (#201)**

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, DAMON, GAGNON, ROTUNDO, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, COWGER, DAVIS, DIAMOND, DOW, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, TURNER, WESTON, WOODCOCK

8 Senators having voted in the affirmative and 27 Senators having voted in the negative, the motion by Senator **BROMLEY** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President. I would just like to ask people to take a look at the fiscal note that is part of the bill.

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

**THE PRESIDENT:** The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended 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 (#202)**

YEAS: Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, COWGER, DAVIS, DIAMOND, DOW, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BARTLETT, BRENNAN, BROMLEY, DAMON, GAGNON, ROTUNDO

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-114) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (5/19/05) Assigned matter:

**Emergency Resolve**

Resolve, To Review the Housing Discrimination Laws  
S.P. 99 L.D. 321  
(C "A" S-136)

Tabled - May 19, 2005, by Senator **GAGNON** of Kennebec

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, May 11, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-136).**)

(In House, May 18, 2005, **FAILED FINAL PASSAGE.**)

This being an Emergency Measure and having received the affirmative vote of 21 Members of the Senate, with 14 Senators having voted in the negative, and 21 being less than two-thirds of the entire elected Membership of the Senate, **FAILED FINAL PASSAGE**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/25/05) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Help Voters Control the Cost of Government  
H.P. 986 L.D. 1422

Tabled - May 24, 2005, by Senator **STRIMLING** of Cumberland

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-437)**

(In House, May 23, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 25, 2005, motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**. The Minority **OUGHT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**. **READ ONCE**. Committee Amendment "A" (H-437) **READ**.)

Committee Amendment "A" (H-437) **ADOPTED**.

**READ A SECOND TIME.**

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-265) **READ** and **ADOPTED**.



**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-437) AND SENATE AMENDMENT "A" (S-265), in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **JUDICIARY** on Bill "An Act Regarding Child Protection Proceedings"

H.P. 618 L.D. 867

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-545).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-545).**

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

**READ ONCE.**

Committee Amendment "A" (H-545) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding Tribal Gaming and Gaming by Nonprofits"

H.P. 788 L.D. 1145

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-550).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550).**

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

**READ ONCE.**

Committee Amendment "A" (H-550) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

(See action later today.)

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

**ENACTORS**

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

**Emergency Measure**

An Act To Facilitate Reimbursement of Public Utilities Relocation Costs

H.P. 400 L.D. 524  
(C "A" H-458)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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, was presented by the Secretary to the Governor for his approval.

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Senator **TURNER** of Cumberland was granted unanimous consent to address the Senate off the Record.

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**Emergency Measure**

An Act To Amend the Laws Regarding the School Revolving Renovation Fund

H.P. 1019 L.D. 1454  
(C "A" H-462)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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, was presented by the Secretary to the Governor for his approval.

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

**ENACTORS**

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

**Acts**

An Act To Simplify the Real Estate Foreclosure Process  
H.P. 344 L.D. 469  
(C "A" H-466)

An Act To Amend the Laws Governing the Effect of Foreclosure of a Tax Lien on Time-share Estates

H.P. 830 L.D. 1212  
(C "A" H-467)

An Act To Allow Physicians Licensed in Other States but Trained outside the United States To Practice Medicine in Maine

S.P. 441 L.D. 1261  
(C "A" S-239)

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

An Act To Amend the Axle Weight Laws

H.P. 477 L.D. 657  
(C "A" H-459)

On motion by Senator **DAMON** of Hancock, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

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

**ENACTORS**

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

**Acts**

An Act To Repeal Certain Boards and Commissions

H.P. 1082 L.D. 1537  
(C "A" H-378; H "A" H-469)

An Act Concerning Full Faith and Credit for Legal Documents Executed in Other Jurisdictions

H.P. 1104 L.D. 1566  
(C "A" H-468)

An Act To Allow Certain Modifications of Motor Vehicles

H.P. 1109 L.D. 1571  
(C "A" H-457)

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

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

**ENACTORS**

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

**Resolves**

Resolve, To Establish a System for Verification of Proficiency for Prelingually Deaf Candidates for Teacher Certification

S.P. 430 L.D. 1251  
(C "A" S-235)

Resolve, To Address the Unauthorized Publication of Information Concerning Recreational Trails That Cross Private Property

H.P. 1066 L.D. 1519  
(C "A" H-460)

Resolve, Regarding Legislative Review of Chapter 180, Subchapter XIII: Continued Provision of Free Appropriate Public Education for Five-Year-Olds Born Between September 1st and October 15th, a Major Substantive Rule of the Department of Education

H.P. 1074 L.D. 1529  
(C "A" H-461)

**FINALLY PASSED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Implement the Recommendations of the Legislative Youth Advisory Council"

H.P. 779 L.D. 1136

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.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

The Committee on **TRANSPORTATION** on Bill "An Act To Amend the Law Governing the Department of Transportation's Contracting Authority"

H.P. 1173 L.D. 1662

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.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Simplify Implementation of the Maine Learning Results"

H.P. 988 L.D. 1424

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-554)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-554)**.

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

**READ ONCE.**

Committee Amendment "A" (H-554) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Directing the Department of Health and Human Services To Provide Local Alternatives to MaineCare's Mail-order Pharmacy

H.P. 437 L.D. 604

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-556)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-556)**.

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

**READ ONCE.**

Committee Amendment "A" (H-556) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass Pursuant to Public Law**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding Transition Provisions for the Sharing of Costs in Certain School Districts" (EMERGENCY)

H.P. 1189 L.D. 1684

Reported that the same **Ought to Pass**, pursuant to Public Law, chapter 2, Part D, section 68.

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Admission Policies for Hospitals Providing Swing Bed Services"

H.P. 1002 L.D. 1438

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-557)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-557)**.

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

**READ ONCE.**

Committee Amendment "A" (H-557) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Improve the Operation of Underground Damage Prevention Procedures"

H.P. 254 L.D. 331

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-558)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-558)**.

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

**READ ONCE.**

Committee Amendment "A" (H-558) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Improve Funding for Telecommunications Relay Services"  
H.P. 887 L.D. 1290

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-559)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-559)**.

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

**READ ONCE.**

Committee Amendment "A" (H-559) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Implement Emergency Medical Dispatch Services for E-9-1-1 Calls"

H.P. 959 L.D. 1373

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-560)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-560)**.

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

**READ ONCE.**

Committee Amendment "A" (H-560) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Potato Industry Licensing Laws"

H.P. 1110 L.D. 1572

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-562)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-562)**.

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

**READ ONCE.**

Committee Amendment "A" (H-562) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Expand the Powers of the Stonington Sanitary District" (EMERGENCY)

H.P. 1169 L.D. 1658

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-561)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-561)**.

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

**READ ONCE.**

Committee Amendment "A" (H-561) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**SENATE REPORTS** - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Directing the Board of Trustees of the University of Maine System To Institute a Statewide Sports Program

S.P. 453 L.D. 1326

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-273)** (6 members)

Tabled - May 31, 2005, by Senator **MITCHELL** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 31, 2005, Reports **READ**.)

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. We have so few occasions in the Education Committee to debate bills since we almost always come to complete agreement under the expert guidance of our chair, the good Senator from Kennebec, Senator Mitchell. This particular bill, regrettably, is not one of those. It came to the committee as a concept bill, asking that the University of Maine System trustees be directed to develop a statewide sports program for the University System. As you can see, a majority of the committee did not feel that this was appropriate use of our trustees' time, energy, and resources. The majority, however, wished to engage you with a resolve that would have the trustees study this. I would simply suggest to you that sports programs at the University System and the individual campuses are in very

good shape today. Each of the campuses has an athletic director, who engages likeminded institutions, equivalent to the caliber of the sports programs under their tutelage and have active intercollegiate programs underway. To try to have something involving Orono, which as some of you know has Division 1 programs in some sports and Division 1A programs in others, and to try to manage that with the University of Maine at Machias, the University of Maine at Fort Kent, and the University of Maine at Presque Isle doesn't seem to make much sense to me. I would suggest to you that this motion before you be voted no on and that we allow the trustees to focus on the important matters before the University System. Thank you so much.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. Indeed, this is not an occasion we often debate on the floor. The members of my committee have worked very, very hard to find common ground on almost all of the bills that have been before our committee. In this one case, however, there was a difference of opinion and we bring it to you for your final disposition. The minority of the committee felt that it was perfectly appropriate to ask the trustees to take a look at the sports programs within the University System. Frankly, there was a lot of concern about sports programs in the smaller branches of the university. The legislature is not telling them what to do. It is asking them for a study and to report back to our committee on their conclusions. The feelings of the minority of the committee is that they had not focused on this issue and it was, indeed, important to the small campuses, in particular, and it is simply a request that the University trustees take a look at this and report back to us in January. Anything that ever comes of this, obviously, goes through the trustees and if we want to pass legislation through this body. It does not mandate any sports program. It does not have an outcome predicted but rather asks them to take a look at topic that was important to a number of people. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. I'm sure the good Senator from Cumberland, Senator Turner, understands the issue quite well. The whole purpose of the bill, as it was put in, was to ask the trustees to take a look at the situation that has developed statewide. One of the problems we have is that it's very difficult for small campuses, in particular, if they don't collectively work together. Part of the problem you have is the allocation of dollars that occurs among campuses. It's not a question of getting the trustees in the middle of micromanaging, that's not the issue. There has to be, I think, some overview as to the amount of money that's allocated to the programs so that there is some fairness involved. I think that over the years the trustees have had more to look at than the issue of sports and they have not really dealt with it. Actually there was, at one time, a committee that actually was chaired by a former trustee from Washington County. When she was not reappointed, that sort of went by the way side. I'm hoping that this is something that is going to resurrected by the board. I will say that the next board meeting is being held at the University of Maine at Fort Kent in June. I'm sure that will be on their agenda.

SNOWE-MELLO, TURNER, WESTON,  
WOODCOCK

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

Senator **TURNER:** Thank you, Madame President. In response to the good Senator from Aroostook, Senator Martin, if the trustees feel that this is an appropriate matter for them to weigh in on they are perfectly capable of doing so. I don't know that they need our help, at this time, given the magnitude of the issues facing the University System; whether it's their strategic plan or the tuition increases that they are passing along to our students because of the lack of growth of funding that has come from this body and the other chamber. I don't think this is an appropriate course of action for us to engage in at this time and would ask that you defeat the pending motion. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll be very, very brief. I'm going to be supporting the pending motion. As a big fan of cross-country skiing, I'm very frustrated that national powers, Dartmouth and Vermont, regularly stock their 1A cross-country skiing college programs with cross-country skiers from Maine. We put millions into building stadiums for football teams and yet cross-country skiing is not offered as a collegiate sport in our system. At the high school level, the State of Maine, when it goes to the national championships, always compete very, very well. Yet all of those skiers must, if they want to continue skiing, go to school in another state. I'm going to be supporting this. I know there are no guarantees, but I think it will just force them to, hopefully, look at this particular cross-country skiing issue and how the lack of a team is forcing our top students to go out-of-state.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Senator **MITCHELL** of Kennebec to Accept the Minority Ought to Pass as Amended 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 (#203)**

**YEAS:** Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, RAYE, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, ROSEN, ROTUNDO, SAVAGE,

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-273) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-273)**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Wells-Ogunquit Community School District"

S.P. 486 L.D. 1397

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-272)** (6 members)

Tabled - May 31, 2005, by Senator **MITCHELL** of Kennebec

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

(In Senate, May 31, 2005, Reports **READ**.)

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. The good Senator from Kennebec, Senator Mitchell, and myself do not have a dog in this fight, but it is a fight nonetheless. There has been a long history of acrimony with respect to the local funding of education in the Wells-Ogunquit school district. These two communities have been before the Education Committee many, many times and long-term veterans of this institution perhaps recall some of those discussions. Originally, Ogunquit brought a bill before us asking to modify the private and special agreement that exists between the two towns. I think the committee was unanimous in not desiring to support Ogunquit's request. The slight minority of us decided we should try to bring closure to this long-standing dispute between Ogunquit and Wells. If you defeat the pending motion, the majority Ought Not to Pass report, we can move on to the minority report, which would ask that the two communities mediate their differences, and failing to reach an agreement on mediation, they move to binding arbitration to decide what their private and special agreement should be. I think that is the best

way for us to approach it. I don't think the committee has the wisdom to make the decision and we would like to stay out of it. I believe the best course of action is to let the two communities deal with the matter but do it in a binding and final way with binding arbitration. The last time these two communities tried to work together there was a committee made up of citizens from both Wells and Ogunquit. That committee reached an agreement. The selectmen of Ogunquit agreed to the proposition that the bi-town committee had developed. Wells refused to deal with it at the selectmen level and the agreement fell apart. Without binding arbitration in the mix, it is my belief that there is no incentive on the part of the Wells community to enter into a final resolution on this matter. In fact, the chairman of their board of selectmen indicated exactly that to me in a phone conversation. I would ask that you defeat the pending motion and we can move on to the minority Ought to Pass report. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. It is true that the Senator from Cumberland, Senator Turner, and I are not directly impacted by this particular bill. You have two distinguished Senators, however, in this chamber who are and they will be able to share with you the local perspective. I thought it was very important that you get a little bit of history though because for these two Senators there is no right answer because what had happened years ago, and I believe it was 1979, the Town of Ogunquit petitioned to secede from Wells. In exchange for that, an agreement was struck between the communities that they would share the cost of schools. Over time other arrangements were made. I think in 1999 it wasn't just valuation but rather they put in the number of pupils.

You just dealt with this on supplement 27 today, some cost sharing items that are taking place right now in schools around the state because of the new school funding formula. There are districts that were impacted and we've tried to give them, through legislation, opportunities to work through their cost sharing differences. Frye Island, for example, in the Senator from Cumberland, Senator Diamond's district, was one of those school districts that were affected. Frye Island has no students but has a great deal of property valuation. The decision that we are making with them, and they agreed to, was sharing the sense of community and being responsible for those students. The same thing happened in the good Senator from Oxford, Senator Bryant's district with Sunday River. Again, it is a very property wealthy district with no students. Under the new school funding formula they would have gotten a tremendous tax break, but in the cost sharing thing worked out for them, there was a sense of community. You are responsible for the children of this state.

I can understand why the citizens of Ogunquit think that they should not be forced to continue the former agreement they had because it is costing them more money. I think it's very important for you to know, those of you who are struggling to pay school bills, that at 4.32 mils Ogunquit already has one of the lowest tax rates in Maine for education. It's not that we're helping a community that is struggling to pay for education, it's a community who feels that it is paying too much for education. I think that most of the committee voted against this bill because it would change that cost sharing to give a greater tax break to the citizens

of Ogunquit because they are saying they don't have enough students to justify the cost that they are paying. However, that was not their issue when they sought permission to secede and have their own district. I would suggest to you that this boasts ill for a lot of communities in this state. If you have a wealthy part of your town along the coast, Biddeford Pool in Biddeford for example, there would be a great desire to withdraw from a school unit or a school area to just cut your property tax bills. I think this is bigger than Wells and Ogunquit. I think that is why I took such a strong interest in it. To me it speaks to our sense of community. It speaks to our responsibility as towns in this state. They are all our children. This arrangement was made to share those costs and I believe that Wells and Ogunquit must work this out themselves.

You need to also understand why it's here before us in this form. They were created by private and special legislation, so they have to come here. They were created by the private and special legislation that allowed them to secede in the first place. That is why they are treated differently under the school funding formula. It is my belief, and many members of the committee's belief, that things should be left to stand and that we should defeat this bill and let the communities continue to work on how they intend to share costs. The thought I will leave you with is that both Wells and Ogunquit share a school and they are responsible for the students. It is not a matter of being unable to pay, 2/3 of these residents, and I believe someone will correct me if I am wrong, are seasonal and out-of-staters. It is important that people carry their fair share of paying for the student's education. I hope you will join me in supporting the Ought Not to Pass report.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Andrews.

Senator **ANDREWS:** Thank you, Madame President and fellow Senators. I have the distinction of being the Senator to represent Ogunquit. I am here to speak on behalf of the minority report. As has previously been stated, this has a rather long and stormy history. It is true, in 1979 Ogunquit, by wishing to withdraw from Wells, did agree to a cost sharing agreement in order to withdraw. At that time they had roughly about 140 students. Since that time several things have changed. In 1999, when I served on the Education Committee, they came back in front of us, asking to withdraw from the school district. Because it was created by a private and special law, they cannot withdraw without an act of the legislature. You need to know that. At that time we held the bill over and we had a fact finding committee that came back the next year and recommended that the current cost sharing formula be temporary. They reduced it from 100% of property valuation to 67% of property valuation, I believe, and 33% pupil count. They also recommended that they continue to do further mediation in order to perhaps bring it down even more.

You need to know that since that time the town of Ogunquit has gone down to 50 students and perhaps is looking to drop even more. The town of York is only 4 square miles while Ogunquit has 58. The town cannot develop more buildings in order to increase the tax base. We talked about the mil rate for education and the amount that the good Senator quoted is correct. That percentage involves \$71,000 per student that the town of Ogunquit is contributing to the cost of education. With this small ratio of students and with the fact that the tax rate is high for those year-around residents that do live there, the prospect looms very large for a further decrease in students.

You need to also understand that it is weighted in favor of Wells. In other words, any decision that is made at the school board level, although there may be two school board members from Wells and two from Ogunquit, those two board members from Wells have a heavier weighted measure. In other words, it would count for five or six votes. A year ago there was a proposal in front of the school committee to close down the Ogunquit Village School where Ogunquit sent their children in the lower grades. Because of the weighted system, the school board voted to close that school. Ogunquit really had no recourse. As we all know, there is a saying that a school is part of a village. It takes a school to make a village. With the loss of that school, Ogunquit is feeling that they are losing a lot of their identity and that they really now have less control over the education of their students. Ogunquit, as it stands now, will pay about 25% of the total school costs with less than 4% of the school enrollment. This cost sharing agreement, as it stand now, goes against essential programs and services, which is based on the cost to educate a child.

Someone said that we should kill this and have an end to it. Without the passing of the minority report, I can guarantee that there will be no end. There was an attempt as the good Senator from Cumberland, Senator Turner, mentioned for mediation this past year. The committee that was comprised from citizens from both communities agreed on an amount. The Ogunquit selectmen approved it and was going to put it on the ballot. It was turned down by Wells. Mediation alone will not solve the problem. You can send the two towns back to mediation, but the same thing will happen that happened this past year. With the threat of binding arbitration, I think it forces both towns to come together in a more forceful way to attempt to solve this problem once and for all. I would ask you to vote against the majority report and go on to support the minority report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. I can't tell you how much I've anticipated this discussion. I've been waiting for weeks and months to do this.

Madame President, I know we have all had this experience, we get a phone call from a constituent, the ones I most anticipate have to do with child custody or child support, and they go on and on. I will tell you, I'm not going to try to counter the detail here because your head will be spinning by the time it's done. This has been an interesting issue. Those of us who have been here for a few years have, I hope, appreciated the learning curve that is going on here. In my case, I'm going to recommend to you that the end of the learning curve is don't try to fix this problem. It's not fixable. This ought to be done by our local communities in this case, one of which I happen to represent, Wells. This is not fixable. Ogunquit would not be a town if they didn't agree to this agreement in 1979. They agreed to pay their fair share of the education costs. Since then they have been trying to get out of it. That's what it boils down to. That's why we shouldn't be involved in trying to fix this.

I'm going to try really hard to avoid the rest of the problems. I just want to share a couple of the facts with you. First of all, this is not just about Wells and Ogunquit any more, as the good chair of the Education Committee pointed out. Be careful of this one. Almost every community in this state has the potential for the

same thing to happen to them. If it was just Wells and Ogunquit then you could dismiss this argument, but recently we've seen the same thing happen to the town of Standish and the new town of Frye Island. I think I voted for it when I was down in the other body at that point. The town of Frye Island went through the process and separated, became a separate town. As was stated before, no body lives there year around. There are no kids. Couldn't be any more stark than that. They agreed, as part of the agreement, to pay their fair share of the education costs. This is a substantial amount of money here. There's a lot of waterfront property on Frye Island. Standish agreed. They even have a representative on the SAD 6 school board. He represents no students, but he's a representative of Frye Island. The very next year, Madame President, they were in here, the town of Frye Island, with a bill asking to change that formula. Thankfully, collectively we decided it was too close. There wasn't any time in between and it was not the right thing to do. What I caution you about is the same potential scenario. Almost every town, many towns in the state, have a more wealthy part of town and I will almost guarantee you that those people feel they are paying more than their fair share, whether they express it or not. We are now showing them a process that they can go through to effect that change. I don't think we ought to be encouraging that to happen. The way it is, Madame President, is you apply to separate. You agree to pay your fair share. Then you come back to the legislature and try to change it. That's the formula. It really is pretty basic. Do we, essentially, want to encourage a system where everybody pays their fair share based on property value? If you don't believe in that system, then you have a lot of problems. If you are still there, which where our constitution says we are, then you should not be in favor of allowing this bill to pass.

It's been referred that everybody on the committee was in support of the solution and the amendment, but the minority report calls for binding arbitration. Binding arbitration, Madame President, implies that both parties agree. Wells does not agree to binding arbitration. The minority report would force them into that position. Madame President, I would urge that we accept the Ought Not to Pass report and move on. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. This debate is taking almost as much time as it did in our own caucus an hour ago. Hopefully we won't break that record. I just want to point out a few things to you.

First of all, the good Senator from York, Senator Nass, is wrong. He claims it's not fixable. Indeed it is fixable, but only by one mechanism, and that is binding arbitration because we have shown that mediation by itself is not going to do the deal. Ultimately, the mechanism for binding arbitration, I think, ensures fairness because both parties will be at the table and they will be bound by the conclusion of the arbitrary, if they are not able to mediate their terms before arbitration. The minority report, should you move on to that, specifically requires that mediation, as well as binding arbitration, be accompanied by policy experts from the Department of Education to make sure that the interests of the children of both communities are kept at the forefront of whatever negotiations do proceed.

I do think it's peculiar to Wells and Ogunquit. The slippery slope that the Senator from York, Senator Nass, alluded to in his



discussions with you I don't think is appropriate in this case. This is specific to two communities. Interestingly enough, they have a long history of working together on many, many things. It does happen that education and how you seek to fund education for your children is not one of them. If you look at the property bills of the average person from Wells and the average person from Ogunquit, they are pretty much analogous. They run \$2,400 to \$2,500 on average per residential piece of property. The difference has come down to the number of children. Where there is a huge number of children in Wells and a very small number in Ogunquit. I think Wells, perhaps, runs countercurrent to the approach that L.D. 1 takes, which drives more to per student funding. They are currently operating under a 2/3 - 1/3 mechanism. I'm not certain that is appropriate, but I do think rather than try to have the legislature's Education Committee continue to wrestle with this in future years, we should allow it to go to binding arbitration and finality. Thank you very much, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. I'm sure some of you may think it strange that I would come up and debate this issue at this particular time. I just want to point out that I was here when the original agreement was made between Wells and Ogunquit. It was an agreement that was agreed to and thought to be followed. Today I will actually be supporting the Senator from York, Senator Nass.

On motion by Senator **ANDREWS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell 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 (#204)**

**YEAS:** Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: ANDREWS, CLUKEY, PLOWMAN, RAYE, SAVAGE, SNOWE-MELLO, TURNER

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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

**ENACTORS**

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

**Acts**

An Act To Limit the Political Activity of the Members of the Commission on Governmental Ethics and Election Practices  
S.P. 247 L.D. 749  
(C "A" S-223)

An Act To Strengthen the Penalties for Furnishing Alcohol to or Allowing Consumption of Alcohol by Minors  
S.P. 311 L.D. 903  
(C "A" S-237)

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

An Act To Repeal Tax and Match  
S.P. 236 L.D. 699  
(C "A" S-193)

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

An Act To Improve Sentencing for Serious Offenders  
H.P. 680 L.D. 970  
(C "A" H-474)

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

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

**ENACTORS**

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

**Acts**

An Act To Amend Certain Milk and Milk Products Laws  
H.P. 990 L.D. 1426  
(C "A" H-470)

An Act To Facilitate Energy Self-sufficiency for Maine's Offshore Islands  
H.P. 1006 L.D. 1442  
(C "B" H-486)

An Act To Establish a Fair System for the Protection of Volunteer Firefighters' Employment  
H.P. 1166 L.D. 1652  
(C "A" H-493)

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

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

**ENACTORS**

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

**Resolves**

Resolve, Directing a Review of Comprehensive Planning and Growth Management in Maine  
H.P. 211 L.D. 286  
(C "B" H-476)

Resolve, To Improve Statewide Business Assistance Services  
H.P. 584 L.D. 825  
(C "A" H-475)

Resolve, To Amend the Rule-making Process for the State's Plumbing Code  
S.P. 373 L.D. 1056  
(C "B" S-132)

Resolve, To Grant the Town of Alton Automatic Intervenor Status  
H.P. 729 L.D. 1076  
(C "A" H-490)

**FINALLY PASSED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

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

**ENACTORS**

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

**Resolves**

Resolve, To Establish Energy Standards for Residential Rental Properties  
H.P. 751 L.D. 1098  
(C "A" H-487)

Resolve, To Establish a Responsive, Community-based, Cost-effective and Comprehensive Adult Mental Health System  
H.P. 1060 L.D. 1515  
(C "A" H-479)

Resolve, Directing the Department of Inland Fisheries and Wildlife To Study the Feasibility of Establishing a Program To Assess Riverine Habitats in Maine  
H.P. 1161 L.D. 1648  
(C "A" H-483)

**FINALLY PASSED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

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Resolve, To Promote Training Centers for Entrepreneurship  
H.P. 964 L.D. 1387  
(C "A" H-482)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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Senator **GAGNON** of Kennebec was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **GAGNON** of Kennebec, **RECESSED** until 6:00 in the evening.

After Recess

Senate called to order by the President.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (5/24/05) Assigned matter:

**Mandate**

Resolve, Regarding the Town of Cooper  
S.P. 603 L.D. 1626  
(C "A" S-196)

Tabled - May 24, 2005, by Senator **DAMON** of Hancock

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 19, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-196).**)

(In House, May 23, 2005, **FINALLY PASSED.**)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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The Chair laid before the Senate the following Tabled and Later (5/26/05) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Restore Funding for the Reading Recovery Program"

H.P. 1138 L.D. 1615

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-464)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 26, 2005, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **MITCHELL** of Kennebec to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 25, 2005, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464).**)

(In Senate, May 26, 2005, Reports **READ.**)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. Just a brief reminder, it's been some time since we tabled this bill. Many people are in favor of Reading Recovery. In fact, it works very, very well in many school districts. The important thing to know is that only 96 school units out of 285 use Reading Recovery. Everyone is free to use it. Under our new school funding formula we give extra money for K-2. Of the 96 schools, 58 have committed to continue this Reading Recovery program under the current distribution system. There is an enormous fiscal note on this bill. It would really amount to double dipping and it is not necessary. I would urge you to support the minority Ought Not to Pass report.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President and colleagues of the Senate. The reason I rise is that I was on the other side of this report. I am standing here to tell you that I will be voting with my good colleague from Kennebec, Senator Mitchell. The reason for that is that we find ourselves in a very unique situation where we are looking at 5% cuts. Although I'd like to see more money funneled to Reading Recovery, I find it a very beneficial program and one that I am in favor of, I don't think at this time, given the financial circumstances and given that we are looking at cuts of 5% across-the-board, that this is a prudent or reasonable thing to do. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I'm not sure how many of you have ever had a chance to be in a classroom to work with a child one-on-one. It's a wonderful experience to see their eyes light up and see them be able to recognize words and pronounce them and put those words together to create thoughts and sentences and stories. Reading Recovery is a remarkable program that does all of that. What we do sometimes here is emphasis a great program. Reading Recovery requires intensive training for the teacher and it is expensive training. We have given that training to many school districts. We have encouraged them. They have instituted the program. Now we pull the plug and we say, 'Your EPS formula will take care of it.' Well, we do add additional money for K-2 because we understand the need is great, especially for literacy. It was not intentional that it be for Reading Recovery. I would say that probably there is a big fiscal note, but my understanding is that we've just traded a successful program that makes a difference, especially if you are in a rural area, and now-filled positions in the department for money that is going directly to the student that can make a difference in their entire educational career for more bureaucracy. I'm not going back to my district and tell them that is what I've done. I urge you to defeat this motion and not pull the plug one more time on a successful program in our schools. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll be joining my Senate colleague on the other side of the aisle from the Education Committee in

supporting the pending motion. I think what we have found is that the money is being made available through EPS K-2. The local people are making the decision now whether they want to spend that money for Reading Recovery or for some other purpose. I think where we are hearing the complaints most loudly are from those communities where they decision is being made to spend the money differently. I would urge you to support the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. I would just like to point out to my colleagues in the Senate that there are also a number of school districts that are not benefiting from the new formula. The Reading Recovery program is important in those areas too. I hope that we will keep those parts of the state in mind as we cast our vote and I would urge you to support this bill and reject the current motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President. Very briefly. This is not a vote for or against Reading Recovery. My 6 year-old grandson, James, learned to read because of Reading Recovery. It's very important. Reading Recovery continues. It will continue and there is funding. There are parts of the state, in fact that is why I was a bit confused by my good colleague from Washington, Senator Raye's remarks, who do not chose to use Reading Recovery. We are being asked to appropriate \$1 million for a few schools in this state, not for everyone. I think if we're going to be appropriating more money to help people with reading, some schools have chosen other avenues to teach their children to read, we shouldn't be playing favorites. It is successful. It can continue and it will continue. As I mentioned to you earlier, the majority of the schools who took advantage of Reading Recovery under the old funding formula are doing the same thing now. This is not against Reading Recovery, rather it is a request to spend another \$1 million for a program that is already funded. When you vote, you are voting to spend an additional \$1 million.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Madame President. I'll be very brief. I questioned the Commissioner a month or two about this. She told me that they were going to take the money; they were going to fund positions in the Department of Education that had federal funding that had expired; they were also going to create two positions, one a state-wide AD position and an arts position; and they were going to fund some pay raises in the Department of Education. I would submit to my colleagues that I think the money is far better spent in the local school districts and to support this exceptional program. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. Interesting discussion. I don't think

anybody here today would vote to take money away from reading and helping students read in order to create more bureaucratic positions in the Department of Education. Who would do that? It certainly doesn't play well back home to say that you voted for a bill that would inhibit or prevent children from reading at a higher level to create more jobs in the Department of Education. The reason I'm not voting for that is because it's not true. I think the good Senator from Kennebec, Senator Mitchell, made it abundantly clear that what we are talking about here is more efficient, more effective, and local control in decision making about how to spend educational dollars. That is what the debate is here, not whether or not we're trying to get rid of a program to create more administrative costs in the Department of Education. I think people will keep that in mind when they vote. Thank you.

**THE PRESIDENT:** The Senator from Waldo, Senator Weston, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **WESTON:** Thank you, Madame President. I have to make a comment. We do encourage programs and we did for a number of years encourage our school districts to start a program called Reading Recovery. We watched it be successful. Now we have a new funding formula and we're saying the money is in that formula. Not in my districts. We're not fully funding that formula. Right off the bat, they don't have it. They are having to make hard choices. Reading Recovery started by encouragement by the Department because it is an expensive program. It does require intensive training. If you had a program now and a teacher who is trained, you might be able to limp along. If that teacher leaves, your program is over. If you want to say that the money is there, then wait until we fully fund EPS and then pull the plug. It's wrong to do it now. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. I hate to get in the middle of a educational fight, but I want to relay when the Commissioner came before the Appropriations Committee she laid out to us what was going to transpire. At the present time, there is already a person, in terms of bureaucracy, that exists already under that present program. That's the position that would be eliminated and then would be replaced in the department. Subsequent to that, the only other money that will be coming will go to the University of Maine, I assume at Orono; about \$500,000 for the school of education to continue the work that this money has been doing. The rest of the money is in the formula. Quite frankly, I will point out that any community that wants to continue working with kids to teach them how to read, there is the Title 1 money which is all federal funds for that single purpose and which every school district has, depending on the amount of school lunch program participants. It is there. If your school board does not want to spend that money for that purpose, frankly, that is a local decision. That's something that I think you need to deal with the school board about. I can speak as one member of a school board, we intend to continue to do that job.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell to

Accept the Minority 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 (#205)**

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, DOW, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: CLUKEY, COURTNEY, DAVIS, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator MITCHELL of Kennebec to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (5/26/05) Assigned matter:

HOUSE REPORT - from the Committee on **JUDICIARY** on Bill "An Act To Modify Liability To Protect Maine Citizens from Lead Hazards That Harm Maine Children and Families"  
H.P. 1077 L.D. 1532

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-542)**

Tabled - May 26, 2005, by Senator **HOBBS** of York

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, May 26, 2005, **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-542)**.)

(In Senate, May 26, 2005, Report **READ**.)

Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-542) **READ**.

On motion by Senator **HOBBS** of York, Senate Amendment "A" (S-275) to Committee Amendment "A" (H-542) **READ** and **ADOPTED**.

Committee Amendment "A" (H-542) as Amended by Senate Amendment "A" (S-275) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-542) AS AMENDED BY SENATE AMENDMENT "A" (S-275)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/26/05) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Directing the Secretary of State To Request That the United States Secretary of Transportation Place Maine in the Atlantic Standard Time Zone  
H.P. 1050 L.D. 1493

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-534)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 26, 2005, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 26, 2005, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 26, 2005, Reports **READ**.)

On motion by Senator **ROTUNDO** of Androscoggin, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence

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The Chair laid before the Senate the following Tabled and Later (5/26/05) Assigned matter:

Resolve, To Establish the Commission To Study the Licensing Conflicts between the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services  
S.P. 442 L.D. 1262  
(C "A" S-175)

Tabled - May 26, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-175)**

(In Senate, May 26, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-175)**. On motion by Senator **SCHNEIDER** of Penobscot, **RECONSIDERED**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. Memorandum of understanding between the two departments has been reached and signed.

On further motion by same Senator, Resolve and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Create a Small Distillery License"

S.P. 607 L.D. 1641

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-277)** (10 members)

Minority - **Ought Not To Pass** (3 members)

Tabled - May 31, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 31, 2005, Reports **READ**.)

On motion by Senator **GAGNON** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-277) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277)**.

Ordered sent down forthwith for concurrence.

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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Off Record Remarks

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect the MaineCare Program" H.P. 242 L.D. 318

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

MAYO of Sagadahoc  
MARTIN of Aroostook  
ROSEN of Hancock

Representatives:

PINGREE of North Haven  
WALCOTT of Lewiston  
GROSE of Woolwich  
WEBSTER of Freeport  
MILLER of Somerville  
BURNS of Berwick  
GLYNN of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-524)**.

Signed:

Representatives:

SHIELDS of Auburn  
CAMPBELL of Newfield  
LEWIN of Eliot

(Representative **SOCKALEXIS** of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **MAYO** of Sagadahoc, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

**ENACTORS**

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

**Emergency Measure**

An Act To Repeal the Tax on Private Nonmedical Institutions  
S.P. 52 L.D. 146  
(C "A" S-173)

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

**Emergency Resolve**

Resolve, To Encourage Personal and Family Financial Management Education

H.P. 916 L.D. 1318  
(C "A" H-463)

On motion by Senator **GAGNON** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

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

**ENACTORS**

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

**Acts**

An Act To Support Animal Welfare  
H.P. 129 L.D. 178  
(H "A" H-444 to C "A" H-329)

**PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

An Act To Ensure Fair Reimbursement for the Medical Care Provided to State Inmates

H.P. 20 L.D. 17

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

An Act To Amend the Hospital Tax

S.P. 224 L.D. 687  
(C "A" S-164)

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

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

**ENACTORS**

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

**Acts**

An Act To Add an Organizational Name to the Governor Baxter School for the Deaf

H.P. 691 L.D. 981  
(C "A" H-481)

**PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

An Act To Provide for Variance Notification in the Shoreland Zoning Law

H.P. 804 L.D. 1161  
(C "A" H-477)

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require That a Person Arrested on a Domestic Violence Charge Be Held for at Least 4 Hours before Being Released on Bail"

H.P. 712 L.D. 1027

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-531)**.

Signed:

Senators:

DIAMOND of Cumberland  
CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor  
PLUMMER of Windham  
HANLEY of Gardiner  
GREELEY of Levant  
PARADIS of Frenchville  
GERZOFISKY of Brunswick  
GROSE of Woolwich

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

CHURCHILL of Washburn  
SYKES of Harrison

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-531)**.

Reports **READ**.

On motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-531) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Definition of 'Funeral Establishment'"

H.P. 736 L.D. 1083

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-525)**.

Signed:

Senators:

BROMLEY of Cumberland  
HOBBINS of York

Representatives:

SMITH of Monmouth  
O'BRIEN of Lewiston  
AUSTIN of Gray  
ROBINSON of Raymond  
RECTOR of Thomaston  
FARRINGTON of Gorham  
BEAUDETTE of Biddeford  
JACOBSEN of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

DOW of Lincoln

Representatives:

BERUBE of Lisbon  
CROSBY of Topsham

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-525)**.

Reports **READ**.

On motion by Senator **BROMLEY** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-525) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Provide Uniform Voter Verification and Recount Requirements for Voting Machines"

H.P. 711 L.D. 1026

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-453)**.

Signed:



Senators:

GAGNON of Kennebec  
MITCHELL of Kennebec

Representatives:

FISHER of Brewer  
OTT of York  
PINKHAM of Lexington Township  
VALENTINO of Saco  
PATRICK of Rumford  
TUTTLE of Sanford  
HOTHAM of Dixfield  
MOORE of Standish  
BLANCHETTE of Bangor  
BROWN of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-454)**.

Signed:

Senator:

PLOWMAN of Penobscot

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453) AS AMENDED BY HOUSE AMENDMENT "A" (H-508)** thereto.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453)** Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. I'm probably not a realist. You can see the report on this. I will point out to the body why I took this report out. This was brought to us by a representative who is very concerned about the fact that we are going to have to buy approximately 650 voting machines under the Help America Vote Act. The concern is that in order to come up with these machines, that have not been fully developed yet, we might lose the ability to have a paper ballot produced by these machines. I feel very, very strongly, as you can see by the 12 to 1 report, that we should have no machine bought by the State of Maine to put in our polling places that is not backed up by a paper ballot. The minority report asks the Secretary of State to do its best to make sure that it finds a state-of-the art machine and if possible have a paper ballot. That's not good enough for me. I want to make sure that when you have a pile and a recount there is an ours, theirs and one to be decided, not ours, theirs, one to be decided, and gee what about those machines that have information locked into them that don't translate into a paper ballot. That's my reason for bringing this forth. We have until January 2006 to try to meet the federal mandates. I feel that the first priority we should be guaranteeing our people is the right to have a verifiable system. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I agree with the good Senator from Penobscot, Senator Plowman, on wanting things verifiable. There are a couple of things I think you should also know. The 650 machines are being paid for by federal funds as part of the HAVA Act. These machines are specifically designed for people with disabilities; people who are blind, people who are deaf, or whatnot. Very few of these machines currently available are acceptable to the National Association of Secretary of States, or something like that. I forget what the organization is called. It is currently in law, based on what the last legislature did, that all machines that we are going to be purchasing in the future will be verifiable. The difficulty is that there currently is no machine and there is a deadline coming up of January. What the majority report says is that it is certainly the preference of the legislature that we have a machine that is verifiable, but none being available, we would want to make sure that the Secretary of State moves forward with the best possible machine so that they can move forward and wouldn't be in violation of the law intentionally and potentially lose this money for these machines but a lot of other money for the HAVA Act. I would encourage you to support this report. As I said, it is the will of the committee that we have a verifiable machine and that the Deputy Secretary of State come back and reports to us as she bumps up against that deadline.

At the request of Senator **PLOWMAN** of Penobscot a Division was had. 20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453)** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-453) **READ** and **ADOPTED**, in **NON-CONCURRENCE**.

The Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-453), in **NON-CONCURRENCE**.

House Amendment "A" (H-508) to Committee Amendment "A" (H-453) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-453) as Amended by House Amendment "A" (H-508) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453) AS AMENDED BY HOUSE AMENDMENT "A" (H-508)** thereto, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing Concealed Firearms Permits"  
H.P. 624 L.D. 874

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-385)** (6 members)

In House, May 26, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385)**.

In Senate, May 26, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

On motion by Senator **DIAMOND** of Cumberland, the Senate **ADHERED**.

(See action later today.)

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require a Criminal Background Check for the Initial Licensure of Emergency Medical Services Personnel"

H.P. 702 L.D. 1018

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-472)**.

Signed:

Senators:

DIAMOND of Cumberland  
NUTTING of Androscoggin  
CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor  
PLUMMER of Windham  
HANLEY of Gardiner  
GREELEY of Levant  
CHURCHILL of Washburn  
GERZOFKY of Brunswick  
SYKES of Harrison  
GROSE of Woolwich

DAVIS of Augusta

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-473)**.

Signed:

Representative:

PARADIS of Frenchville

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)**.

Reports **READ**.

On motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Protect Dogs That Are Left Outside"  
H.P. 155 L.D. 204  
(C "A" H-484)

In Senate, May 26, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-484)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-484) AS AMENDED BY HOUSE AMENDMENT "A" (H-546)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, To Transfer Ownership of Certain Public Reserved Lands to the Town of Allagash

H.P. 653 L.D. 934

Reported that the same **Ought Not to Pass**.

Signed:

Representatives:

PIOTTI of Unity  
CARR of Lincoln  
JODREY of Bethel  
JENNINGS of Leeds  
MAREAN of Hollis  
LUNDEEN of Mars Hill  
FLOOD of Winthrop  
TWOMEY of Biddeford  
SHERMAN of Hodgdon  
PINEAU of Jay

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-504)**.

Signed:

Senators:

NUTTING of Androscoggin  
BRYANT of Oxford  
RAYE of Washington

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **NUTTING** of Androscoggin, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-504)** Report **ACCEPTED**, in **NON-CONCURRENCE**.

**READ ONCE**.

Committee Amendment "A" **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **HOBBS** for the Committee on **JUDICIARY** on Bill "An Act To Improve the Guardian ad Litem System"  
S.P. 380 L.D. 1063

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-298)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-298) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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Senator **PERRY** for the Committee on **TAXATION** on Bill "An Act Concerning the Taxation of Buildings in Which Nonprofit Organizations Are Housed"  
S.P. 258 L.D. 791

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-299)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-299) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Create a Protected Zone around the Voting Place"  
S.P. 121 L.D. 374  
(C "A" S-150)

Ordered sent down forthwith for concurrence.

In Senate, May 11, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150).**

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Comes from the House, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **GAGNON** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

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

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**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Make Changes to the Pine Tree Development Zones"  
S.P. 147 L.D. 449

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-297).**

Report **READ** and **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-297) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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Senator **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Governing the Powers and Duties of the Washington County Development Authority"  
S.P. 466 L.D. 1339

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-296).**

Report **READ** and **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-296) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator **MAYO** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Create the Maine Asthma and Lung Disease Research Fund"

S.P. 312 L.D. 904

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-294).**

Report **READ** and **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-294) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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Senator **MAYO** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Access to Prescription Drugs and Reimportation"

S.P. 406 L.D. 1178

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-293).**

Report **READ** and **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-293) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Pertaining to Disclosure of Prescription Drug Prices" (EMERGENCY)

S.P. 536 L.D. 1541

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-292)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-292) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

---

Senator COWGER for the Committee on **NATURAL RESOURCES** on Bill "An Act To Amend Water Quality Standards"

S.P. 496 L.D. 1450

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-291)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-291) **READ**.

On motion by Senator **COWGER** of Kennebec, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-291).

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator DIAMOND for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Statutes Relating to Juveniles"

S.P. 520 L.D. 1504

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-289)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-289) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

---

Senator DIAMOND for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Resolve, To Establish a Blue Ribbon Commission To Study Maine's Homeland Security Needs

S.P. 610 L.D. 1645

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-290)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-290) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator DIAMOND for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing the Right to Periodic Review under the Maine Juvenile Code"

S.P. 474 L.D. 1376

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-288)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-288) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

---

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish Permanent Subsidized Guardianship"

S.P. 481 L.D. 1382

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-305)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-305) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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

**HELD MATTER**

Bill "An Act Regarding Tribal Gaming and Gaming by Nonprofits"  
H.P. 788 L.D. 1145  
(C "A" H-550)

(In Senate, May 31, 2005, under Suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)**, in concurrence.)

On motion by Senator **BRYANT** of Oxford, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)**, in concurrence.

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On motion by Senator **SNOWE-MELLO** of Androscoggin, the Senate **RECONSIDERED** whereby it **ADHERED** on the following:

Bill "An Act To Amend the Laws Governing Concealed Firearms Permits"

H.P. 624 L.D. 874

(In House, May 26, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385)**.)

(In Senate, May 26, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 31, 2005, that Body **ADHERED**.)

(In Senate, May 31, 2005, **ADHERED** to **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report.)

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and honorable ladies and gentlemen of the Senate. I stand here to day to ask you to please consider and vote for L.D. 874. It changes current law and has been amended from the original bill and now does the following: it allows Maine to open their reciprocal agreements to all states that have laws that are greater than or equal to ours, not just the two that are in statute currently. What are the qualifications that are required for L.D. 874 as amended? Persons must be 18 years-of-age, of good moral character, no criminal record, no drug involvement, no mental illness or disorder, and must demonstrate proficiency and knowledge of the laws of this state and the other. Again I stress, we would be allowing this to take place only if the other state agrees to reciprocate with Maine in regards to allowing our gun owners to carry concealed weapons if the other state's laws are equal or greater. In our constitution, in Article 1, section 16, it states, 'To keep and bare arms: every citizen has the right to keep and bare arms and this right shall never be questioned.' I ask you to vote against the majority Ought Not to Pass report and go on to recede and concur with the house.

Same Senator moved the Senate **RECEDE** and **CONCUR**.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I would ask you to stick with the motion to adhere. This bill does a couple of things. The reason the State Police in the State of Maine are very opposed to this is because of a couple of reasons. First off, the current law does say that Maine can reciprocate with two different states. The problem is that they have been unable to find two states that meet Maine's standards. It's a real problem for the State Police to consider going beyond two since they can't find two to date. Two, having people come into the State of Maine and meeting those state's standards. We don't know what they may be and to lower Maine's standards to let that happen just doesn't make sense.

Again, the State Police oppose this. They opposed it for good sound reasons. They cannot find other states that have the same standards that we do. It is not a question of having two states already and now we need to do more. They just don't exist out there. The Maine State Police are very accurate and concerned about who they allow to have a concealed weapon permit in this state. I would ask you to stay with the adhere. There are good reasons for it. Then we can kill this bill. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. Again, I have to stress that what this amendment says is that other state, any state that we wish to have a joint agreement with, would have to have the same laws or greater or stricter laws than our laws. Remember that many folks, many men and women, carry concealed weapons to protect their families, protect themselves, and protect their families. I think it's very important that we pass this bill. I think to do otherwise would be going against our constitution. Police do a wonderful job protecting us but there are times when they are not there. There are many times that they are not there. Again, I am a strong believer in Article 1, section 16. Every citizen has the right to keep and bare arms. This right shall never be questioned. What's wrong if we can't find another state that wishes to do this with is.

I want to answer the question or the statement that we haven't been able to find two states that would be able to do this with us. The reason is because we simply have not been looking. I ask you to please vote against the adhere and recede and concur with the House. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President. I think this isn't really for Maine people, it is for out-of-staters who want to come to Maine. That is one of the reasons the State Police is concerned about this, so I would just ask you to stick with the adhere. Thank you.

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

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

Senator **TURNER:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **TURNER:** Thank you, Madame President. If we were to recede and concur would that not relax the standards of our own concealed weapons permitting process?

**THE PRESIDENT:** The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. No it would not.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President. This debate has gone on long enough. I think it is one of the reasons the police are concerned about it. Thank you.

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

Senator **TURNER:** Thank you, Madame President. May I pose a second question through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **TURNER:** Thank you, Madame President. If we recede and concur, as suggested by one of the members in the chamber, does that not allow then for Maine citizens to be operating under one set of rules for a concealed weapons permit and for people from other states to be operating under lesser restrictions?

**THE PRESIDENT:** The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. No, it would not be lessening the laws of our state because, as I said over and over again, the laws of any state that we go into to make this agreement their laws would have to be the same as ours or greater, meaning they would have to be a tougher standard than ours. No, it would not do that. It would not relax our own laws.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Clukey.

Senator **CLUKEY:** Thank you, Madame President, ladies and gentlemen of the Senate. Having been at the public hearing, no body testified in favor of this bill. It is my understanding that this would very much relax the laws of the State of Maine in terms of concealed weapons. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Snowe-Mello to Recede and Concur. 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 (#206)**

YEAS: Senators: ANDREWS, BRYANT, COURTNEY, DAVIS, GAGNON, PLOWMAN, RAYE, SNOWE-MELLO, WESTON

NAYS: Senators: BARTLETT, BRENNAN, BROMLEY, CLUKEY, COWGER, DAMON, DIAMOND, DOW, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

9 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion by Senator **SNOWE-MELLO** of Androscoggin to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **DIAMOND** of Cumberland, the Senate **ADHERED**.

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Senate at Ease.

Senate called to order by the President.

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

#### REPORTS OF COMMITTEES

##### Senate

##### Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Amend the Revaluation Process by Municipalities"  
S.P. 550 L.D. 1563

Reported that the same **Ought Not to Pass**.

Signed:

Senators:  
PERRY of Penobscot  
STRIMLING of Cumberland  
COURTNEY of York

Representatives:  
HANLEY of Paris  
CLARK of Millinocket  
McCORMICK of West Gardiner  
WOODBURY of Yarmouth  
CLOUGH of Scarborough  
PINEAU of Jay  
HUTTON of Bowdoinham  
BIERMAN of Sorrento  
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-303)**.

Signed:

Representative:  
SEAVEY of Kennebunkport

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **SULLIVAN** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

#### REPORTS OF COMMITTEES

##### Senate

##### Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Create a Senior Tax Rebate Program for Established Residents"  
S.P. 41 L.D. 135

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-302)**.

Signed:

Senators:  
PERRY of Penobscot  
STRIMLING of Cumberland  
COURTNEY of York

Representatives:  
HANLEY of Paris  
CLARK of Millinocket  
WOODBURY of Yarmouth  
CLOUGH of Scarborough  
PINEAU of Jay  
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:  
McCORMICK of West Gardiner  
BIERMAN of Sorrento

Reports **READ**.

On motion by Senator **PERRY** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE**.



Committee Amendment "A" (S-302) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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

**COMMUNICATIONS**

The Following Communication: S.C. 365

**MAINE STATE LEGISLATURE  
COMMITTEE ON JUDICIARY  
AUGUSTA, MAINE 04333**

May 31, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 466 An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Attorney's Fees

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

Sincerely,

S/Sen. Barry J. Hobbins  
Senate Chair

S/Rep. Deborah Pelletier-Simpson  
House Chair

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

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

**COMMUNICATIONS**

The Following Communication: S.C. 366

**MAINE STATE LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS  
AUGUSTA, MAINE 04333**

May 31, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 939 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Preserve the Integrity of the Citizen-initiated Petition Process

L.D. 1033 An Act To Implement Fusion Voting in Maine

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

Sincerely,

S/Sen. Kenneth T. Gagnon  
Senate Chair

S/Rep. John L. Patrick  
House Chair

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

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

**COMMUNICATIONS**

The Following Communication: S.C. 367

**MAINE STATE LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY  
AUGUSTA, MAINE 04333**

May 31, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 842 An Act To Prevent Price Gouging and To Stabilize Prices in the Sale of Milk

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

Sincerely,

S/Sen. John M. Nutting  
Senate Chair

S/Rep. John F. Piotti  
House Chair

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

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

**COMMUNICATIONS**

The Following Communication: S.C. 368

**MAINE STATE LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES  
AUGUSTA, MAINE 04333**

May 26, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 148 An Act To Require Certain Physicians To Provide Information about Thimerosal in Vaccines

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

Sincerely,

S/Sen. Arthur F. Mayo, III  
Senate Chair

S/Rep. Hannah Pingree  
House Chair

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 268

**STATE OF MAINE  
CLERK'S OFFICE  
2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

May 31, 2005

Honorable Joy J. O'Brien  
Secretary of the Senate  
122nd Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to insist on its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on Criminal Justice and Public Safety on Bill "An Act To Prohibit a Registered Sex Offender from Residing within 1,000 Feet of the Residence of Any Child, a School, Day Care Center or Playground" (H.P. 207)(L.D. 282).

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ** and **ORDERED PLACED ON FILE**.

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

**PAPERS FROM THE HOUSE**

**Joint Order**

The following Joint Order:

H.P. 1190

**ORDERED**, the Senate concurring, that:

1. The Joint Standing Committee on Marine Resources shall conduct a study of methods to promote education, safety and training for harbor masters. The committee shall conduct the study when the Second Regular Session of the 122nd Legislature convenes;

2. The committee shall explore methods to promote education, safety and training for harbor masters to ensure adequate protection of public health and safety along the vast coastal areas and inland waterways potentially vulnerable to outside threats and to ensure safety for industrial and commercial enterprises using marine transportation; and

3. The committee may invite participation of interested parties and stakeholders during this study and in the development of its recommendations. The interested parties and stakeholders may include the following:

- A. The Maine Harbor Masters Association; and
- B. The Maine Municipal Association; and be it further

ORDERED, that the Joint Standing Committee on Marine Resources shall submit a bill by March 3, 2006 to the Second Regular Session of the 122nd Legislature based on its study.

Comes from the House, **READ** and **PASSED**.

**READ.**

On motion by Senator **GAGNON** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **PASSAGE**, in concurrence.

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

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#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Eliminate Term Limits in the Legislature"

S.P. 180 L.D. 572

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-278)** (12 members)

Minority - **Ought Not To Pass** (1 member)

Tabled - May 31, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 31, 2005, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I just wanted to explain what this bill does and what it doesn't do. This is the bill to repeal term limits. I want to explain what the committee did, with a fairly wide margin as you can see on the report, and what the amendment does. This bill would, in fact, repeal term limits but it sends the question out to the voters. That would appear on the 2006 fall ballots of November 2006. The reason for sending it out in 2006 rather than 2005 is to try to get as large a turnout as possible. This is an issue that we've been hearing about, and as everyone knows, was initiated by the people of the State of Maine and passed by the people of Maine. Currently, in this amendment, it does apply to anyone in this building. It was felt fairly strongly by the committee that it should not in any way be perceived as self-serving, that no one in this legislature would be affected by this. If you read the amendment carefully it states that it only applies to those people who are first elected in November 2006. Obviously if you set out a term or switch position or whatever, the new law would kick in, should it be passed by the people of the State of Maine. I just wanted to make sure people understood what this bill did and what it doesn't do. There was some confusion and please don't look at the original bill as we did make adjustments. Thank you.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. If you would indulge me just a minute, do I need to wait until this is passed because I have an amendment? If it doesn't pass do I have to vote for it now in order to get the amendment?

**THE PRESIDENT:** There is no way for the chair to answer that question since I don't know how many people are going to vote in affirmative or in the negative. I can't answer that question for you, as much as I'd like to.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Accept the Majority Ought 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 (#207)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, ROSEN, SAVAGE, SNOWE-MELLO, SULLIVAN, TURNER, WESTON

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-278) **READ**.

On motion by Senator **SULLIVAN** of York, Senate Amendment "A" (S-307) to Committee Amendment "A" (S-278) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I am offering this amendment tonight for a variety of reasons. Several of my colleagues asked me to. I support the idea of going out to the referendum. That's exactly how this came about and I think we have an obligation to go back to referendum. However, I am asking that we go back the same way that the referendum was put in, that once it becomes law, or unlawful or whatever we're going to do with term limits, that it would be effective immediately. That means that people are in here can still continue to run. I firmly believe if term limits is right, than we should vote it down and keep it. The people should do that. If term limits are wrong, then you don't continue a wrong just for the sake of continuing it. It's not what we did when we put term limits in. I don't think we should do it now. I think that people need to be given a clear choice. Up or down and let the people decide. I have no problem with that. I just think that when you go, you exacerbate the problem. If indeed term limits loses our institutional memory, if indeed it is true that the lobbyist are having more say than the lawmakers, and I happen to believe that is true, then why do we want to carry on for eight more years? Why do we think that for eight years we can continue to do something we don't think is right? That doesn't make sense. I would like to be able to send this out to the people once and for all and have them vote. If they vote to over-turn term limits, then it is effective with anybody that is running at that time in the House or the Senate. I'm offering it and I know it can be seen as self-serving. I worry about the next election. I don't look for me, in my case three elections away, but at that time I'll be 63. I love you people, but I'm not sure if I really want to be with you when I'm 63. It's more the principle for me. That's how it was instituted, I think if we're going to de-institute it then we ought to do it that same way. I am asking you to put the amendment on. It still goes out to the people and everything else is the same, it simply says let's do this. If people are good, the best term limits is the ballot box. I don't want someone bad here for eight years. I don't want somebody to have to leave if they are doing the job for their constituents. To me, that is the best way democracy works. It works at the ballot box and I think that we, or somebody, should not be punished simply because you happen to be here that year. I might add that, and this is a personal note and some of the people here will remember this, in the other chamber I fought

fingerprinting twice. As a fallback position we said we would just do new hires. People said, 'Oh no, everybody has to be fingerprinted, even those who have been teaching for 20 some odd years.' We spent the money to have it done. At that point it had to be everybody, yet we have here a referendum going out and we're saying, 'No, if you are already hired, the law applies to you.' How come it applies on fingerprinting and it doesn't apply here? Let the people decide, clearly and easily. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. As I explained a little bit earlier, this was a consideration of the committee, and as you can see, the committee overwhelmingly rejected this approach. There was a strong feeling that if we did not exclude ourselves from this agreement that it would taint the question that would be on the ballot. We are trying to do our best to make sure that it isn't tainted by anything, horses or otherwise, as some of are aware of the horse that was parked in front of the State House and at my house earlier on. It was a lot of fun. I thought it had to do with the racino issue, by the way, I didn't know it had to do with term limits. Someone once said, 'Why are you punishing current legislators by excluding them?' I had to admit that I think it was more of a reward than a punishment for all of my friends here that we not be included, but it was a fairly strong feeling by the committee and I hope that you would reject the current amendment.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I would just like to clarify one thing. This is not going back to the original method because originally this came from the people. It did not originate under this dome. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Sullivan to Adopt Senate Amendment "A" (S-307) to Committee Amendment "A" (S-278). 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 (#208)**

**YEAS:** Senators: BARTLETT, PLOWMAN, RAYE, SCHNEIDER, STRIMLING, SULLIVAN, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, ROSEN, ROTUNDO, SAVAGE, SNOWE-MELLO, TURNER, WESTON

8 Senators having voted in the affirmative and 27 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ADOPT** Senate Amendment "A" (S-307) to Committee Amendment "A" (S-278), **FAILED**.

Committee Amendment "A" (S-278) **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

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

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

#### REPORTS OF COMMITTEES

##### Senate

##### Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Prevent Domestic Abuse by Reinstating the Death Penalty for Persons Who Murder Family or Household Members"  
S.P. 519 L.D. 1501

Reported that the same **Ought Not to Pass**.

Signed:

Senators:  
HOBBS of York  
BROMLEY of Cumberland

Representatives:  
PELLETIER-SIMPSON of Auburn  
FAIRCLOTH of Bangor  
GERZOFKY of Brunswick  
CANAVAN of Waterville  
BRYANT of Windham  
DUNN of Bangor  
BRYANT-DESCHENES of Turner  
NASS of Acton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-301)**.

Signed:

Senator:  
HASTINGS of Oxford

Representatives:  
SHERMAN of Hodgdon  
CARR of Lincoln

Reports **READ**.

Senator **HOBBS** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I don't want to drag this out very long. I appreciate the opportunity that being a Senator in the state has brought to shine the light on domestic violence. A lot of the things we are doing aren't working currently. I appreciate the opportunity.

Same Senator requested a Division.

On motion by Senator **HOBBS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#209)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COWGER, DAMON, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, COURTNEY, DAVIS, SNOWE-MELLO

31 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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The President appointed the Senator from Kennebec, Senator **GAGNON**, to serve as President Pro Tem for the session on Wednesday, June 1, 2005.

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On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**,  
to Wednesday, June 1, 2005, at 10:00 in the morning.